



Fair Employment (Northern Ireland) Act 1976 (repealed 1.3.1999)

1976 CHAPTER 25

PART III

UNLAWFUL DISCRIMINATION

Complaints of unlawful discrimination

[^{F1}24] **Jurisdiction of the Fair Employment Tribunal.**

- (1) A complaint by any person (“the complainant”) that another person (“the respondent”) has committed unlawful discrimination against him may be presented to the Tribunal.
- (2) Subject to subsection (3), the Tribunal shall not consider a complaint unless it is brought before whichever is the earlier of—
 - (a) the end of the period of three months beginning with the day on which the complainant first had knowledge, or might reasonably be expected first to have had knowledge, of the act complained of, or
 - (b) the end of the period of six months beginning with the day on which the act was done.

[For the purposes of subsection (2)—

- ^{F2}(2A)
- (a) where the inclusion of any term in a contract renders the making of the contract an unlawful act, that act shall be treated as extending throughout the duration of the contract, and
 - (b) any act extending over a period shall be treated as done at the end of that period, and
 - (c) a deliberate omission shall be treated as done when the person in question does an act inconsistent with doing the omitted act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the omitted act if it were to be done.]

Status: Point in time view as at 16/07/1996.

Changes to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1976 (repealed 1.3.1999), Cross Heading: Complaints of unlawful discrimination. (See end of Document for details)

- (3) The Tribunal may consider a complaint which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.
- (4) The Tribunal shall not consider a complaint relating to an act which is unlawful by virtue of section 23 if the act is one in respect of which an appeal, or proceedings in the nature of an appeal, may be brought to a court under any enactment.]

Textual Amendments

- F1** Ss. 24–29 substituted for ss. 24–31 by [Fair Employment \(Northern Ireland\) Act 1989 \(c. 32, SIF 43:1\)](#), s. 50(1)(2)
- F2** S. 24(2A) inserted (25.8.1991) by 1991/1713 art.5.

[^{F3}25 Conciliation.

- (1) Where a complaint is presented to the Tribunal under section 24, the Tribunal shall send a copy of the complaint to the Labour Relations Agency and it shall be the duty of the Agency—
 - (a) in any case where it is requested to do so by both the complainant and the respondent, or
 - (b) in any other case where it considers that it could act under this subsection with a reasonable prospect of success,
 to endeavour to promote a settlement of the complaint without its being determined by the Tribunal.
- (2) Where, before a complaint such as is mentioned in subsection (1) has been presented to the Tribunal, a request is made to the Labour Relations Agency to make its services available in the matter by a person who, if the complaint were so presented, would be the complainant or respondent, subsection (1) applies as if the complaint had been so presented and a copy of it had been sent to the Agency.
- (3) In proceeding under subsection (1) or (2), the Labour Relations Agency shall where appropriate have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.
- (4) Anything communicated to the Labour Relations Agency in connection with the performance of its functions under this section shall not be admissible in evidence in any proceedings before the Tribunal except with the consent of the person who communicated it to the Agency.]

Textual Amendments

- F3** Ss. 24–29 substituted for ss. 24–31 by [Fair Employment \(Northern Ireland\) Act 1989 \(c. 32, SIF 43:1\)](#), s. 50(1)(2)

[^{F4}26 Remedies on complaints under section 24.

- (1) Where the Tribunal finds that a complaint presented to it under section 24 is well-founded, the Tribunal shall make such of the following as it considers just and equitable—

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- (a) an order declaring the rights of the complainant and the respondent in relation to the act to which the complaint relates,
 - (b) an order requiring the respondent to pay to the complainant compensation of an amount corresponding to any damages he could have been ordered to pay by the High Court if the complaint had been a claim in tort, and
 - (c) a recommendation that the respondent take within a specified period action appearing to the Tribunal to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any unlawful discrimination to which the complaint relates.
- (2) As respects an act of unlawful discrimination falling within section 16(2)(b) no award of compensation shall be made if the respondent proves that the requirement or condition in question was not applied with the intention of treating the claimant unfavourably on the ground of his religious belief or political opinion as the case may be.
- (3) Compensation awarded to a person under subsection (1)(b) may include compensation for injury to feelings whether or not it includes compensation under any other head.
- ^{F5}(4)
- (5) If without reasonable justification the respondent to a complaint fails to comply with a recommendation made by the Tribunal under subsection (1)(c), then, if it considers it just and equitable to do so—
- (a) the Tribunal may ^{F6} . . . increase the amount of any compensation required to be paid to the complainant in respect of the complaint by an order made under subsection (1)(b), or
 - (b) if an order under subsection (1)(b) could have been made but was not, the Tribunal may make such an order.
- (6) Where compensation falls to be awarded in respect of any act both under the provisions of this section and under any other enactment, the Tribunal shall not award compensation under this section in respect of any loss or other matter which has been taken into account under that other enactment by a court or tribunal in awarding compensation in an action in respect of that act.
- [The Department may by order made with the approval of the Department of Finance ^{F7}(6A) make provision—
- (a) for enabling the Tribunal, where an amount of compensation falls to be awarded under subsection (1)(b), to include in the award interest on that amount; and
 - (b) specifying, for cases where the Tribunal decides that an award is to include an amount in respect of interest, the manner in which and the periods and rate by reference to which the interest is to be determined,
- and the order may contain such incidental and supplementary provisions as the Department considers appropriate.]
- [The power to make an order under subsection (6A) includes power to vary or revoke (6B) the order.]
- (7) Paragraphs (3) to (6) of Article 61 of the ^{M1}Industrial Relations (Northern Ireland) Order 1976 (which enables the Department to provide by order that sums payable in pursuance of decisions of industrial tribunals shall carry interest) shall apply with the necessary modifications in relation to an award of compensation under subsection (1)

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(b) as they apply in relation to a sum payable in pursuance of a decision of an industrial tribunal.

- (8) The ^{M2}Judgments Enforcement (Northern Ireland) Order 1981 shall apply with the necessary modifications in relation to an award of compensation under subsection (1) (b) as it applies to a sum due under a money judgment (within the meaning of that Order).

^{F8}(9)

^{F8}(10)

- (11) A statutory rule containing an order under subsection [^{F9}(6A)] shall be subject to negative resolution; and section 41(6) of the Interpretation Act (Northern Ireland) 1954 (meaning of "subject to negative resolution") shall apply as if the power to make the order were conferred by a Measure of the Northern Ireland Assembly.

^{F8}(12)]

Textual Amendments

- F4** Ss. 24–29 substituted for ss. 24–31 by [Fair Employment \(Northern Ireland\) Act 1989 \(c. 32, SIF 43:1\), s. 50\(1\)\(2\)](#)
- F5** S. 26(4) repealed (16.5.1995) by [S.I. 1995/758 \(N.I. 4\), art. 3\(1\)](#)
- F6** Words in s. 26(5)(a) repealed (16.5.1995) by [S.I. 1995/758 \(N.I. 4\), art. 3\(2\)\(a\)](#)
- F7** S. 26(6A)(6B) inserted (16.5.1995) by [S.I. 1995/758 \(N.I. 4\), art. 4\(1\)](#)
- F8** S. 26(9)(10)(12) repealed (16.5.1995) by [S.I. 1995/758 \(N.I. 4\), art. 3\(2\)\(b\)](#)
- F9** Words in s. 26(11) substituted (16.5.1995) by [S.I. 1995/758 \(N.I. 4\), art. 4\(2\)](#)

Marginal Citations

- M1** [S.I. 1976/1043 \(N.I. 16\)](#).
- M2** [S.I. 1981/226 \(N.I. 6\)](#).

[^{F10}27 **Appeal to Court of Appeal.**

- (1) If any party to a complaint under section 24 is dissatisfied in point of law with a decision of the Tribunal, he may, according as rules of court may provide, either appeal from it to the Court of Appeal or require the Tribunal to state and sign a case for the opinion of the Court of Appeal.
- (2) Rules of court may provide for authorising or requiring the Tribunal to state, in the form of a special case for the decision of the Court of Appeal, any question of law arising in the proceedings.]

Textual Amendments

- F10** Ss. 24–29 substituted for ss. 24–31 by [Fair Employment \(Northern Ireland\) Act 1989 \(c. 32, SIF 43:1\), s. 50\(1\)\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 27 extended (17.7.1995) by [S.R. 1995/240, art. 14](#)

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