
STATUTORY INSTRUMENTS

1998 No. 3162

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART VII

DUTIES OF EMPLOYERS IN RESPECT OF THEIR WORKFORCES

Enquiries, undertakings and directions

Enquiries by the Commission

56.—(1) The Commission may from time to time require the employer to give the Commission such information retained by the employer in compliance with regulations under Article 53(2)(d) or 54(2)(a), as the Commission may specify; but an employer who has been required on any date to give any information under this paragraph shall not be required to do so again before the expiry of the period of 6 months beginning with that date.

(2) Where a monitoring return in respect of any registered concern has been served on the Commission, the Commission may require the employer to give the Commission such information as to the manner in which the return was prepared as it may specify.

(3) The Commission may, in the case of any registered concern, require the employer to give the Commission such information as it may specify as to the steps the employer has taken or proposes to take to carry out a review and as to the manner in which the review has been or is to be carried out.

(4) The Commission may, where a review has been carried out in the case of any registered concern, require the employer to give to the Commission such information as it may specify—

- (a) as to the matters disclosed by the review;
- (b) as to any determination under Article 55(2); and
- (c) in a case falling within Article 55(3), as to his consideration of the matters referred to in sub-paragraph (a) of that paragraph and any determination under sub-paragraph (b) of that paragraph.

(5) The Commission shall, where a review discloses that members of a particular community are not enjoying, or are not likely to continue to enjoy, fair participation in employment in the concern, make such recommendations as it thinks fit as to the affirmative action to be taken and, assuming the action is taken, as to the progress towards fair participation in employment in the concern, by reference to any period or periods, that can reasonably be expected to be made by members of the community.

(6) Where the employer discloses to the Commission a determination to take any affirmative action, the Commission may from time to time require him to give the Commission such information as it may specify as to the affirmative action that he has taken or proposes to take, but the Commission may not require an employer to give any information under this paragraph before the expiry of the period of 6 months beginning with—

- (a) the date of the disclosure; or
- (b) if he has previously been required to give any information under this paragraph, the date on which he was last required to do so.

(7) Where the employer discloses to the Commission a determination as to the progress towards fair participation in employment in the concern, by reference to any period, that can reasonably be expected to be made by members of a particular community, the Commission may from time to time require him to give the Commission such information as it may specify for the purpose of determining the extent to which the progress has been made on the date of the requirement, but the Commission may not require an employer to give any information under this paragraph before the expiry of the period of 6 months beginning with—

- (a) the date of the disclosure; or
- (b) if he has previously been required to give any information under this paragraph, the date on which he was last required to do so.

(8) A requirement under this Article to give any information in respect of a registered concern—

- (a) shall be made by notice served on the employer; and
- (b) shall specify the time by which the information is to be given,

and the reference in paragraphs (1), (6) and (7) to the date of the requirement is to the date on which the notice was served.

(9) A notice under this Article served on the person whose name and address is for the time being included in the entry for any concern in the register is to be treated as served on the employer.

(10) A person required to give any information under this Article who fails to comply with the requirement by the specified time shall be guilty of an offence.

(11) A person guilty of an offence under paragraph (10)—

- (a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) if the failure continues after conviction, shall be liable on a second or subsequent summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

(12) It is a defence for a person charged with an offence under paragraph (10) to show that he had a reasonable excuse (which may include unreasonable expense or inconvenience) for failing to comply with the requirement by the specified time and, in a case where it was reasonably practicable for him to comply with it after that time, to show that either—

- (a) he complied with it as soon as was reasonably practicable; or
- (b) it was not reasonably practicable for him to comply with it before the proceedings were commenced,

and for the purposes of this paragraph the making of a complaint is to be treated as the commencement of the proceedings.

(13) A person required to give any information under this Article who knowingly gives false or misleading information is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.