

1978 No. 151

COUNTY COURTS

County Court (Fair Employment Act) Rules (Northern Ireland) 1978

Made 6th June 1978

Coming into operation 10th July 1978

To be laid before Parliament

The Secretary of State, in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(a) and section 45 of the Fair Employment (Northern Ireland) Act 1976(b), on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:

Citation and commencement

1. These rules may be cited as the County Court (Fair Employment Act) Rules (Northern Ireland) 1978 and shall come into operation on 10th July 1978.

Interpretation

2. In these rules—

“the Act” means the Fair Employment (Northern Ireland) Act 1976;

“the Agency” means the Fair Employment Agency for Northern Ireland;

“the County Court Rules” means the County Court Rules (Northern Ireland) 1976(c),

and any reference to a Form by number is a reference to that Form as numbered in the schedule.

Applications under section 15 of the Act for enforcement by county court of undertaking or directions

3.—(1) An application by the Agency under section 15 of the Act for enforcement of an undertaking or directions shall be by notice in Form 1, Form 2, Form 3 or Form 4, as the case may be.

(2) The Agency shall in accordance with rule 6 serve the notice on the person concerned and shall serve a copy of the notice on the clerk of the Crown and peace together with a copy of the undertaking or directions sought to be enforced.

(3) The application shall be made to the county court sitting for the division in which the person concerned carried on business or, as the case may be, had an office at the time when the undertaking sought to be enforced was given or the notice containing the directions was served under section 13 of the Act and may be heard at any sitting of the court appointed for the hearing of ordinary civil bills.

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)

(b) 1976 c. 25

(c) S.R. 1976 No. 374 (II, p. 1774)

(4) In this rule—

“directions” means directions given by the Agency under section 13 of the Act or directions substituted for such directions by the Fair Employment Appeals Board under section 14(4)(c) of the Act on appeal to that Board;

“the person concerned” has the same meaning as in section 12 of the Act;

“undertaking” means an undertaking given to the Agency by the person concerned under section 13 of the Act.

Appeals under section 28 of the Act

4.—(1) Notice of an appeal under section 28 of the Act shall be in Form 5 or Form 6.

(2) The appellant shall in accordance with rule 6 serve the notice on the respondent to the appeal and shall serve a copy of the notice on the clerk of the Crown and peace together with a copy of the notice served on the appellant by the Agency under section 25(2) of the Act stating the finding of the Agency and the reasons for the finding.

(3) Where the appeal is under section 28(2) of the Act the appellant shall, in addition, serve a copy of the notice of appeal upon the complainant and, where it is under section 28(3) of the Act, on the Agency.

(4) The appeal shall be heard by the county court sitting for the division in which the person alleged to have been injured by the unlawful act of discrimination alleged or found to have been committed is resident at the time of service of the notice of appeal or in which he was resident at the time when the act was done or alleged to have been done or, if he is not resident in Northern Ireland at the time of service of the notice of appeal and was not so resident at the time when the act was done or alleged to have been done, the division in which the act was done or alleged to have been done.

Applications under section 36 of the Act

5.—(1) An application to the county court under section 36 of the Act shall be by notice in Form 7 and may be made to the county court for the division in which the respondent to the application resides or carries on business or has its registered or principal office and may be heard at any sitting of the court appointed for the hearing of ordinary civil bills.

(2) The applicant shall, in accordance with rule 6, serve the notice on the respondent and shall serve a copy on the clerk of the Crown and peace.

Service of notice of application or appeal and entry for hearing.

6.—(1) Where service of a notice of application or appeal under these rules is upon an individual, the notice shall be served on him at his usual or last known place of residence or business and, where it is upon a body corporate or unincorporate, at its registered or principal office.

(2) The notice shall be served in accordance with Order 6 of the County Court Rules not less than twenty-eight days before the entry day for the sitting at which the application or appeal is to be heard.

(3) Where the respondent to the application or appeal is not resident in Northern Ireland at the time when the notice is served, service by post in accordance with the said Order 6 may be effected without leave of the judge.

(4) The applicant or appellant shall serve the copy of the notice on the clerk of the Crown and peace at his office duly endorsed as to service and shall, where the notice was served on the respondent by post in accordance with the said Order 6, attach to the copy any certificate of posting.

(5) Upon receipt of the copy of the notice the clerk of the Crown and peace shall enter the application or appeal for hearing at the appropriate sitting without requiring the production of an entry sheet.

Actions in tort under section 30 of the Act in respect of unlawful discrimination

7.—(1) The particulars of claim in a civil bill commencing an action by the Agency under section 30 of the Act in respect of unlawful discrimination shall specify the act or acts of unlawful discrimination referred to in the notice stating the finding of the Agency served on the defendant under section 25(2) of the Act and shall state the relief sought under section 30(4) thereof.

(2) Such a civil bill may, by leave of the judge, be served outside Northern Ireland and the provisions of rule 11(4) and (5) of Order 6 of the County Court Rules shall apply to an application for such leave as they apply to service of a civil bill at the suit of the Crown.

(3) Any such action shall be brought in the county court sitting for the division in which the person alleged to have been injured by the act of unlawful discrimination found by the Agency to have been committed is resident at the time when the action is commenced or in which he was resident at the time when the act was done or, if he is not resident in Northern Ireland at the time when the action is commenced and was not so resident at the time when the act was done, the division in which the act was done.

Jurisdiction of Belfast Recorder's Court

8. Where there is no county court appearing to have jurisdiction for the purposes of rule 3(3), 4(4), 5(1) or 7(3), as the case may be, the appropriate court shall be the Belfast Recorder's Court.

Northern Ireland Office
6th June 1978

Roy Mason
One of Her Majesty's Principal
Secretaries of State

SCHEDULE

FORMS

FORM No. 1

Rule 3

Notice of application under section 15 of Fair Employment (Northern Ireland) Act 1976 for Enforcement of Undertaking given under section 13 of that Act

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an application by the Fair Employment Agency for Northern Ireland under section 15 of the Fair Employment (Northern Ireland) Act 1976 for enforcement of an undertaking given under section 13 of that Act.

BETWEEN

the Fair Employment Agency for Northern Ireland
Applicant

AND

of

Respondent

WHEREAS the Respondent on the _____ day of _____ 19 _____ gave to the Applicant Agency an undertaking in accordance with section 13 of the Fair Employment (Northern Ireland) Act 1976 that the Respondent would

(here state terms of undertaking).

AND WHEREAS the Respondent has not complied with that undertaking [or taken steps to the satisfaction of the Applicant Agency to comply with it];

TAKE NOTICE that the Applicant Agency intends to apply under section 15 of the said Act of 1976 to the County Court/Recorder's Court at sitting for the above-named Division [at the sitting of the court commencing] on the _____ day of _____ 19 _____ for such an order as is specified in section 15(3) of that Act to enforce the undertaking.

Dated this _____ day of _____ 19 _____ .

Solicitor for Applicant

To the Respondent
and to the Clerk of the Crown and Peace
at _____

(Courthouse)

Notice of application under section 15 of Fair Employment (Northern Ireland) Act 1976 for Enforcement of Directions given under section 13 of that Act

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an application by the Fair Employment Agency for Northern Ireland under section 15 of the Fair Employment (Northern Ireland) Act 1976 for enforcement of directions by the Agency given under section 13 of that Act.

BETWEEN

the Fair Employment Agency for Northern Ireland
Applicant

AND

of

Respondent

WHEREAS the Applicant Agency on the _____ day of _____ 19____ served notice on the Respondent containing the following directions, being directions such as may be specified under section 13(3) of the Fair Employment (Northern Ireland) Act 1976, namely:—

(here set out directions)

AND WHEREAS the Respondent has not complied with the said directions [or taken steps to the satisfaction of the Applicant Agency to comply with them];

AND WHEREAS the conditions specified in section 15(2) of the Act before notice of application for enforcement of directions may be given have been satisfied as follows:—

(specify conditions under section 15(2)(a) or (b)(i) or (iii));

TAKE NOTICE that the Applicant Agency intends to apply under section 15 of the said Act of 1976 to the County Court/Recorder's Court at sitting for the above-named Division [at the sitting of the court commencing] on the _____ day of _____ 19____ for such an order as is specified in section 15(3) of that Act to enforce those directions.

Dated this _____ day of _____ 19____ .

Solicitor for Applicant

To the Respondent
and to the Clerk of the Crown and Peace at
(Courthouse)

Notice of application under section 15 of Fair Employment (Northern Ireland) Act 1976 for Enforcement of Directions given under section 13 of that Act where appeal under section 14 of that Act against Directions has been dismissed

[Title as in Form No. 2]

WHEREAS the Applicant Agency on the day of 19 served notice on the Respondent containing the following directions, being such directions as may be specified under section 13(3) of the Fair Employment (Northern Ireland) Act 1976, namely:—

(here set out directions)

AND WHEREAS the Respondent appealed under section 14 of that Act to the Fair Employment Appeals Board against those directions and on the day of 19 that Board dismissed the appeal and confirmed the said directions;

AND WHEREAS the Respondent has not complied with the said directions [or taken steps to the satisfaction of the Applicant Agency to comply with them];

AND WHEREAS the conditions specified in section 15(2) of the Act before notice of application for enforcement of directions may be given have been satisfied as follows:—

(specify conditions under section 15(2)(a) or (b)(i) or (ii))

TAKE NOTICE that the Applicant Agency intends to apply under section 15 of the said Act of 1976 to the County Court/Recorder's Court at sitting for the above-named Division [at the sitting of the court commencing] on the day of 19 for such an order as is specified in section 15(3) of that Act to enforce those directions.

Dated this day of 19 .

Solicitor for Applicant

To the Respondent
and to the Clerk of the Crown and Peace at
(Courthouse)

Notice of application under section 15 of Fair Employment (Northern Ireland) Act 1976 for Enforcement of Directions given under section 13 of that Act where Directions substituted by Fair Employment Appeals Board under section 14 of that Act on appeal

[Title as in Form No. 2]

WHEREAS the Applicant Agency on the day of 19 served notice on the Respondent containing the following directions, being such directions as may be specified under section 13(3) of the Fair Employment (Northern Ireland) Act 1976, namely:—

(here set out directions)

AND WHEREAS the Respondent appealed under section 14 of that Act to the Fair Employment Appeals Board against those directions and on the day of 19 that Board substituted [for certain of those directions] the following directions:—

(here set out directions substituted by Board)

AND WHEREAS the Respondent has not complied with the said directions [or taken steps to the satisfaction of the Applicant Agency to comply with them];

AND WHEREAS the conditions specified in section 15(2) of the Act before notice of application for enforcement of directions may be given have been satisfied as follows:—

(specify conditions under section 15(2)(a) or (b)(i) or (ii))

TAKE NOTICE that the Applicant Agency intends to apply under section 15 of the said Act of 1976 to the County Court/Recorder's Court at sitting for the above-named Division [at the sitting of the court commencing] on the day of 19 for such an order as is specified in section 15(3) of that Act to enforce those directions as substituted [or amended] by the Board.

Dated this day of 19 .

Solicitor for Applicant

To the Respondent
and to the Clerk of the Crown and Peace at
(Courthouse)

Notice of Appeal to County Court from Finding of Fair Employment Agency for Northern Ireland that unlawful discrimination has been committed.

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an appeal under section 28(2) of the Fair Employment (Northern Ireland) Act 1976 against a finding of the Fair Employment Agency for Northern Ireland.

BETWEEN

of

Appellant

AND

the Fair Employment Agency for Northern Ireland

WHEREAS

of (name)
(address)
(hereinafter referred to as "the Complainant") made a complaint in writing to the Fair Employment Agency for Northern Ireland (hereinafter referred to as "the Agency") on the day of 19 alleging that the Appellant had committed unlawful discrimination against him contrary to the Fair Employment (Northern Ireland) Act 1976 in the following respect:—
(state briefly the grounds of complaint as stated in the written complaint) and Agency on the day of 19 served notice under section 25(2) of the said Act of 1976 on the Appellant and on the day of 19 upon the Complainant of the finding of the Agency that such unlawful discrimination had been committed by the Appellant;

TAKE NOTICE that the Appellant hereby appeals under section 28(2) of the said Act of 1976 against such finding of the Agency to the County Court/Recorder's Court and the appeal will be heard at the court sitting for the above-named Division [or the sitting of the court commencing] on the day of 19 .

Dated this day of 19 .

Appellant/Solicitor for Appellant

To the Fair Employment Agency for Northern Ireland and to the Complainant and to the Clerk of the Crown and Peace at
(Courthouse)

Notice of Appeal to County Court from Finding of Fair Employment Agency for Northern Ireland that unlawful discrimination has not been committed

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an appeal under section 28(3) of the Fair Employment (Northern Ireland) Act 1976 against a finding of the Fair Employment Agency for Northern Ireland.

BETWEEN

_____ of

Appellant (Complainant)

AND

_____ of

Respondent

WHEREAS the Appellant made a complaint in writing to the Fair Employment Agency for Northern Ireland on the _____ day of _____ 19 _____ alleging that the Respondent had committed unlawful discrimination against the Appellant contrary to the Fair Employment (Northern Ireland) Act 1976 in the following respect:—

(state briefly the grounds of complaint as stated in the written complaint) and the said Agency on the _____ day of _____ 19 _____ served notice under section 25(2) of the said Act of 1976 on the Appellant (Complainant) and on the _____ day of _____ 19 _____ on the Respondent of the finding of the said Agency that such unlawful discrimination had not been committed by the Respondent;

TAKE NOTICE that the appellant hereby appeals under section 28(3) of the said Act of 1976 against such finding of the said Agency to the County Court/Recorder's Court and the appeal will be heard at the court sitting for the above-named Division [at the sitting of the court commencing] on the _____ day of _____ 19 _____

Dated this _____ day of _____

19 _____

Appellant/Solicitor for Appellant

To the Respondent and to the Fair Employment Agency for Northern Ireland and to the clerk of the Crown and peace at
(*Courthouse*)

Notice of application under section 36 of Fair Employment (Northern Ireland) Act 1976 for order restraining respondent from doing an act which is unlawful by virtue of section 33 of that Act

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF an application by the Fair Employment Agency for Northern Ireland under section 36 of the Fair Employment (Northern Ireland) Act 1976 for an order restraining the Respondent from doing acts contrary to section 33 of the Act.

BETWEEN

the Fair Employment Agency for Northern Ireland

Applicant

AND

of

Respondent

WHEREAS it appears to the Applicant Agency that the Respondent on the day of 19 did the following act, namely:—
(specify act in terms of section 33 of Act of 1976) which was an act which by virtue of section 33 of the Fair Employment (Northern Ireland) Act 1976 was unlawful and that the Respondent unless restrained is likely to do further acts which by virtue of that section are unlawful;

TAKE NOTICE that the Applicant Agency intends to apply under section 36 of the said Act of 1976 for an order restraining the Respondent from doing further acts [or continuing to do such act] which by virtue of section 33 of that Act are [or is] unlawful.

Dated this day of

19 .

Solicitor for Applicant

To the Respondent
and to the Clerk of the Crown and Peace at
(Courthouse)

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules provide for the procedure in the county court upon applications by the Fair Employment Agency for Northern Ireland under section 15 of the Fair Employment (Northern Ireland) Act 1976 for enforcement of an undertaking given by a person under section 13 of that Act or of directions given to a person under section 13 or 14 of that Act for promoting equality of opportunity in accordance with that Act.

The rules also provide for the procedure upon an appeal to the county court under section 28 of that Act from the finding of the Agency upon a complaint alleging unlawful discrimination and in an action brought by the Agency under section 30 of the Act by way of a claim in tort in respect of unlawful discrimination and for the procedure upon an application under section 36 to restrain an act which is unlawful under section 33.