



Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999)

1989 CHAPTER 32

PART I

THE FAIR EMPLOYMENT COMMISSION, THE FAIR EMPLOYMENT TRIBUNAL AND THE FUNCTIONS OF THE COMMISSION AND THE TRIBUNAL

The Fair Employment Tribunal for Northern Ireland

2 Constitution of the Tribunal.

- (1) The Department shall by regulations provide for the establishment of a tribunal, to be known as the Fair Employment Tribunal for Northern Ireland (in this Act referred to as “the Tribunal”), to exercise the jurisdiction conferred on it by the Fair Employment (Northern Ireland) Acts.
- (2) Regulations under subsection (1) above may provide for the jurisdiction of the Tribunal to be exercised by a single tribunal or by two or more tribunals.
- (3) The Fair Employment Appeals Board established by section 4 of the ^{M1}Fair Employment (Northern Ireland) Act 1976 is hereby abolished.
- (4) Any appeal that has been made to the Fair Employment Appeals Board under Part II of the Fair Employment (Northern Ireland) Act 1976 and has not been determined before the commencement of this section shall be determined by the Tribunal; and the provisions of that Part relating to appeals have effect in relation to such an appeal as if references to the Board were references to the Tribunal.

Marginal Citations

M1 1976 c. 25.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland. (See end of Document for details)

3 The President and Vice-President.

- (1) There shall be—
 - (a) a President of the [^{F1}Employment Tribunals] and the Fair Employment Tribunal (in this Part of this Act referred to as “the President”),
 - (b) a Vice-President of the [^{F1}Employment Tribunals] and the Fair Employment Tribunal (in this Part of this Act referred to as “the Vice-President”), and
 - (c) a panel of chairmen of the Fair Employment Tribunal,
 who shall each be appointed by the Lord Chancellor and shall exercise the functions respectively conferred on them by or under the Fair Employment (Northern Ireland) Acts or any other enactment.
- (2) A person is not qualified for appointment under subsection (1) above unless he is a barrister or solicitor of not less than seven years’ standing.
- (3) The President and Vice-President may each resign his office at any time by notice in writing to the Lord Chancellor and shall each vacate his office [^{F2}on the day on which he attains the age of 70, but subject to subsection (4) below and subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75)].
- (4) If, in the opinion of the Lord Chancellor, the President or Vice-President is unfit to continue in office or is incapable of performing his duties, the Lord Chancellor may revoke his appointment.
- (5) A person appointed under subsection (1)(c) above to a panel of chairmen shall hold and vacate office as provided by or under regulations under section 2(1) of this Act.
- (6) The functions of the President or Vice-President may, if he is for any reason unable to act or during a vacancy in his office, be discharged by a person nominated for that purpose by the Lord Chancellor.
- (7) Regulations under section 2(1) of this Act may provide for specified functions of the President and Vice-President (including functions under sections 6 and 17 of this Act) to be exercised in specified circumstances by a person appointed, under subsection (1) (c) above, to a panel of chairmen.
- (8) Until the first appointment under subsection (1)(a) above takes effect, the President of the [^{F1}Employment Tribunals] shall be the President.

^{F3}(9)

Textual Amendments

F1 Words in s. 3(1)(8) substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

F2 Words in s. 3(3) substituted (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para. 28(1) (with Sch. 7 paras. 2(2), 3(2)(4)); S.I. 1995/631, art. 2

F3 S. 3(9) repealed (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 28, Sch. 3

4 Remuneration and allowances.

The Department may pay—

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland. (See end of Document for details)

- (a) to members of the Tribunal, other than the President and Vice-President, such remuneration, fees and allowances, and
 - (b) to any other persons, such allowances for the purposes of, or in connection with, their attendance at the Tribunal,
- as the Department may, with the consent of the Department of Finance and Personnel, determine.

5 Tribunal procedure.

- (1) The Department may by regulations make such provision as appears to it to be necessary or expedient with respect to proceedings before the Tribunal.
- (2) The regulations may in particular include provision—
 - (a) for determining by which tribunal any appeal, question or complaint is to be determined where the jurisdiction of the Tribunal is being exercised by more than one tribunal,
 - (b) for parties to proceedings to be represented by such persons as may be determined by or under the regulations,
 - (c) for requiring persons to attend to give evidence and produce documents,
 - (d) as to the admissibility of evidence,
 - (e) for authorising the administration of oaths to witnesses,
 - (f) for granting to any person such discovery or inspection of documents or right to further particulars as might be granted by a county court,
 - (g) for enabling an officer of the Tribunal to determine matters arising prior to a hearing,
 - (h) prescribing forms to be completed by the parties to a complaint under Part III of the ^{M2}Fair Employment (Northern Ireland) Act 1976 before any hearing before the Tribunal,
 - (j) for enabling the Tribunal to review its decisions, and revoke or vary its orders or awards, in such circumstances as may be determined in accordance with the regulations,
 - (k) for the award of costs or expenses,
 - (l) for taxing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be taxed in the county court), and
 - (m) for the registration and proof of determinations of the Tribunal.
- (3) The Tribunal shall give reasons for its decisions.
- (4) In relation to proceedings on a complaint under Part III of the ^{M3}Fair Employment (Northern Ireland) Act 1976, the regulations shall include provision for postponing the hearing of a complaint for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the complaint to be settled by way of conciliation and withdrawn.
- (5) Without prejudice to subsection (1) above, the regulations may enable the Tribunal to sit in private for the purposes of—
 - (a) hearing evidence which in the opinion of the Tribunal relates to matters of such a nature that it would be against the interests of national security, public safety or public order to allow the evidence to be given in public,
 - (b) hearing evidence from any person which in the opinion of the Tribunal is likely to consist of—

Status: Point in time view as at 01/08/1998.

Changes to legislation: *There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland. (See end of Document for details)*

- (i) information which he could not disclose without contravening a prohibition imposed by or under any enactment,
 - (ii) information which has been communicated to him in confidence or which he has otherwise obtained in consequence of the confidence reposed in him by another person,
 - (iii) information the disclosure of which would cause substantial injury to any undertaking of his or in which he works, or
 - (iv) information the disclosure of which would create a substantial risk that he or another individual would be subject to physical attack or sectarian harassment.
- (6) The regulations may include provision authorising or requiring the Tribunal, in circumstances specified in the regulations, to send notice or a copy of any document so specified relating to any proceedings before the Tribunal, or of any decision, order or award of the Tribunal, to any person or body so specified.
- (7) ^{F4}Part I of the Arbitration Act 1996] does not apply to any proceedings before the Tribunal.
- (8) Any person who without reasonable excuse fails to comply with—
- (a) any requirement imposed by the regulations by virtue of subsection (2)(c) above, or
 - (b) any requirement with respect to the discovery or inspection of documents imposed by the regulations by virtue of subsection (2)(f) above,
- is guilty of an offence.
- (9) A person guilty of an offence under subsection (8) above—
- (a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, and
 - (b) if without reasonable excuse the failure continues after conviction, is 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.
- (10) Where the Tribunal sits in private in accordance with any provision included in the regulations by virtue of subsection (5) above, the Tribunal may make an order prohibiting the disclosure of specified information, except so far as the disclosure is necessary—
- (a) for the purposes of the proceedings,
 - (b) for communicating to any person the decision of the Tribunal in the proceedings and for communicating the reasons for the decision to any person to whom the Tribunal is required by the regulations to communicate them, or
 - (c) for the purposes of any criminal proceedings or to comply with the order of a court.
- (11) If a person discloses any information in contravention of an order of the Tribunal under subsection (10) above, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F4 Words in s. 5(7) substituted (31.1.1997 subject to transitional provisions) by 1996 c. 23, s. 107(1), **Sch. 3 para. 51** (with s. 81(2)); S.I. 1996/3146, **art. 3**

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland. (See end of Document for details)

Marginal Citations

M2 1976 c. 25.

M3 1976 c. 25.

6 Complaints involving matters within the jurisdiction of [F⁵ employment tribunal].

- (1) This section applies where a complaint has been made to the Tribunal under Part III of the ^{M4}Fair Employment (Northern Ireland) Act 1976 and it appears to the President or Vice-President that the complaint is one in respect of which—
- (a) a complaint could be made to an [F⁶employment tribunal] on the ground that—
- (i) the complainant has been unfairly dismissed within the meaning of [F⁷Part XI of the Employment Rights (Northern Ireland) Order 1996.],
or
- (ii) a person has committed an act of discrimination against the complainant which is unlawful by virtue of Part III of the Sex Discrimination (Northern Ireland) Order 1976, or
- [F⁸(iii) a person has committed an act of discrimination against the complainant which is unlawful by virtue of Part II of the Race Relations (Northern Ireland) Order 1997; or]
- (b) a complaint has been made to an [F⁶employment tribunal] on that ground, but the proceedings under the [F⁹Employment Rights (Northern Ireland) Order 1996] or the ^{M5}Sex Discrimination (Northern Ireland) Order 1976 [F¹⁰or the Race Relations (Northern Ireland) Order 1997] have not been disposed of.
- (2) Where this section applies and the President or Vice-President considers that any matters which would otherwise fall to be determined by an [F⁶employment tribunal] could appropriately be heard and determined by the Tribunal, he may direct that those matters shall be so heard and determined.
- [F¹¹(3) Where a direction is made under subsection (2) that any matters shall be heard and determined by the Tribunal, then—
- (a) for the purpose of complying with that direction, the Tribunal shall, in relation to those matters, have the jurisdiction, and may exercise all the powers, of an [F⁶employment tribunal];
- [F¹²none of the following, namely—
- (i) Article 63(3) of the Sex Discrimination (Northern Ireland) Order 1976;
- (ii) Article 11(5) of the Industrial Tribunals (Northern Ireland) Order 1996;
- (iii) Article 52(3) of the Race Relations (Northern Ireland) Order 1997,
- shall apply] in relation to the hearing and determination of those matters by the Tribunal.
- (c) [F¹³Articles 16 and 17 of the Industrial Tribunals (Northern Ireland) Order 1996] (recovery of, and interest on, sums awarded by [F¹⁴employment tribunals]) shall apply in relation to any sum payable in pursuance of a decision of the Tribunal in relation to any such matters as it applies in relation to a sum payable in pursuance of a decision of an industrial tribunal; and
- (d) [F¹⁵Article 22 of the Industrial Tribunals (Northern Ireland) Order 1996] (appeals against decisions of [F¹⁴employment tribunals]) shall apply in relation

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland. (See end of Document for details)

to a decision of the Tribunal in relation to any such matters as it applies in relation to a decision of an [employment tribunal].]

Textual Amendments

- F5** Words in crossnote substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F6** Words in s. 6 substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F7** Words in s. 6(1)(a)(i) substituted (24.9.1996) by S.I. 1996/1919 (N.I. 16), art. 255, **Sch. 1** (with Sch. 2)
- F8** S. 6(1)(a)(iii) added (4.8.1997) by S.I. 1997/869 (N.I. 6), art. 73, **Sch. 2 para. 3(1)(a)**; S.R. 1997/273, **art. 2**
- F9** Words in s. 6(1)(b) substituted (24.9.1996) by S.I. 1996/1919 (N.I. 16), art. 255, **Sch. 1** (with Sch. 2)
- F10** Words in s. 6(1)(b) inserted (4.8.1997) by S.I. 1997/869 (N.I. 6), art. 73, **Sch. 2 para. 3(1)(b)**; S.R. 1997/273, **art. 2**
- F11** S. 6(3) substituted (1.7.1992) by S.I. 1992/807 (N.I. 5), **art. 106(3)**; S.R. 1992/212, **art. 2(3)**.
- F12** Words in s. 6(3)(b) substituted (4.8.1997) by S.I. 1997/869 (N.I. 6), art. 73, **Sch. 2 para. 3(2)**; S.R. 1997/273, **art. 2**
- F13** Words in s. 6(3)(c) substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 26, **Sch. 1 para. 7(2)**
- F14** Words in s. 6 substituted (1.8.1998) by 1998 c. 8, s. 1(2) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F15** Words in s. 6(3)(d) substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 26, **Sch. 1 para. 7(3)**

Marginal Citations

- M4** 1976 c. 25.
- M5** S.I.1976/1042 (N.I. 15).

Status:

Point in time view as at 01/08/1998.

Changes to legislation:

There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999), Cross Heading: The Fair Employment Tribunal for Northern Ireland.