

Status: Point in time view as at 01/07/1992.

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to legislation: There are currently no known outstanding effects for the Fair Employment (Northern Ireland) Act 1989 (repealed 1.3.1999).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

SCHEDULES

SCHEDULE 1

Section 11(3).

CONDUCT OF INVESTIGATIONS BY THE COMMISSION

Preliminary

- 1 In this Schedule “the investigation” means an investigation under section 11 of this Act or under section 38 of the ^{M1}Fair Employment (Northern Ireland) Act 1976 (investigations for purposes of review of exception of school teachers).

Marginal Citations

M1 1976 c. 25.

Notices

- 2 Before holding the investigation, the Commission shall—
- (a) serve on every person whose practices it intends to investigate notice of the Commission’s intention to hold the investigation, and
 - (b) furnish to each such person, in writing, particulars of the scope and purpose of the investigation.

Procedure

- 3 The Commission shall afford to every person such as is mentioned in paragraph 2(a) above an opportunity to comment on the matters which are the subject of the investigation and to furnish oral or other evidence respecting them.
- 4 The investigation shall be conducted in private.
- 5 Subject to paragraphs 3 and 4 above, the procedure for conducting the investigation shall be such as the Commission considers appropriate in the circumstances of the case.

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Information and evidence

- 6 For the purposes of the investigation, the Commission may obtain information from such persons and (subject to paragraph 4 above) in such manner and may make such inquiries and call for such reports (including reports by officers of the Commission on inquiries or interviews conducted by them on the Commission's behalf) as the Commission thinks fit.
- 7 (1) For the purposes of the investigation the Commission may require any person who in its opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.
- (2) For those purposes the Commission shall have the same powers as the High Court in respect of—
- (a) the attendance and examination of witnesses, including the administration of oaths and the examination of witnesses abroad, and
 - (b) the production of documents.
- (3) A person shall not be compelled for the purposes of the investigation—
- (a) to give any information or produce any document which he could not be compelled to give in evidence or produce in civil proceedings before the High Court, or
 - (b) to give any information or produce any document which discloses, or from which there can be deduced, his religious belief, if he informs the Commission that he objects to doing so, or
 - (c) to attend at any place unless the necessary expenses of his journey to and from that place are paid or tendered to him.
- 8 For the purposes of the investigation the Commission may also require an employer or vocational organisation to take such reasonable action as the Commission specifies for communicating to his or its employees or members (as the case requires), or to employees or members of any class, any written material provided for the purposes by the Commission.

Obstruction and contempt

- 9 (1) If any person, without lawful authority or reasonable excuse, obstructs the Commission or any member or officer of the Commission in the performance of its or his functions in connection with the investigation, or is guilty of any act in relation to the investigation which, if the investigation were a proceeding in the High Court, would constitute contempt of court, the Commission may certify the offence to the High Court.
- (2) Where an offence is certified under this paragraph, the High Court may inquire into the matter and after hearing—
- (a) any witnesses who may be produced against or on behalf of the person charged with the offence, and
 - (b) any statement that may be offered in defence,

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may deal with the person charged with the offence in any manner in which the court could deal with him if he had committed the like offence in relation to the court.

Expenses

- 10 Without prejudice to paragraph 7(3)(c) above, the Commission may, if it thinks fit, pay to any person who attends, or furnishes information for the purposes of, the investigation, sums in respect of expenses properly incurred by him and allowances by way of compensation for the loss of his time in accordance with such scales and subject to such conditions as the Department with the approval of the Department of Finance and Personnel may determine.

SCHEDULE 2

Section 59(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 (c.7 (N.I.))

- 1 In section 2(1) of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 for paragraph (b) there is substituted—
- “(b) the holder of any of the following offices who is remunerated, apart from any allowances, on an annual basis, that is to say—
- (i) President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal; and
 - (ii) member of a panel of chairmen established by regulations under Article 30 of the Industrial Training (Northern Ireland) Order 1984 or appointed under section 3(1)(c) of the Fair Employment (Northern Ireland) Act 1989;”.

The Northern Ireland Constitution Act 1973 (c.36)

- 2 In section 20(2)(dd) of the Northern Ireland Constitution Act 1973 for “Agency” there is substituted “Commission”.

The House of Commons Disqualification Act 1975 (c.24)

- 3 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 the entries relating to the Fair Employment Agency for Northern Ireland and the Fair Employment Appeals Board are omitted and there are inserted at the appropriate places “The Fair Employment Commission for Northern Ireland” and “The Fair Employment Tribunal for Northern Ireland”.

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The Northern Ireland Assembly Disqualification Act 1975 (c.25)

- 4 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 the entries relating to the Fair Employment Agency for Northern Ireland and the Fair Employment Appeals Board are omitted and there are inserted at the appropriate places “ The Fair Employment Commission for Northern Ireland ” and “ The Fair Employment Tribunal for Northern Ireland ”.

The Fair Employment (Northern Ireland) Act 1976 (c.25)

- 5 In section 1 of the Fair Employment (Northern Ireland) Act 1976 for “Agency”, wherever occurring, there is substituted “ Commission ”.
- 6 In section 2 of that Act—
- (a) for “Agency”, wherever occurring, there is substituted “ Commission ”, and
 - (b) in subsection (1)(e), for “Schedule 5, paragraph 12(4)” there is substituted “ section 19(1) of the Fair Employment (Northern Ireland) Act 1989 ”.
- 7 In section 16(3) of that Act—
- (a) in paragraph (b) for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”, and
 - (b) in paragraphs (c) and (d) for “this Act” there is substituted “ those Acts ”.
- 8 In section 37 of that Act—
- (a) in subsection (1) for “Parts II to IV” there is substituted “ Parts III and IV and the Fair Employment (Northern Ireland) Act 1989 ”, and
 - (b) in subsection (2) for “Part II” there is substituted “ The Fair Employment (Northern Ireland) Act 1989 ”.
- 9 In section 38 of that Act—
- (a) for “Agency”, wherever it occurs in subsections (1), (2) and (3), there is substituted “ Commission ”, and
 - (b) in subsection (4) for “Schedule 5” there is substituted “ Schedule 1 to the Fair Employment (Northern Ireland) Act 1989 ”.
- 10 In sections 39(1)(b) and 40(1) of that Act for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”.
- 11 In section 41(1) of that Act for “this Act”, where it first occurs, there is substituted “ the Fair Employment (Northern Ireland) Acts ”.

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- 12 In section 42(1) of that Act for “This Act” there is substituted “ The Fair Employment (Northern Ireland) Acts ”.
- 13 (1) Section 49 of that Act is amended as follows.
- (2) In subsections (1) and (2) for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”.
- (3) In subsection (4) for “this Act is” there is substituted “ the Fair Employment (Northern Ireland) Acts are ”.
- (4) Subsection (7) is omitted.
- (5) In subsection (9) for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”.
- (6) After subsection (9) there is inserted—
- “(10) In the application of subsections (1) to (6) for the purposes of Part II of the Fair Employment (Northern Ireland) Act 1989, references to employment are references to employment within the meaning of that Part.”
- 14 In section 50 of that Act, in subsections (1) and (2) after “this Act” there is inserted “ and Part I of the Fair Employment (Northern Ireland) Act 1989 ”.
- 15 In section 51 of that Act—
- (a) for “section 30”, in both places where it occurs, there is substituted “ section 24 ”, and
- (b) paragraph (a) and the word “and” immediately following it are omitted.
- 16 (1) Section 52 of that Act is amended as follows.
- (2) In subsections (1) and (2) for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”.
- (3) In subsection (5)—
- (a) for the words from “the Agency or” to “purposes of the Appeals Board” there is substituted “ the Commission or the Tribunal ”, and
- (b) for paragraph (a) there is substituted—
- “(a) for the purpose of communicating in accordance with the provisions of the Fair Employment (Northern Ireland) Acts the Tribunal’s decision on an appeal and the reasons for it;”.
- 17 (1) Section 53 of that Act is amended as follows.
- (2) In subsection (1) after “this Act” there is inserted “ and Part I of the Fair Employment (Northern Ireland) Act 1989 ”.
- (3) In subsection (2)(a)—

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- (a) after “this Act”, where it first occurs, there is inserted “ or Part I of the Fair Employment (Northern Ireland) Act 1989 ”, and
- (b) for the words from “this Act”, in the second place where it occurs, to “paragraph 11” there is substituted “ that Part so far as not defrayed by sums paid by the Commission under paragraph 10 of Schedule 1 to that Act ”.
- (4) In subsection (3) after “this Act” there is inserted “ or Part I of the Fair Employment (Northern Ireland) Act 1989 ”.
- (5) In subsection (4)—
- (a) “investigation or” is omitted, and
- (b) after “this Act” there is inserted “ or Part I of the Fair Employment (Northern Ireland) Act 1989 ”.
- 18 (1) Section 54 of that Act is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “section 12” to “opportunity” there is substituted “ section 11 of the Fair Employment (Northern Ireland) Act 1989, the Commission is of the opinion that action for promoting equality of opportunity ought to be taken ”, and
- (b) for “section 13(2) to (8) and sections 14 and 15” there is substituted “ sections 12(3), 14, 15 and 16 of that Act ”.
- (3) In subsection (2) for “section 13(1)(b)” there is substituted “ section 12(2)(b) of the Fair Employment (Northern Ireland) Act 1989 ”.
- (4) In subsection (4) for the words from the beginning to “Assembly” there is substituted “ If a report is required by subsections (2) and (3) to be sent to the head of a Northern Ireland department and laid before the Northern Ireland Assembly at a time when no such head stands appointed, the report ”.
- 19 In section 55(1) of that Act for “this Act” there is substituted “ the Fair Employment (Northern Ireland) Acts ”.
- 20 In section 56 of that Act—
- (a) in subsection (2), for “an order under section” there is substituted “ regulations under section 28 or an order under section 26(9) or ”; and
- (b) in subsection (3)(c) for “Agency” there is substituted “ Commission ”.
- 21 In section 57(1) of that Act—
- (a) after the definition of “advertisement” there is inserted—
- ““affirmative action” has the meaning given by section 58 of the Fair Employment (Northern Ireland) Act 1989;”,
- (b) after the definition of “benefits” there is inserted—
- ““the Commission” means the Fair Employment Commission for Northern Ireland;”,

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- (c) in the definition of “complaint”, for “Agency” there is substituted “Tribunal”;
- (d) in the definition of “equality of opportunity” for “section 3” there is substituted “ section 20 of the Fair Employment (Northern Ireland) Act 1989 ”;
- (e) in the definition of “training”—
 - (i) for “sections 3(3)(b)(ii), 12(1)(b)(v) and 22” there is substituted “ section 22 of this Act and sections 11(1)(e) and 20(4)(b)(ii) of the Fair Employment (Northern Ireland) Act 1989 ”, and
 - (ii) for “education in” there is substituted “ education provided by ”, and
- (f) after the definition of “training” there is inserted—

““the Tribunal” means the Fair Employment Tribunal for Northern Ireland;”.

22 In Schedule 1 to that Act for paragraph 1 there is substituted—
“(1) The Commission shall continue in existence as a body corporate.”

[^{F1}23 In Schedule 1 to that Act for “Agency” wherever it occurs in paragraphs 2 to 9, 10(1) and (2), 11 and 12, 13(1) to (5) and 14(1) and (2) there is substituted “ Commission ”.]

Textual Amendments

F1 Sch. 2 para. 23 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

23 In Schedule 1 to that Act for “Agency” wherever it occurs in paragraphs 2 to 9, 10(1) and (2), 11 and 12, 13(1) to (5) and 14(1) and (2) there is substituted “Commission”.

[^{F2}24 In paragraph 6(1) of Schedule 1 to that Act for “Schedule 5” there is substituted “ Schedule 1 to the Fair Employment (Northern Ireland) Act 1989 ”.]

Textual Amendments

F2 Sch. 2 para. 24 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

24 In paragraph 6(1) of Schedule 1 to that Act for “Schedule 5” there is substituted “Schedule 1 to the Fair Employment (Northern Ireland) Act 1989”.

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- [^{F3}25 In paragraph 10(1) of Schedule 1 to that Act for the words from “in relation to” to the end of paragraph (b) there is substituted “in relation to any matter or class of matters falling to be dealt with by it”.]

Textual Amendments

- F3** Sch. 2 para. 25 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

- 25 In paragraph 10(1) of Schedule 1 to that Act for the words from “in relation to” to the end of paragraph (b) there is substituted “in relation to any matter or class of matters falling to be dealt with by it”.

- [^{F4}26 In paragraph 11 of Schedule 1 to that Act the words “complaint or other” are omitted.]

Textual Amendments

- F4** Sch. 2 para. 26 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

- 26 In paragraph 11 of Schedule 1 to that Act the words “complaint or other” are omitted.

- [^{F5}27 In paragraph 13 of Schedule 1 to that Act—
 (a) in sub-paragraph (1) for the words from “the period” to “each subsequent” there is substituted “each”, and
 (b) in sub-paragraph (6) for “During the interim period” there is substituted “If no head of the Department stands appointed for the time being”.]

Textual Amendments

- F5** Sch. 2 para. 27 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

- 27 In paragraph 13 of Schedule 1 to that Act—
 (a) in sub-paragraph (1) for the words from “the period” to “each subsequent” there is substituted “each”, and
 (b) in sub-paragraph (6) for “During the interim period” there is substituted “If no head of the Department stands appointed for the time being”.

- [^{F6}28 In paragraph 14 of Schedule 1 to that Act—

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- (a) in sub-paragraph (1) for the words from “the period” to “each subsequent” there is substituted “each”, and
- (b) in sub-paragraph (4) for “During the interim period” there is substituted “If no head of the Department stands appointed for the time being”.]

Textual Amendments

F6 Sch. 2 para. 28 repealed (*prosp.*) by 1998 c. 47, ss. 99, 100(2), 101(3), Sch. 13 para. 10(4), Sch. 15 (with s. 95)

- 28 In paragraph 14 of Schedule 1 to that Act—
- (a) in sub-paragraph (1) for the words from “the period” to “each subsequent” there is substituted “each”, and
 - (b) in sub-paragraph (4) for “During the interim period” there is substituted “If no head of the Department stands appointed for the time being”.

The Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042(N.I.15))

- 29 At end of Article 49 of the Sex Discrimination (Northern Ireland) Order 1976 there is added—
- “(4) Any act which by virtue of this Article or Article 48 could not be unlawful under Parts III to V (or, in the case of an act falling within paragraph (3), under Article 15) is not by virtue of section 16(2)(b) of the Fair Employment (Northern Ireland) Act 1976 (indirect discrimination on the grounds of religious belief or political opinion) unlawful under any provision of Parts III and IV of that Act.”

- 30 At the end of Article 63 of that Order there is added—
- “(3) Where a complaint is presented to an industrial tribunal under paragraph (1) and it appears to the tribunal that the act to which the complaint relates is one in respect of which (as being unlawful discrimination within the meaning of the Fair Employment (Northern Ireland) Act 1976)—
- (a) a complaint could be made to the Fair Employment Tribunal for Northern Ireland under Part III of that Act; or
 - (b) such a complaint has been made, but the proceedings under that Act have not been disposed of,
- the tribunal shall not proceed further under this Order in relation to the complaint unless all proceedings which can be taken under that Act in respect of the act have been disposed of.”

The Industrial Relations (Northern Ireland) Order 1976 (S.I.1976/1043 (N.I.16))

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Textual Amendments

F7 Sch. 2 para. 31 repealed (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 28, Sch. 3

31 In Article 29(2)(a) of the Industrial Relations (Northern Ireland) Order 1976 for “Agency” there is substituted “Tribunal”.

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F⁸32

Textual Amendments

F8 Sch. 2 paras. 32, 33 repealed (24.9.1996) by S.I. 1996/1919 (N.I. 16), art. 257, Sch. 3 (with Sch. 2)

32 In Article 32(3) of that Order at the end there is added—
“(c) a dismissal which is an act of discrimination (within the meaning of the Fair Employment (Northern Ireland) Act 1976) which is unlawful by virtue of Part III of that Act.”.

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F⁹33

Textual Amendments

F9 Sch. 2 paras. 32, 33 repealed (24.9.1996) by S.I. 1996/1919 (N.I. 16), art. 257, Sch. 3 (with Sch. 2)

33 In Article 38(2) of that Order for “court” there is substituted “the Fair Employment Tribunal for Northern Ireland”.

SCHEDULE 3

Section 59(2).

REPEALS

1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entries relating to the Fair Employment Agency for Northern Ireland and the Fair Employment Appeals Board.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entries relating to the Fair Employment Agency for

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1976 c. 25.	The Fair Employment (Northern Ireland) Act 1976.	Northern Ireland and the Fair Employment Appeals Board. Sections 3 to 15. Section 37(4). Sections 43 to 48. Section 49(7). In section 51, paragraph (a) and the word “and” immediately following it. In section 53(4), the words “investigation or”. In section 57(1), the definitions of “the Agency”, “the Appeals Board” and “the commencement of this Act”, in the definition of “complainant” the words from “or, in relation to” onwards, the definitions of “the county court”, “the Declaration of Principle and Intent”, “finding”, “the injured person”, “the interim period”, “the person concerned”, “the register” and “satisfactory”. Section 57(4). Section 57(9) and (10). In section 59(2), the words from “or to” to “United Kingdom”. Section 59(6). In Schedule 1, in paragraph 11, the words “complaint or other” and in paragraph 14(1) the words “period or”. Schedules 2 to 5.
1976 c. 25.— <i>continued</i>	The Fair Employment (Northern Ireland) Act 1976.— <i>continued</i>	In Schedule 6, paragraphs 3 and 4.
S.I. 1980/397 (N.I. 3).	The County Courts (Northern Ireland) Order 1980.	In Schedule 1, in Part II, the entries relating to the Fair Employment (Northern Ireland) Act 1976.

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