Number 21 *of* 1998

EMPLOYMENT EQUALITY ACT 1998

REVISED

Updated to 31 May 2025

This Revised Act is an administrative consolidation of the *Employment Equality Act 1998*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Finance (Provision of Access to Cash Infrastructure) Act 2025* (4/2025), enacted 20 May 2025, and all statutory instruments up to and including the *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2025* (S.I. No. 212 of 2025), made 27 May 2025, were considered in the preparation of this Revised Act.

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EMPLOYMENT EQUALITY ACT 1998

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Number 21 *of* 1998

EMPLOYMENT EQUALITY ACT 1998

REVISED

Updated to 31 May 2025

AN ACT TO MAKE FURTHER PROVISION FOR THE PROMOTION OF EQUALITY BETWEEN EMPLOYED PERSONS; TO MAKE FURTHER PROVISION WITH RESPECT TO DISCRIMINATION IN, AND IN CONNECTION WITH, EMPLOYMENT, VOCATIONAL TRAINING AND MEMBERSHIP OF CERTAIN BODIES; TO MAKE FURTHER PROVISION IN CONNECTION WITH COUNCIL DIRECTIVE NO. 75/117/EEC ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES RELATING TO THE APPLICATION OF THE PRINCIPLE OF EQUAL PAY FOR MEN AND WOMEN AND COUNCIL DIRECTIVE NO. 76/207/EEC ON THE IMPLEMENTATION OF THE PRINCIPLE OF EQUAL TREATMENT FOR MEN AND WOMEN AS REGARDS ACCESS TO EMPLOYMENT, VOCATIONAL TRAINING AND PROMOTION, AND WORKING CONDITIONS; TO MAKE FURTHER PROVISION WITH RESPECT TO HARASSMENT IN EMPLOYMENT AND IN THE WORKPLACE; TO CHANGE THE NAME AND CONSTITUTION OF THE EMPLOYMENT EQUALITY AGENCY AND PROVIDE FOR THE ADMINISTRATION BY THAT BODY OF VARIOUS MATTERS PERTAINING TO THIS ACT; TO ESTABLISH PROCEDURES FOR THE INVESTIGATION AND REMEDYING OF VARIOUS MATTERS ARISING UNDER THIS ACT; TO REPEAL THE ANTI-DISCRIMINATION (PAY) ACT, 1974, AND THE EMPLOYMENT EQUALITY ACT, 1977, AND TO PROVIDE FOR RELATED MATTERS. [18*th June*, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and references construed (14.10.2020) by *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020), arts. 2, 3(1)(a), (3) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

Note change of name of Department and title of Minister to Department of and Minister for Children, Equality, Disability, Integration and Youth made (15.10.2020) by *Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 437 of 2020), in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Children and Youth Affairs.

(2) References to the Department of Justice and Equality contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children and Youth Affairs.

3. (1) The functions vested in the Minister for Justice and Equality -

(a) by or under the enactments specified in Schedule 1, and

...

are transferred to the Minister for Children and Youth Affairs.

...

(3) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act, and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Children and Youth Affairs.

SCHEDULE 1

Article 3(1)(a)

Enactments, functions by or under which are transferred from the Minister for Justice and Equality to the Minister for Children and Youth Affairs

...

Employment Equality Acts 1998 to 2015, other than section 27(2) and section 37(4) (inserted by Part 2 of the Equality Act 2004 (No. 24 of 2004)) of the Employment Equality Act 1998 (No. 21 of 1998)

...

C2 Mediation services under collectively cited *Employment Equality Acts 1998 to 2011* excluded from application of *Freedom of Information Act 2014* by *Freedom of Information Act 2014* (30/2014), s. 6(2) and sch. 1 part 1 para. (k); as substituted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 19(1), commenced by S.I. No. 410 of 2015 as per subs. (2).

Public bodies

6. — ...

(2) (a) An entity specified in Part 1 of Schedule 1 ("the parent entity") shall, subject to the provisions of that Part, be a public body for the purposes of this Act.

...

SCHEDULE 1

Section 6

Part 1

Partially Included Agencies

Section 6 does not include a reference to—

...

[(k) the Workplace Relations Commission—

(i) insofar as it relates to records concerning the provision of mediation services under the Employment Equality Acts 1998 to 2011, the Equal Status Acts 2000 to 2012 or the Pensions Acts 1990 to 2014, where parties to the process are participating in a voluntary capacity to try to settle such disputes, or

(ii) insofar as it relates to records concerning—

(I) the referral of a complaint or dispute for resolution under section 39 of the Workplace Relations Act 2015,

(II) attempts made in accordance with that section to resolve any such complaint or dispute, or

(III) the resolution of any such complaint or dispute in accordance with that section.**]**

C3 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial*

Functions) Order 2011 (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 21 of 1998	Employment Equality Act 1998	Sections 42(1) and (2), 44(2) and (4), 46(2), 48(3) and (4), 51, 55(1), 59(4) and 75(1), (2) and (4A)
...	...	...

C4 Application of Act restricted (3.07.2010) by *Merchant Shipping Act 2010* (14/2010), s. 87(10), commenced on enactment.

Maritime Labour Convention 2006.

87.—...

(10) In relation to discrimination on the age or disability ground nothing in the Employment Equality Act 1998 renders unlawful any act done in compliance with this section or any regulation made under this section.

C5 Power to make regulations for purposes of Act provided (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 41(2), S.I. No. 351 of 2000.

Regulations.

41.— ...

(2) The Minister may by regulations specify, in cases where provision is not otherwise made in that behalf by regulations under this Act or the Employment Equality Act, 1998 —

(a) procedures to be followed by the Director or, as the case may be, the Labour Court, in carrying out functions under this Act or the Employment Equality Act, 1998, and

(b) time limits applicable to the carrying out of such functions, including procedures for extending those limits in certain circumstances.

...

C6 Application of Act restricted in certain circumstances by *Pensions Act 1990* (25/1990), s. 81H(7) as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004.

Redress which may be ordered.

81H.— ...

(7) Where an act constitutes victimisation both under this Part and the Employment Equality Act 1998 or the Equal Status Act 2000, redress may be provided under only one of them.

Editorial Notes:

E1 Act included in definitions of "employment enactment" and "relevant enactment" (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 1 item 15, S.I. No. 338 of 2015, with the following effects:

- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
- Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
- Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer's registered number or employee's PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
- Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
- Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
- Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
- Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2), not commenced as of date of revision.

E2 Obligation imposed on Irish Human Rights and Equality Commission to provide information to the public and keep under review the effectiveness of the working of collectively cited *Employment Equality Acts 1998 to 2011* (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 30(1)(b)(i), S.I. No. 449 of 2014.

E3 Claims under Act excluded from delegation (15.04.2014) by *National Treasury Management Agency (Delegation of Claims Management Functions) Order 2014* (S.I. No. 182 of 2014), art. 4(c).

E4 Approved code of practice for purposes of Act declared (31.05.2012) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002* (S.I. No. 208 of 2012), art. 2 and sch.

E5 Previous affecting provision: functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2); superseded as per C-note above.

E6 Previous affecting provisions: certain functions in relation to Act transferred from Department of Community, Equality and Gaeltacht Affairs to Department of Justice and Law Reform and term "Minister for Community, Equality and Gaeltacht Affairs" construed (1.04.2011) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011), arts. 2 and 3, subject to transitional provisions; superseded as per E-note above.

E7 Previous affecting provision: approved code of practice for purposes of Act declared (8.03.2002) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012* (S.I. No. 78 of 2002), art. 2 and sch.; revoked (31.05.2012) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002* (S.I. No. 208 of 2012), art. 3.

E8 Previous affecting provision: certain functions in relation to Act transferred from Department of Justice, Equality and Law Reform to Department of Community, Equality and Gaeltacht Affairs (1.06.2010) by *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010); re-transferred as per C-note above.

PART I

Preliminary and General

Short title and commencement.

1.—(1) This Act may be cited as the Employment Equality Act, 1998.

(2) Except in so far as any provision of this Act provides expressly for the coming into operation of any such provision, this Act shall come into operation on such day as may be fixed by order made by the Minister, and different days may be so fixed for different provisions and for different purposes.

Annotations

Editorial Notes:

E9 Power pursuant to section exercised (18.10.1999) by *Employment Equality Act, 1998 (Commencement) Order 1999* (S.I. No. 320 of 1999).

2. The 18th day of October, 1999, is hereby fixed as the day on which the Employment Equality Act, 1998, shall come into operation.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

"act" includes a deliberate omission;

"advertisement" F1**[**includes every form of statement to the public and every form of advertisement, whether to the public or not**]** and whether in a newspaper or other publication, on television or radio or by display of a notice or by any other means, and references to the publishing of advertisements shall be construed accordingly;

"agency worker" means an employee whose contract of employment is as mentioned in *paragraph (b)* of the definition of such a contract in this subsection;

"associated employer" shall be construed in accordance with *subsection (2)*;

"the Authority" means the Equality Authority;

F2**[**"civil status" means being single, married, separated, divorced, widowed, in a civil partnership within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or being a former civil partner in a civil partnership that has ended by death or been dissolved;**]**

F3**[**"collective agreement" means an agreement between an employer and a body or bodies representative of the employees to which the agreement relates;**]**

F4**[**"contract of employment" means, subject to subsection (3)—

(*a*) a contract of service or apprenticeship, or

(*b*) any other contract whereby—

(i) an individual agrees with another person personally to execute any work or service for that person, or

(ii) an individual agrees with a person carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 to do or perform personally any work or service for another person (whether or not the other person is a party to the contract),

whether the contract is express or implied and, if express, whether oral or written;**]**

F4**[**"the F5**[**Director General of the Workplace Relations Commission**]**" means the F5**[**Director General of the Workplace Relations Commission**]**;**]**

"disability" means—

(*a*) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body,

(*b*) the presence in the body of organisms causing, or likely to cause, chronic disease or illness,

(*c*) the malfunction, malformation or disfigurement of a part of a person's body,

(*d*) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or

(*e*) a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour,

and shall be taken to include a disability which exists at present, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person;

F4**[**F6**[**"discrimination" includes the issue of an instruction to discriminate and, in *Part V* and *VI*, includes prohibited conduct within the meaning of the Equal Status Act 2000, and cognate words shall be construed accordingly; **]]**

"the discriminatory grounds" has the meaning given by *section 6(2)*;

"dismissal" includes the termination of a contract of employment by the employee (whether prior notice of termination was or was not given to the employer) in circumstances in which, because of the conduct of the employer, the employee was or would have been entitled to terminate the contract without giving such notice, or it was or would have been reasonable for the employee to do so, and "dismissed" shall be construed accordingly;

F4**[**"employee", subject to *subsection (3)*, means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and, where the context admits, includes a member or former member of a regulatory body, but, so far as regards access to employment, does not include a person employed in another person's home for the provision of personal services for persons residing in that home where the services affect the private or family life of those persons;**]**

"employer", subject to *subsection (3)*, means, in relation to an employee, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment;

"employment agency" (when not defined by reference to the Employment Agency Act, 1971) means a person who, whether for profit or otherwise, provides services related to the finding of employment for prospective employees or the supplying of employees to employers;

"equality clause" means a gender equality clause, as defined in *section 21* or a non-discriminatory equality clause, as defined in *section 30*;

"equal remuneration term" means such a term of a contract as is specified in *section 19(1)*, *20(1)* or *29(1)*;

"family status" means responsibility—

(*a*) as a parent or as a person in *loco parentis* in relation to a person who has not attained the age of 18 years, or

(*b*) as a parent or the resident primary carer in relation to a person of or over that age with a disability which is of such a nature as to give rise to the need for care or support on a continuing, regular or frequent basis,

and, for the purposes of *paragraph (b)*, a primary carer is a resident primary carer in relation to a person with a disability if the primary carer resides with the person with the disability;

"functions", in relation to the Authority, includes powers and duties;

"like work" shall be construed in accordance with *section 7*;

F7**[**...**]**

"member of the family", in relation to any person, means—

(*a*) that person's spouse F8**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**, or

(*b*) a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant of that person or that person's spouse F8**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**;

"the Minister" means the Minister for Justice, Equality and Law Reform;

"pension rights" means a pension or any other benefits flowing from an occupational pension scheme;

F4**[**"proceedings" means—

(*a*) proceedings before the person, body or court dealing with a request or reference under this Act by or on behalf of a person, and

(*b*) any subsequent proceedings, including proceedings on appeal, arising from the request or reference,

but does not include proceedings for an offence under this Act;**]**

F3**[**"personal services", in relation to such services provided in a person's home, includes but is not limited to services that are in the nature of services *in loco parentis* or involve caring for those residing in the home;**]**

F3**[**"persons", in *sections 19*, *22*, *29* and *31* does not import the singular;**]**

"provider of agency work" shall be construed in accordance with *subsection (5)*;

F3**[**"provision" means a term in a contract of employment or a requirement, criterion, practice, regime, policy or condition relating to employment;**]**

"regulatory body" means a body which falls within any of *paragraphs (a)* to *(c)* of *section 13*;

F9**[**...**]**

"religious belief" includes religious background or outlook;

"remuneration", in relation to an employee, does not include pension rights but, subject to that, includes any consideration, whether in cash or in kind, which the employee receives, directly or indirectly, from the employer in respect of the employment;

"sexual orientation" means heterosexual, homosexual or bisexual orientation;

"trade union" means a trade union which is the holder of a negotiation licence under Part II of the Trade Union Act, 1941;

F10**[**"Traveller community" means the community of people commonly so called who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland;**]**

"vocational training" shall be construed in accordance with F4**[***section 12(2)*;**]** F11**[**and cognate words or expressions shall be construed accordingly.**]**

(2) For the purposes of this Act, two employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control.

(3) For the purposes of this Act—

(*a*) a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces) or otherwise as a civil servant, within the meaning of the Civil Service Regulation Act, 1956, shall be deemed to be an employee employed by the State or Government, as the case may be, under a contract of service,

(*b*) an officer or servant of a local authority for the purposes of the Local Government Act, 1941, a harbour authority, a health board or a F12**[**member of staff of an education and training board**]** shall be deemed to be an employee employed by the authority F12**[**or board**]**, as the case may be, under a contract of service, F9**[**...**]**

(*c*) in relation to an agency worker, the person who is liable for the pay of the agency worker shall be deemed to be the employer.

F11**[**(*d*) in the case of a contract mentioned in paragraph (*b*)(i) of the definition of "contract of employment"—

(i) references in this Act to an employee shall be construed as references to the party to the contract who agrees personally to execute the work or service concerned and references to an employer as references to the person for whom it is to be executed,

(ii) any comparisons to be made for any of those purposes shall be between persons personally executing work or service for the same person or an associated person under such a contract or contracts, and

(iii) in particular, and without prejudice to the gener*a*ality of the foregoing, references in sections 19(4)(*a*) and 22(1)(a) to employees shall be construed as references to those persons.**]**

(4) In this Act a reference to "conditions of employment" does not include remuneration or pension rights.

(5) A person who, under a contract with an employment agency, within the meaning of the Employment Agency Act, 1971, obtains the services of one or more agency workers but is not their employer for the purposes of this Act is in this Act referred to, in relation to the agency workers, as the "provider of agency work".

(6) In this Act a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended.

(7) In this Act a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(8) In this Act a reference to an enactment includes a reference to that enactment as amended by or under any other enactment, including this Act.

Annotations

Amendments:

F1 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 3, S.I. No. 610 of 2015.

F2 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(2)(a), S.I. No. 648 of 2010.

F3 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 3(a)(iii), commenced on enactment.

F4 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 3(a)(i) and (ii), commenced on enactment.

F5 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F6 Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 19, commenced on enactment.

F7 Deleted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(2)(b), S.I. No. 648 of 2010.

F8 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(2)(c), S.I. No. 648 of 2010.

F9 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 3(a)(iv) and (b)(i), commenced on enactment.

F10 Inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (a), S.I. No. 351 of 2000.

F11 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 3(a)(ii) and (b)(iii), commenced on enactment.

F12 Substituted (17.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 25, S.I. No. 211 of 2013 .

Modifications (not altering text):

C7 Functions transferred and references construed (14.10.2020) by *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020), arts. 2, 3(1)(a), (3) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

Note change of name of Department and title of Minister to Department of and Minister for Children, Equality, Disability, Integration and Youth made (15.10.2020) by *Children and Youth Affairs (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 437 of 2020), in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Children and Youth Affairs.

(2) References to the Department of Justice and Equality contained in any Act or instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children and Youth Affairs.

3. (1) The functions vested in the Minister for Justice and Equality -

(a) by or under the enactments specified in Schedule 1, and

...

are transferred to the Minister for Children and Youth Affairs.

...

(3) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act, and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Children and Youth Affairs.

SCHEDULE 1

Article 3(1)(a)

Enactments, functions by or under which are transferred from the Minister for Justice and Equality to the Minister for Children and Youth Affairs

...

Employment Equality Acts 1998 to 2015, other than section 27(2) and section 37(4) (inserted by Part 2 of the Equality Act 2004 (No. 24 of 2004)) of the Employment Equality Act 1998 (No. 21 of 1998)

...

C8 References to "Equality Authority" construed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 44(2), S.I. No. 449 of 2014.

Transfer of functions to Commission

44.— ...

(2) References in any enactment or instrument under an enactment to the Human Rights Commission or the Equality Authority, as the case may be (howsoever described) shall be construed as references to the Commission save where other provision is made as respects the construction of the first-mentioned references by any enactment passed before the passing of this Act.

...

Editorial Notes:

E10 Previous affecting provision: definition of "discrimination" inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (a)(i), S.I. No. 351 of 2000; substituted as per F-note above.

Orders and regulations.

3.—(1) Any power under this Act to make an order, other than under *section 1(2)*, includes power to amend or revoke an order made in the exercise of that power.

(2) Where an order is proposed to be made under this Act, other than an order under *section 1(2)* or *subsection (3)* or *(5)* of *section 56*, a draft of the order shall be laid before both Houses of the Oireachtas, and the order shall not be made until a resolution approving the draft has been passed by each such House.

(3) The Minister may make regulations for the purpose of giving effect to this Act.

(4) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(5) Any order or regulation made under this Act may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.

Annotations

Editorial Notes:

E11 Power pursuant to subs. (1) exercised (18.10.1999) by *Employment Equality Act, 1998 (Section 76 - Right To Information) Regulations 1999* (S.I. No. 321 of 1999).

Expenses.

4.—Any expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals and consequential amendments.

5.—(1) Subject to *subsection (2)*, the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977, are hereby repealed.

(2) F13**[**...**]**

(3) In subsection (2) of section 4 (which relates to the deputy chairman of the Labour Court) of the Industrial Relations Act, 1969, to substitute ", this Act and the *Employment Equality Act, 1998*" for "and this Act".

Annotations

Amendments:

F13 Deleted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 20, commenced on enactment.

PART II

Discrimination: General Provisions

Introductory

Discrimination for the purposes of this Act.

6.—F14**[**(1) For the purposes of this Act and without prejudice to its provisions relating to discrimination occurring in particular circumstances discrimination shall be taken to occur where—

(*a*) a person is treated less favourably than another person is, has been or would be treated in a comparable situation on any of the grounds specified in *subsection (2)* (in this Act referred to as the "discriminatory grounds") which—

(i) exists,

(ii) existed but no longer exists,

(iii) may exist in the future, or

(iv) is imputed to the person concerned,

(*b*) a person who is associated with another person—

(i) is treated, by virtue of that association, less favourably than a person who is not so associated is, has been or would be treated in a comparable situation, and

(ii) similar treatment of that other person on any of the discriminatory grounds would, by virtue of *paragraph (a)*, constitute discrimination.**]**

(2) As between any 2 persons, the discriminatory grounds (and the descriptions of those grounds for the purposes of this Act) are—

(*a*) that one is a woman and the other is a man (in this Act referred to as "the gender ground"),

(*b*) that they are of different F15**[**civil status**]** (in this Act referred to as "the F15**[**civil status**]** ground"),

(*c*) that one has family status and the other does not (in this Act referred to as "the family status ground"),

(*d*) that they are of different sexual orientation (in this Act referred to as "the sexual orientation ground"),

(*e*) that one has a different religious belief from the other, or that one has a religious belief and the other has not (in this Act referred to as "the religion ground"),

(*f*) that they are of different ages, but subject to *subsection (3)* (in this Act referred to as "the age ground"),

(*g*) that one is a person with a disability and the other either is not or is a person with a different disability (in this Act referred to as "the disability ground"),

(*h*) that they are of different race, colour, nationality or ethnic or national origins (in this Act referred to as "the ground of race"),

(*i*) that one is a member of the F16**[**Traveller**]** community and the other is not (in this Act referred to as "the F16**[**Traveller**]** community ground").

F17**[**(2A) Without prejudice to the generality of *subsections (1)* and *(2)*, discrimination on the gender ground shall be taken to occur where, on a ground related to her pregnancy or maternity leave, a woman employee is treated, contrary to any statutory requirement, less favourably than another employee is, has been or would be treated.**]**

F14**[**(3) (*a*) The age ground applies only in relation to persons above the maximum age at which a person is statutorily obliged to attend school.

(*b*) Notwithstanding *subsection (1)* and *section 37(2)*, an employer may set a minimum age, not exceeding 18 years, for recruitment to a post.

F18**[**(*c*) Offering a fixed term contract to a person over the compulsory retirement age for that employment or to a particular class or description of employees in that employment shall not be taken as constituting discrimination on the age ground if—

(i) it is objectively and reasonably justified by a legitimate aim, and

(ii) the means of achieving that aim are appropriate and necessary.**]**

(*d*) Subsection (1)(b) of section 2 (exclusions) of the Unfair Dismissals Act 1977 is amended by deleting "or who on that date was a person to whom by reason

of his age the Redundancy Payments Acts 1967 to 1973, did not apply" and inserting "or who on that date had not attained the age of 16 years".**]**

Annotations

Amendments:

F14 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 4(a) and (c), commenced on enactment.

F15 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010.

F16 Substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (b), S.I. No. 351 of 2000.

F17 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 4(b), commenced on enactment.

F18 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 4, S.I. No. 610 of 2015.

Like work.

7.—(1) Subject to *subsection (2)*, for the purposes of this Act, in relation to the work which one person is employed to do, another person shall be regarded as employed to do like work if—

(*a*) both perform the same work under the same or similar conditions, or each is interchangeable with the other in relation to the work,

(*b*) the work performed by one is of a similar nature to that performed by the other and any differences between the work performed or the conditions under which it is performed by each either are of small importance in relation to the work as a whole or occur with such irregularity as not to be significant to the work as a whole, or

(*c*) the work performed by one is equal in value to the work performed by the other, having regard to such matters as skill, physical or mental requirements, responsibility and working conditions.

(2) In relation to the work which an agency worker is employed to do, no person except another agency worker may be regarded under *subsection (1)* as employed to do like work (and, accordingly, in relation to the work which a non-agency worker is employed to do, an agency worker may not be regarded as employed to do like work).

(3) In any case where—

(*a*) the remuneration received by one person ("the primary worker") is less than the remuneration received by another ("the comparator"), and

(*b*) the work performed by the primary worker is greater in value than the work performed by the comparator, having regard to the matters mentioned in *subsection (1)(c)*,

then, for the purposes of *subsection (1)(c)*, the work performed by the primary worker shall be regarded as equal in value to the work performed by the comparator.

Annotations

Modifications (not altering text):

C9 Application of section restricted (5.12.2011) by *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012), s. 9, commenced as per s. 1(2).

Restriction of certain enactments.

9.—The following provisions shall, in so far only as they are inconsistent with this Act, not apply to an agency worker to whom this Act applies:

(a) sections 7 and 8 of the Employment Equality Act 1998; and

...

Discrimination in Specific Areas

Discrimination by employers etc.

8.—(1) In relation to—

(*a*) access to employment,

(*b*) conditions of employment,

(*c*) training or experience for or in relation to employment,

(*d*) promotion or re-grading, or

(*e*) classification of posts,

an employer shall not discriminate against an employee or prospective employee and a provider of agency work shall not discriminate against an agency worker.

(2) For the purposes of this Act, neither an employer nor a provider of agency work shall be taken to discriminate against an agency worker unless (on one of the discriminatory grounds) that agency worker is treated less favourably than another agency worker is, has been or would be treated.

(3) In *subsections (4)* to *(8)*, references to an employee include references to an agency worker and, in relation to such a worker, references to the employer include references to the provider of agency work.

(4) A person who is an employer shall not, in relation to employees or employment—

(*a*) have rules or instructions which would result in discrimination against an employee or class of employees in relation to any of the matters specified in *paragraphs (b)* to *(e)* of *subsection (1)*, or

(*b*) otherwise apply or operate a practice which results or would be likely to result in any such discrimination.

(5) Without prejudice to the generality of *subsection (1)*, an employer shall be taken to discriminate against an employee or prospective employee in relation to access to employment if the employer discriminates against the employee or prospective employee—

(*a*) in any arrangements the employer makes for the purpose of deciding to whom employment should be F19**[**offered,**]**

(*b*) by specifying, in respect of one person or class of persons, entry requirements for employment which are not specified in respect of other persons or classes of persons, where the circumstances in which both such persons or classes would be employed are not F19**[**materially different, or**]**

F20**[**(*c*) by publishing or displaying, or causing to be published or displayed, an advertisement which contravenes *section 10(1)* in so far as such advertisement relates to access to employment.**]**

(6) Without prejudice to the generality of *subsection (1)*, an employer shall be taken to discriminate against an employee or prospective employee in relation to conditions of employment if, on any of the discriminatory grounds, the employer does not offer or afford to that employee or prospective employee or to a class of persons of whom he or she is one—

(*a*) the same terms of employment (other than remuneration and pension rights),

(*b*) the same working conditions, and

(*c*) the same treatment in relation to overtime, shift work, short time, transfers, lay-offs, redundancies, dismissals and disciplinary measures,

as the employer offers or affords to another person or class of persons, where the circumstances in which both such persons or classes are or would be employed are not materially different.

(7) Without prejudice to the generality of *subsection (1)*, an employer shall be taken to discriminate against an employee in relation to training or experience for, or in relation to, employment if, on any of the discriminatory grounds, the employer refuses to offer or afford to that employee the same opportunities or facilities for employment counselling, training (whether on or off the job) and work experience as the employer offers or affords to other employees, where the circumstances in which that employee and those other employees are employed are not materially different.

(8) Without prejudice to the generality of *subsection (1)*, an employer shall be taken to discriminate against an employee in relation to promotion if, on any of the discriminatory grounds—

(*a*) the employer refuses or deliberately omits to offer or afford the employee access to opportunities for promotion in circumstances in which another eligible and qualified person is offered or afforded such access, or

(*b*) the employer does not in those circumstances offer or afford the employee access in the same way to those opportunities.

Annotations

Amendments:

F19 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 5(a) and (b), S.I. No. 610 of 2015.

F20 Inserted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 5(c), S.I. No. 610 of 2015.

Modifications (not altering text):

C10 Application of section restricted (5.12.2011) by *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012), s. 9, commenced as per s. 1(2).

Restriction of certain enactments.

9.—The following provisions shall, in so far only as they are inconsistent with this Act, not apply to an agency worker to whom this Act applies:

(*a*) sections 7 and 8 of the Employment Equality Act 1998; and

...

Editorial Notes:

E12 Power granted to Irish Human Rights and Equality Authority to serve an equality and human rights compliance notice on persons who have contravened or are contravening subs. (4) (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 36(1)(b), S.I. No. 449 of 2014.

Provisions in certain agreements and orders.

9.—(1) In a case where—

(*a*) an agreement or order to which this section applies contains a provision in which differences in rates of remuneration are based on any of the discriminatory grounds, and

(*b*) in relation to a person to whom the agreement or order relates, that provision conflicts with an equal remuneration term in that person's contract of employment,

then, subject to *subsection (4)*, that provision shall be null and void.

(2) If an agreement or order to which this section applies contains a provision which does not fall within *subsection (1)* but which gives rise to discrimination in relation to any of the matters in *paragraphs (a)* to *(e)* of *section 8(1)* then, subject to *subsection (4)*, that provision shall be null and void.

(3) This section applies to the following agreements and orders, whether made before or after the coming into operation of this section:

(*a*) collective agreements;

(*b*) employment regulation orders, within the meaning of Part IV of the Industrial Relations Act, 1946; and

(*c*) registered employment agreements, within the meaning of Part III of that Act.

(4) In the case of a provision which—

(*a*) is contained in an agreement or order made before the coming into operation of this section, and

(*b*) is discriminatory on a ground other than the gender ground,

subsection (1) or, as the case may be, *subsection (2)* shall not apply until the first anniversary of the date on which this section comes into operation; and, accordingly, until that date, the equal remuneration term or equality clause in a person's contract of employment shall not override any such provision of an agreement or order which relates to that person.

Advertising.

10.—(1) A person shall not publish or display, or cause to be published or displayed, an advertisement which relates to employment and which—

(*a*) indicates an intention to discriminate, or

(*b*) might reasonably be understood as indicating such an intention.

F21**[**(2) For the purposes of *subsection (1)*, where in an advertisement a word or phrase is used defining or describing a post and the word or phrase is one which—

(*a*) connotes or refers to an individual of one sex or an individual having a characteristic mentioned in any of the discriminatory grounds (other than the gender ground), or

(*b*) is descriptive of, or refers to, a post or occupation of a kind previously held or carried on only by the members of one sex or individuals having such a characteristic,

then, unless the advertisement indicates a contrary intention, the advertisement shall be taken as indicating an intention to discriminate on whichever discriminatory ground is relevant in the circumstances.**]**

(3) Nothing in this section relates to an advertisement which, or to the extent to which it, specifies a requirement, restriction or other matter which relates to employment and which it would not be unlawful for the employer in question to impose, having regard to any other provision of this Part or of *Part III* or *Part IV*.

(4) A person who, with a view to securing publication or display of an advertisement in contravention of *subsection (1)*, makes a statement knowing it to be false shall, upon such publication or display, be guilty of an offence.

(5) Without prejudice to *subsection (4)*, if an advertisement is published or displayed and it appears to the High Court or the Circuit Court, on the motion of the Authority, that there are grounds for believing that publication or display of the advertisement may be in contravention of *subsection (1)*, the court may grant an injunction preventing the appointment of any person to any post to which the advertisement relates until—

(*a*) the decision of the F22**[**Director General of the Workplace Relations Commission**]** on a contemporaneous reference under *section 85* of the publication or display of the advertisement, or

(*b*) the court otherwise orders,

and, for the purpose of this subsection, a reference under *section 85* shall be regarded as contemporaneous with a motion if it is made on the same day as the motion or not more than 14 days earlier or later.

(6) The jurisdiction conferred on the Circuit Court by *subsection (5)* shall be exercised by the judge for the time being assigned to the circuit where the person by whom the advertisement was published or displayed (or caused to be published or displayed) ordinarily resides or carries on any profession, business or occupation.

Annotations

Amendments:

F21 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 5, commenced on enactment.

F22 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Editorial Notes:

E13 Power granted to Irish Human Rights and Equality Commission to serve an equality and human rights compliance notice on persons who have contravened or are contravening subs. (1) (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 36(1)(b), S.I. No. 449 of 2014.

Employment agencies.

11.—(1) Without prejudice to its obligations as an employer, an employment agency shall not discriminate against any person—

(*a*) who seeks the services of the agency to obtain employment with another person, or

(*b*) who seeks from the agency guidance as to a career or any other service (including training) related to the employment of that person.

(2) *Subsection (1)* does not apply to the extent that the employment in question is such that an employer could lawfully refuse to offer it to the person concerned.

(3) An employment agency shall not be under any liability under this section if it proves—

(*a*) that it acted in reliance on a statement made to it by the employer concerned to the effect that, by reason of the operation of *subsection (2)*, its action would not be unlawful, and

(*b*) that it was reasonable for it to rely on the statement.

(4) An employer who, with a view to obtaining the services of an employment agency, knowingly makes such a statement as is referred to in *subsection (3) (a)* which is false or misleading in a material respect shall be guilty of an offence.

(5) Nothing in this Act shall make it unlawful for an employment agency to provide services exclusively for persons with disabilities or any class or description of such persons.

Annotations

Modifications (not altering text):

C11 Application of section restricted (17.07.2014) by *Social Welfare Consolidation Act 2005* (26/2005), s. 359B(4), as inserted by *Social Welfare and Pensions Act 2014* (16/2014), s. 18(2), commenced on enactment.

[Discrimination on grounds of age in relation to employment schemes and other schemes and programmes

359B. —

...

(4) Section 11 of the Employment Equality Act 1998 shall not apply in relation to the performance by the Minister of his or her functions under this section.**]**

Vocational training.

12.—(1) Subject to *subsection (7)* any person, including an educational or training body, who offers a course of vocational training shall not, in respect of any such course offered to persons over the maximum age at which those persons are statutorily obliged to attend school, discriminate against a person (whether at the request of an employer, a trade union or a group of employers or trade unions or otherwise)—

(*a*) in the terms on which any such course or related facility is offered,

(*b*) by refusing or omitting to afford access to any such course or F23**[**facility,**]**

(*c*) in the manner in which any such course or facility is F23**[**provided, or**]**

F24**[**(*d*) by publishing or displaying, or causing to be published or displayed, an advertisement in contravention of *section 10(1)* in respect of any such course offered.**]**

(2) In this section "vocational training" means any system of instruction which enables a person being instructed to acquire, maintain, bring up to date or perfect the knowledge or technical capacity required for the carrying on of an occupational activity and which may be considered as exclusively concerned with training for such an activity.

(3) F25**[**...**]**

(4) For the purposes of ensuring the availability of nurses to hospitals and teachers to primary schools which are under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values, and in order to maintain the religious ethos of the hospitals or primary schools, the prohibition of discrimination in *subsection (1)*, in so far as it relates to discrimination on the religion ground, shall not apply in respect of—

(*a*) the nomination of persons for admission to the School of Nursing pursuant to clause 24(4)(*a*) or (*c*) of the Adelaide Hospital Charter as substituted by paragraph 5(*s*) of the Health Act, 1970 (Section 76) (Adelaide and Meath Hospital, Dublin, incorporating the National Children's Hospital) Order, 1996, or

(*b*) places in a vocational training course specified in an order made under *subsection (5)*.

(5) Where an educational or training body applies to the Minister for Health and Children, in the case of hospitals, or to the Minister for Education and Science, in the case of primary schools, for an order permitting the body concerned to reserve places in a vocational training course offered by the body, the Minister for Health and Children or the Minister for Education and Science, as the case may be, may, with the consent of the Minister, by order allow the body to reserve places in such numbers as seem reasonably necessary to the Minister for Health and Children or the Minister for Education and Science, as the case may be, to meet the purposes set out in *subsection (4)*.

(6) Without prejudice to *section 3(1)*, an order under *subsection (5)* may be revoked by a further order made by the Minister for Health and Children or the Minister for Education and Science, as the case may be, with the like consent; but any such revocation order shall contain transitional provisions safeguarding any person who took advantage of the effect of the order when it was in force.

(7) F26**[**Without prejudice to section 3 of the Refugee Act, 1996, nothing in *subsection (1)*] shall make unlawful discrimination on the age ground or the ground of race in respect of any course of vocational training offered by F26**[**an educational**]** or training body where—

(*a*) it provides different treatment in relation to—

F27**[**(i) the fees for admission or attendance at any such course by persons who are citizens of Ireland, nationals of another Member State, nationals of the Swiss Confederation or nationals of a member state of the European Economic Area and persons who are not, or**]**

(ii) the allocation of places on any such course to those citizens or nationals, or

(*b*) it offers assistance to particular categories of persons by way of sponsorships, scholarships, bursaries or other awards, which assistance is reasonably justifiable, having regard to traditional or historical F26**[**considerations, or**]**

F28**[**(*c*) in the case of a university or other third-level institution, it provides different treatment in the allocation of places on any such course to mature students (within the meaning of the Local Authorities (Higher Education Grants) Acts, 1968 to 1992).**]**

F29**[**(8) In this section, "member state of the European Economic Area" means a state that is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement.**]**

Annotations

Amendments:

F23 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 6(a)(i) and (ii), S.I. No. 610 of 2015.

F24 Inserted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 6(a)(iii), S.I. No. 610 of 2015.

F25 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 6, commenced on enactment.

F26 Substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (c)(i), S.I. No. 351 of 2000.

F27 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 6(b), S.I. No. 610 of 2015.

F28 Inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (c)(iii), S.I. No. 351 of 2000.

F29 Inserted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 6(c), S.I. No. 610 of 2015.

Editorial Notes:

E14 Power pursuant to section exercised (9.08.2023) by *Employment Equality Act 1998 (Section 12) (Reservation of Vocational Training Places) Order 2023* (S.I. No. 405 of 2023).

E15 Power pursuant to section exercised (18.07.2018) by *Employment Equality Act 1998 (Section 12) (Reservation of Vocational Training Places) Order 2018* (S.I. No. 260 of 2018).

E16 *Refugee Act 1996*, referred to in subs. (7), was repealed (31.12.2016) by *International Protection Act 2015* (66/2015), s. 6(1), S.I. No. 663 of 2016, subject to transitional provisions in ss. 68, 69.

E17 Power pursuant to section exercised (17.07.2013) by *Employment Equality Acts 1998 to 2011 (section 12) (Church of Ireland College of Education) Order 2013* (S.I. No. 288 of 2013).

E18 *Local Authorities (Higher Education Grants) Act 1968*, referred to in subs. (7)(c), was repealed (27.06.2011) by *Student Support Act 2011* (4/2011), s. 6(1) and sch. 1, S.I. No. 303 of 2011, subject to transitional provisions in subss. (2), (3).

E19 Previous affecting provision: power pursuant to section exercised (2.07.2008) by *Employment Equality Act, 1998 (Section 12) (Church of Ireland College of Education) Order 2008* (S.I. No. 251 of 2008); expired at end of academic year 2012/2013.

E20 Previous affecting provision: power pursuant to section exercised (15.07.2003) by *Employment Equality Act 1998 (section 12) (Church of Ireland College of Education) Order 2003* (S.I. No. 319 of 2003); expired at end of academic year 2007/2008.

E21 Previous affecting provision: power pursuant to section exercised (30.06.2000) by *Employment Equality Act, 1998 (Section 12) (Church of Ireland College of Education) Order 2000* (S.I. No. 216 of 2000); expired at end of academic year 2002/2003.

Membership of certain bodies.

13.—F30**[**(1)**]**A body which—

(*a*) is an organisation of workers or of employers,

(*b*) is a professional or trade organisation, or

(*c*) controls entry to, or the carrying on of, a profession, vocation or occupation,

shall not discriminate against a person in relation to membership of that body or any benefits, other than pension rights, provided by it or in relation to entry to, or the carrying on of, that profession, vocation or occupation.

F30**[**(2) A body referred to in *subsection (1)* shall not discriminate against a person by publishing or displaying, or causing to be published or displayed, an advertisement in contravention of *section 10(1)* in so far as the advertisement relates to—

(*a*) membership of that body or any benefits, other than pension rights, provided by it, or

(*b*) entry to, or the carrying on of, a profession, vocation or occupation controlled by that body.**]**

Annotations

Amendments:

F30 Section designated as subs. (1) and subs. (2) inserted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 7(a) and (b), S.I. No. 610 of 2015.

F31**[**Partnerships.

13A.—(1) This Act applies to a partner in a partnership as it applies to an employee and accordingly has effect with the modification that—

(*a*) references to an employee include references to such a partner, and

(*b*) references to an employer include references to a partnership,

and with any other necessary modifications.

(2) In *subsection (1)* references to a partner shall be construed, in the case of a limited partnership, as references to a general partner, as defined in section 3 of the Limited Partnerships Act 1907.**]**

Annotations

Amendments:

F31 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 7, commenced on enactment.

Procuring etc. discrimination or victimisation.

14.—A person who procures or attempts to procure another person to do anything which—

(*a*) constitutes discrimination which is unlawful under this Act, or

(*b*) constitutes victimisation for the purposes of *Part VII*,

shall be guilty of an offence.

F32**[**Harassment and sexual harassment.

14A.—(1) For the purposes of this Act, where—

(*a*) an employee (in this section referred to as "the victim") is harassed or sexually harassed either at a place where the employee is employed (in this section referred to as "the workplace") or otherwise in the course of his or her employment by a person who is—

(i) employed at that place or by the same employer,

(ii) the victim's employer, or

(iii) a client, customer or other business contact of the victim's employer and the circumstances of the harassment are such that the employer ought reasonably to have taken steps to prevent it,

or

(*b*) without prejudice to the generality of *paragraph (a)*—

(i) such harassment has occurred, and

(ii) either—

(I) the victim is treated differently in the workplace or otherwise in the course of his or her employment by reason of rejecting or accepting the harassment, or

(II) it could reasonably be anticipated that he or she would be so treated,

the harassment or sexual harassment constitutes discrimination by the victim's employer in relation to the victim's conditions of employment.

(2) If harassment or sexual harassment of the victim by a person other than his or her employer would, but for this subsection, be regarded as discrimination by the employer under *subsection (1)*, it is a defence for the employer to prove that the employer took such steps as are reasonably practicable—

(*a*) in a case where *subsection (1)(a)* applies (whether or not *subsection (1)(b)* also applies), to prevent the person from harassing or sexually harassing the victim or any class of persons which includes the victim, and

(*b*) in a case where *subsection (1)(b)* applies, to prevent the victim from being treated differently in the workplace or otherwise in the course of the victim's employment and, if and so far as any such treatment has occurred, to reverse its effects.

(3) A person's rejection of, or submission to, harassment or sexual harassment may not be used by an employer as a basis for a decision affecting that person.

(4) The reference in *subsection (1)(a)(iii)* to a client, customer or other business contact of the victim's employer includes a reference to any other person with whom the employer might reasonably expect the victim to come into contact in the workplace or otherwise in the course of his or her employment.

(5) In this section "employee" includes an individual who is—

(*a*) seeking or using any service provided by an employment agency, and

(*b*) participating in any course or facility referred to in *paragraphs (a)* to *(c)* of *section 12(1)*,

and accordingly any reference to the individual's employer includes a reference to the employment agency providing the service or, as the case may be, the person offering or providing the course or facility.

(6) Where *subsection (5)* applies in relation to a victim, subsection (1) shall have effect as if for 'in relation to the victim's conditions of employment' there were substituted 'contrary to *section 11*' or, as the case may be, *section 12*.

(7) (*a*) In this section—

(i) references to harassment are to any form of unwanted conduct related to any of the discriminatory grounds, and

(ii) references to sexual harassment are to any form of unwanted verbal, non-verbal or physical conduct of a sexual nature,

being conduct which in either case has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

(*b*) Without prejudice to the generality of paragraph (*a*), such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.**]**

Annotations

Amendments:

F32 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 8, commenced on enactment.

F33[Non-disclosure agreements.

14B.—(1) Subject to this section—

(*a*) an employer shall not enter into a non-disclosure agreement, and

(*b*) where such an agreement is entered into, it shall be null and void.

(2) *Subsection (1)* shall not apply to—

(*a*) a non-disclosure agreement entered into under—

(i) the terms of a settlement referred to in section 24(4) of the Equal Status Act 2000, or

(ii) the terms of a resolution referred to in section 39(4) of the Workplace Relations Act 2015,

or

(b) an excepted non-disclosure agreement that is entered into in accordance with *subsection (3)*.

(3) An employer may enter into an excepted non-disclosure agreement with an employee only where—

(*a*) the employee requests the employer to do so, and

(*b*) prior to entering into the agreement, the employee has received independent legal advice in writing from a legal practitioner in relation to the legal implications of entering into the agreement.

(4) The employer referred to in *subsection (3)* shall discharge the reasonable legal costs and expenses of the legal practitioner who provides the legal advice referred to in *paragraph (b)* of that subsection to the employee.

(5) An excepted non-disclosure agreement shall—

(*a*) be in writing,

(*b*) be of unlimited duration, other than where the employee elects otherwise,

(*c*) in so far as possible be in—

(i) clear language that is easily understood, and

(ii) a format that is easily accessible,

by the parties to the agreement, including by any party with a disability,

(*d*) provide that the employee has a right, where he or she so elects, to withdraw from the agreement without penalty no later than 14 days from the date on which the agreement is entered into, and

(*e*) include a provision stating that the agreement does not prohibit the making by the employee of a relevant disclosure in accordance with *subsection (7)*.

(6) Where an excepted non-disclosure agreement is entered into, the employer shall provide, or cause to be provided, to the employee a copy of the executed agreement.

(7) An excepted non-disclosure agreement shall not prohibit the making by the employee concerned of a relevant disclosure to—

(*a*) one or more of the following persons where, at the time of the making of the relevant disclosure, the person concerned is acting in the course of his or her office, employment, business, trade or profession:

(i) a member of the Garda Síochána;

(ii) a legal practitioner;

(iii) a registered medical practitioner within the meaning of the Medical Practitioners Act 2007;

(iv) a mental health professional;

(v) an officer of the Revenue Commissioners;

(vi) an officer of the Ombudsman;

(vii) an official of a trade union,

or

(*b*) such individual, or a member of such class of individuals, as may be specified in the agreement as a person to whom a relevant disclosure may be made by the employee.

(8) The Minister shall—

(*a*) not later than 5 years after the date on which this section comes into operation, conduct a review of the operation and effectiveness of the section,

(*b*) not later than 6 months after the end of that period of 5 years, or on the completion of the review, whichever is the earlier, prepare a report, in writing, of the findings of the review and of the conclusions drawn from those findings, and

(*c*) cause copies of the report to be laid before each House of the Oireachtas.

(9) In this section—

"Act of 2005" means the Health and Social Care Professionals Act 2005;

"employee", in relation to an employer, includes, where appropriate, a prospective or former employee;

"excepted non-disclosure agreement" means a non-disclosure agreement that is entered into in accordance with *subsections (5)*, *(6)* and *(7)*;

"harassment" and "sexual harassment" shall be construed in accordance with *section 14A(7)*;

"legal practitioner" has the same meaning as it has in the Legal Services Regulation Act 2015;

"mental health professional" means—

(*a*) a psychologist who is a person—

(i) who practises as such,

(ii) who holds a qualification listed opposite the profession of psychologist in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of section 90 of that Act, to that qualification, and

(iii) following the establishment under section 36 of the Act of 2005 of the register of members of the profession of psychologist, whose name is for the time being entered in that register,

or

(*b*) a counsellor who is a person who—

(i) practises as such, and

(ii) has the requisite skills and judgement to provide counselling to a person to resolve or better cope with personal and interpersonal problems or difficulties;

"non-disclosure agreement" means an agreement, or provision thereof, whether or not in writing and howsoever described, between an employer and an employee that purports to preclude the making of a relevant disclosure by the employer or the employee, or both;

"relevant disclosure" means a disclosure of information relating to either or both of the following:

(*a*) the making by the employee of an allegation that he or she was discriminated against, or subjected to victimisation, harassment or sexual harassment, in relation to his employment (or prospective employment) by the employer;

(*b*) any action taken by the employer or employee in response to the making of the allegation referred to in *paragraph (a)*, including any action taken in relation to any complaint made, or proceedings taken, by the employee in relation to the subject matter of the allegation;

"victimisation" shall be construed in accordance with *section 74(2)*.**]**

Annotations

Amendments:

F33 Inserted (20.11.2024) by *Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024* (48/2024), s. 5(a), S.I. No. 630 of 2024, art. 2.

Vicarious Liability etc.

Liability of employers and principals.

15.—(1) Anything done by a person in the course of his or her employment shall, in any proceedings brought under this Act, be treated for the purposes of this Act as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated for the purposes of this Act as done also by that other person.

(3) In proceedings brought under this Act against an employer in respect of an act alleged to have been done by an employee of the employer, it shall be a defence for the employer to prove that the employer took such steps as were reasonably practicable to prevent the employee—

(*a*) from doing that act, or

(*b*) from doing in the course of his or her employment acts of that description.

Obligations of Employers etc.

Nature and extent of employer's obligations in certain cases.

16.—(1) Nothing in this Act shall be construed as requiring any person to recruit or promote an individual to a position, to retain an individual in a position, or to provide training or experience to an individual in relation to a position, if the individual—

(*a*) will not undertake (or, as the case may be, continue to undertake) the duties attached to that position or will not accept (or, as the case may be, continue to accept) the conditions under which those duties are, or may be required to be, performed, or

(*b*) is not (or, as the case may be, is no longer) fully competent and available to undertake, and fully capable of undertaking, the duties attached to that position, having regard to the conditions under which those duties are, or may be required to be, performed.

(2) In relation to—

(*a*) the provision by an employment agency of services or guidance to an individual in relation to employment in a position,

(*b*) the offer to an individual of a course of vocational training or any related facility directed towards employment in a position, and

(*c*) the admission of an individual to membership of a regulatory body or into a profession, vocation or occupation controlled by a regulatory body,

subsection (1) shall apply, with any necessary modification, as it applies to the recruitment of an individual to a position.

F34**[**(3) (*a*) For the purposes of this Act a person who has a disability is fully competent to undertake, and fully capable of undertaking, any duties if the person would be so fully competent and capable on reasonable accommodation (in this subsection referred to as "appropriate measures") being provided by the person's employer.

(*b*) The employer shall take appropriate measures, where needed in a particular case, to enable a person who has a disability—

(i) to have access to employment,

(ii) to participate or advance in employment, or

(iii) to undergo training,

unless the measures would impose a disproportionate burden on the employer.

(*c*) In determining whether the measures would impose such a burden account shall be taken, in particular, of—

(i) the financial and other costs entailed,

(ii) the scale and financial resources of the employer's business, and

(iii) the possibility of obtaining public funding or other assistance.**]**

(4) In *subsection (3)*—

F35**[**"appropriate measures", in relation to a person with a disability—

(*a*) means effective and practical measures, where needed in a particular case, to adapt the employer's place of business to the disability concerned,

(*b*) without prejudice to the generality of *paragraph (a)*, includes the adaptation of premises and equipment, patterns of working time, distribution of tasks or the provision of training or integration resources, but

(*c*) does not include any treatment, facility or thing that the person might ordinarily or reasonably provide for himself or herself;**]**

"employer" includes an employment agency, a person offering a course of vocational training as mentioned in *section 12(1)* and a regulatory body; and accordingly references to a person who has a disability include—

(*a*) such a person who is seeking or using any service provided by the employment agency,

(*b*) such a person who is participating in any such course or facility as is referred to in *paragraphs (a)* to *(c)* of *section 12(1)*, and

(*c*) such a person who is a member of or is seeking membership of the regulatory F34**[**body. **]**

F36**[**...**]**

(5) Nothing in this Act shall be construed as requiring an employer to recruit, retain in employment or promote an individual if the employer is aware, on the basis of a criminal conviction of the individual or other reliable information, that the individual engages, or has a propensity to engage, in any form of sexual behaviour which is unlawful.

(6) Without prejudice to the generality of *subsection (5)*, that subsection applies in particular where the employment concerned involves access to minors or to other persons who are vulnerable.

Annotations

Amendments:

F34 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 9(a) and (b), commenced on enactment.

F35 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 9(b), commenced on enactment.

F36 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 9(b), commenced on enactment.

Compliance with statutory requirements etc.

17.—(1) In relation to discrimination on the F37**[**civil status**]** ground, nothing in this Act shall render unlawful any act done in compliance with any provision of the Maternity Protection Act, 1994, or the Adoptive Leave Act, 1995.

F38**[**(1A) In relation to discrimination on the disability ground, nothing in this Act shall render unlawful any act done in compliance with any provision of section 14C of the Maternity Protection Act 1994.**]**

F39**[**(2) In relation to discrimination on the basis of nationality, nothing in this Act shall render unlawful any action taken in accordance with the F40**[**Employment Permits Act 2024**]**.**]**

(3) In relation to discrimination on the age ground or the disability ground, nothing in this Act shall render unlawful any act done in compliance with any provision made by or under—

(*a*) sections 5, 9, 11 and 16 of the Air Navigation and Transport Act, 1946,

(*b*) section 12 of the Merchant Shipping Act, 1947,

(*c*) section 29 of the Transport (Miscellaneous Provisions) Act, 1971,

(*d*) sections 3 and 8 of the Merchant Shipping (Certification of Seamen) Act, 1979, or

(*e*) sections 5, 14, 58 and 60 of the Irish Aviation Authority Act, 1993.

F41**[**(4) In relation to discrimination on the age ground, nothing in this Act shall render unlawful any act done in compliance with—

(*a*) the Protection of Young Persons (Employment) Act 1996, or

(*b*) the National Minimum Wage Act 2000.**]**

Annotations

Amendments:

F37 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010.

F38 Inserted (20.11.2024) by *Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024* (48/2024), s. 5(b), S.I. No. 630 of 2024.

F39 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 10(a), commenced on enactment.

F40 Substituted (2.09.2024) by *Employment Permits Act 2024* (30/2024), s.76, S.I. No. 433 of 2024.

F41 Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 27(2), commenced on enactment.

Modifications (not altering text):

C12 Numbering of section clarified (18.07.2004) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 27(1), in effect retrospectively to commencement of *Equality Act 2004*, commenced on enactment.

27.— (1) The amendment of section 17 of the Employment Equality Act 1998 made by paragraph (b) of section 10 of the Equality Act 2004 is deemed to have had effect from the commencement of that paragraph as if "inserting the following subsection after subsection (3)" had appeared instead of "substituting the following subsection for subsection (4)".

Editorial Notes:

E22 Power granted to Irish Human Rights and Equality Commission to review enactments specified in subss. (1) to (4) where it is of the opinion that the working or effect of any of these enactments is likely to affect or impede the elimination of discrimination in relation to employment or the promotion of equality of opportunity in relation to employment between men and women, or between persons who differ in terms of any of the other discriminatory grounds (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 30(4), S.I. No. 499 of 2014.

E23 Previous affecting provision: subs. (4) substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 10(b), commenced on enactment.

E24 Previous affecting provision: subs. (4) repealed (25.05.2003) by *Redundancy Payments Act 2003* (14/2003), s. 16, S.I. No. 194 of 2003.

PART III

Specific Provisions as to Equality Between Women and Men

Introductory

Application of equality principles to both men and women.

18.—F42**[**(1) (*a*) Subject to *paragraph (b)*, for the purposes of this Part "A" and "B" represent 2 persons of opposite sex so that, where A is a woman, B is a man, and *vice versa*.

(*b*) For the purposes of this Part (except *sections 19* and *20*), where the treatment of a woman on a ground related to her pregnancy or maternity leave is, by virtue of *section 6(2A)*, in issue, "B" is either a man or a woman.**]**

(2) Subject to *subsection (1)*, nothing in this Act affects the operation of the Interpretation Acts, 1937 to 1997, in so far as they provide that, unless the contrary intention appears—

(*a*) words importing the masculine gender shall be construed as importing also the feminine gender, and

(*b*) words importing the feminine gender shall be construed as also importing the masculine gender.

Annotations

Amendments:

F42 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 11, commenced on enactment.

Remuneration

Entitlement to equal remuneration.

19.—(1) It shall be a term of the contract under which A is employed that, subject to this Act, A shall at any time be entitled to the same rate of remuneration for the work which A is employed to do as B who, at that or any other relevant time, is employed to do like work by the same or an associated employer.

F43**[**(2) In this section "relevant time", in relation to a particular time, is any time (including a time before the commencement of this section) during the 3 years which precede, or the 3 years which follow, the particular time.**]**

(3) For the purposes of this Part, where B's employer is an associated employer of A's employer, A and B shall not be regarded as employed to do like work unless they both have the same or reasonably comparable terms and conditions of employment.

F44**[**(4) (*a*) Indirect discrimination occurs where an F45**[**apparently neutral provision would put**]** persons of a particular gender (being As or Bs) at a particular disadvantage in respect of remuneration compared with other employees of their employer.

(*b*) Where *paragraph (a)* applies, the persons referred to in that paragraph shall each be treated for the purposes of *subsection (1)* as complying or, as the case may be, not complying with the provision concerned, whichever results in the higher remuneration, unless the provision is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary.

(*c*) In any proceedings statistics are admissible for the purpose of determining whether this subsection applies in relation to A or B.**]**

(5) Subject to *subsection (4)*, nothing in this Part shall prevent an employer from paying, on grounds other than the gender ground, different rates of remuneration to different employees.

Annotations

Amendments:

F43 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 12(a), commenced on enactment.

F44 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 12(b), commenced on enactment.

F45 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 8, S.I. No. 610 of 2015.

Editorial Notes:

E25 Previous affecting provision: subs. (4)(d) substituted (18.07.2001) by *European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001* (S.I. No. 337 of 2001), reg. 4(a); superseded as per F-note above.

Implied term as to equal remuneration.

20.—(1) Where a person is employed under a contract which does not include (expressly or by reference to a collective agreement or otherwise) a term satisfying *subsection (1)* of *section 19*, the contract shall be taken to include a term giving effect to that subsection; and, if such an implied term conflicts with an express term, it shall override the express term.

(2) In this section "employed" has the same meaning as in *section 19*.

F46[Gender pay gap information

20A.—(1) The Minister shall, as soon as is reasonably practicable after the commencement of section 2 of the Gender Pay Gap Information Act 2021 and in accordance with this section, make regulations requiring—

(*a*) employers to publish information relating to the remuneration of their employees for the purpose of showing whether there are differences in such remuneration referable to gender and, if so, the size of such differences,

(*b*) that information referred to in *paragraph (a)* include the following:

(i) the difference between the mean hourly remuneration of employees of the male gender and that of employees of the female gender expressed as a percentage;

(ii) the difference between the median hourly remuneration of employees of the male gender and that of employees of the female gender expressed as a percentage;

(iii) the difference between the mean bonus remuneration of employees of the male gender and that of employees of the female gender expressed as a percentage;

(iv) the difference between the median bonus remuneration of employees of the male gender and that of employees of the female gender expressed as a percentage;

(v) the difference between the mean hourly remuneration of part-time employees of the male gender and that of part-time employees of the female gender expressed as a percentage;

(vi) the difference between the median hourly remuneration of part-time employees of the male gender and that of part-time employees of the female gender expressed as a percentage;

(vii) the percentage of all employees of the male gender who were paid bonus remuneration and the percentage of all employees of the female gender who were paid such remuneration;

(viii) the percentage of all employees of the male gender who received benefits in kind and the percentage of all employees of the female gender who received such benefits,

and

(*c*) employers to publish, concurrently with the publication of information referred to in this section that shows differences relating to remuneration that are referable to gender, a statement setting out—

(i) in the employer's opinion, the reasons for such differences in that employer's case, and

(ii) the measures (if any) being taken, or proposed to be taken, by the employer to eliminate or reduce such differences in that employer's case.

(2) In making regulations under this section, the Minister shall have regard to the estimated costs of complying with, and enforcing, such regulations.

(3) (*a*) Regulations made under this section shall not apply to an employer having fewer than 50 employees.

(*b*) Subject to *paragraph (d)*, regulations made under this section shall not apply to an employer having fewer than 250 employeesuntil the 2nd anniversary of the making of the first regulations under this section.

(*c*) Subject to *paragraph (d)*, regulations made under this section shall not apply to an employer having fewer than 150 employees until the 3rd anniversary of the making of the first regulations under this section.

(*d*) When regulations made under this section apply to an employer referred to in *paragraph (b)* or *(c)*, the regulations shall continue to apply to the employer except during such times (if any) as the employer falls within *paragraph (a)*.

(4) Regulations made under this section may prescribe any, or any combination of, the following:

(*a*) the classes of employer to which the regulations apply (whether by reference to the number of employees that an employer has or otherwise);

(*b*) the classes of employee to which the regulations apply;

(*c*) the classes of remuneration to which the regulations apply;

(*d*) how the number of employees that an employer has is to be calculated;

(*e*) how the remuneration or classes of remuneration of employees is to be calculated.

(5) Regulations made under this section may prescribe the form and manner in which, and the frequency (which shall not be more frequent than once in each year) with which, information is to be published under the regulations in order to bring such information to the attention of—

(*a*) the employees to whom the information relates, and

(*b*) the public.

(6) (*a*) Regulations made under this section may require the employer to publish information in respect of a public body.

(*b*) In this subsection—

"Act of 1998" means the Education Act 1998;

"Act of 2014" means the Companies Act 2014;

"board" has the same meaning as it has in the Act of 1998;

"company" means a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act;

"education and training board" means an education and training board established under section 9 of the Education and Training Boards Act 2013;

"enactment" has the same meaning it has in the Interpretation Act 2005;

"information" includes data;

"public body" means—

(*a*) a Department of State,

(*b*) the Attorney General,

(*c*) the Comptroller and Auditor General,

(*d*) the Revenue Commissioners,

(*e*) the Commissioners of Public Works in Ireland,

(*f*) the Commissioner of Valuation,

(*g*) the Garda Síochána,

(*h*) the Defence Forces,

(*i*) a local authority for the purposes of the Local Government Act 2001,

(*j*) the Health Service Executive, (k) an education and training board,

(*l*) a recognised school established and maintained by an education and training board,

(*m*) a board of a recognised school established and maintained by an education and training board,

(*n*) a body established—

(i) by or under an enactment (other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), or

(ii) under the Act of 2014 (or a former enactment relating to companies within the meaning of section 5 of that Act) in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

in respect of which a public service pension scheme exists or applies or may be made,

(*o*) a body that is wholly or partly funded directly or indirectly out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made, or

(*p*) any subsidiary of, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which *paragraph (i)*, *(j)*, *(k)*, *(n)* or *(o)* relates and in respect of which a public service pension scheme exists or applies or may be made;

"public service pension scheme" has the same meaning as it has in Part 4 of the Public Service Pay and Pensions Act 2017;

"recognised school" has the same meaning as it has in the Act of 1998.

(7) (*a*) *Paragraph (b)* applies where an employer does not have access to information which the employer requires in order to comply with regulations made under this section but another person (in this section referred to as the "other person") does have access to such information.

(*b*) Regulations made under this section may require the other person to give the information, or give access to the information, to the employer to the extent necessary to enable the employer to comply with such regulations.

(8) (*a*) *Paragraph (b)* applies to the personal data of employees included, or to be included, in information referred to in this section.

(*b*) Regulations made under this section may prescribe, in addition to any relevant measures or steps that an employer or the other person is required to take in respect of personal data, measures or steps to be taken by—

(i) the employer to ensure that personal data have undergone pseudonymisation before or when they are published, or

(ii) the other person to ensure that personal data have undergone pseudonymisation before or when the other person gives the data, or gives access to the data, to an employer.

(*c*) In this subsection—

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 1 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

"personal data" has the meaning assigned to it by Article 4 of the Data Protection Regulation;

"pseudonymisation" has the meaning assigned to it by Article 4 of the Data Protection Regulation;

"relevant measures or steps"—

(*a*) in relation to an employer and personal data, means the measures or steps that the employer is required to take in respect of the data—

(i) pursuant to a provision of the Data Protection Regulation, or

(ii) by or under the Data Protection Act 2018, or

(*b*) in relation to the other person and personal data, means the measures or steps that the other person is required to take in respect of the data—

(i) pursuant to a provision of the Data Protection Regulation, or

(ii) by or under the Data Protection Act 2018.

(9) Regulations made under this section may require the employer to publish information—

(*a*) in respect of any of the following:

(i) the difference between the mean hourly remuneration of employees of the male gender on temporary contracts and that of employees of the female gender on such contracts expressed as a percentage;

(ii) the difference between the median hourly remuneration of employees of the male gender on temporary contracts and that of employees of the female gender on such contracts expressed as a percentage;

(iii) the respective percentages of all employees who fall within each of—

(I) the lower remuneration quartile pay band,

(II) the lower middle remuneration quartile pay band,

(III) the upper middle remuneration quartile pay band, or

(IV) the upper remuneration quartile pay band, who are of the male gender and who are of the female gender,

or

(*b*) by reference to job classifications.

(10) In making regulations under this section, the Minister shall have regard to the principle that employees and the public need to have access to any information which shows whether there are differences relating to the remuneration of employees by reference to the gender of such employees and, if there are such differences, the reasons for such differences and the measures being taken, or proposed to to be taken, to eliminate or reduce such differences.**]**

Annotations

Amendments:

F46 Inserted (31.05.2022) by *Gender Pay Gap Information Act 2021* (20/2021), s. 2, S.I. No. 263 of 2022.

Editorial Notes:

E26 Power pursuant to section exercised (31.05.2025) by *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2025* (S.I. No. 212 of 2025), in effect as per art. 1(2).

E27 Power pursuant to section exercised (31.05.2024) by *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2024* (S.I. No. 259 of 2024), in effect as per reg. 1(2).

E28 Power pursuant to section exercised (31.05.2022) by *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) Regulations 2022* (S.I. No. 264 of 2022), in effect as per reg. 1(2).

E29 The section heading is taken from the amending section in the absence of one included in the amendment.

Other Matters

Equality clause relating to gender issues.

21.—(1) If and so far as the terms of a contract of employment do not include (expressly or by reference to a collective agreement or otherwise) a gender equality clause, they shall be taken to include one.

(2) A gender equality clause is a provision relating to the terms of a contract of employment, other than a term relating to remuneration or pension rights, which has the effect that if—

(*a*) A is employed in circumstances where the work done by A is not materially different from that done by B in the same employment, and

(*b*) at any time A's contract of employment would (but for the gender equality clause)—

(i) contain a term which is or becomes less favourable to A than a term of a similar kind in B's contract of employment, or

(ii) not include a term corresponding to a term in B's contract of employment which benefits B,

then the terms of A's contract of employment shall be treated as modified so that the term in question is not less favourable to A or, as the case may be, so that they include a similar term benefiting A.

(3) A gender equality clause shall not operate in relation to a difference between A's contract of employment and B's contract of employment if the employer proves that the difference is genuinely based on grounds other than the gender ground.

(4) Without prejudice to the generality of *section 8(1)*, where a person offers A employment on certain terms and, were A to accept the offer on those terms, the gender equality clause in A's contract of employment would have the effect of modifying the terms in either of the ways specified in *subsection (2)*, the making of the offer shall be taken to amount to discrimination against A on the gender ground in relation to A's conditions of employment.

Indirect discrimination on the gender ground.

22.—F47**[**(1) (*a*) Indirect discrimination occurs where an F48**[**apparently neutral provision would put**]** persons of a particular gender (being As or Bs) at a particular disadvantage in respect of any matter other than remuneration compared with other employees of their employer.

(*b*) Where *paragraph (a)* applies, the employer shall be treated for the purposes of this Act as discriminating against each of the persons referred to (including A or B), unless the provision is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(1A) In any proceedings statistics are admissible for the purpose of determining whether *subsection (1)* applies in relation to A or B.**]**

(2) *Subsection (1)* shall apply to the provision of any such services as are referred to in *paragraphs (a)* and *(b)* of *section 11(1)* subject to the following modifications:

(*a*) for the words "any of the matters specified in *paragraphs (a)* to *(e)* of *section 8(1)*" there shall be substituted the words "a person seeking any such services or guidance as are referred to in *paragraphs (a)* and *(b)* of *section 11(1)*";

(*b*) the reference to the employer shall be construed as a reference to the employment agency; and

(*c*) the reference to *section 8* shall be construed as a reference to *section 11*.

(3) *Subsection (1)* shall apply to participation in any such course or facility as is referred to in *paragraphs (a)* to *(c)* of *section 12(1)* subject to the following modifications:

(*a*) the reference to *paragraphs (a)* to *(e)* of *section 8(1)* shall be construed as a reference to *paragraphs (a)* to *(c)* of *section 12(1)*;

(*b*) the reference to the employer shall be construed as a reference to the person offering the course or facility; and

(*c*) the reference to *section 8* shall be construed as a reference to *section 12*.

(4) F49**[**...**]**

(5) *Subsection (3)* of *section 8* applies for the purposes of *subsection (1)* as it applies for the purposes of *subsections (4)* to *(8)* of that section.

Annotations

Amendments:

F47 Substituted and inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 13(a), commenced on enactment.

F48 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 9, S.I. No. 610 of 2015.

F49 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 13(b), commenced on enactment.

Editorial Notes:

E30 Previous affecting provision: subs. (1)(c) substituted (18.07.2001) by *European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001* (S.I. No. 337 of 2001), reg. 4(b); superseded as per F-note above.

Sexual harassment in the workplace etc.

23.—F50**[**...**]**

Annotations

Amendments:

F50 Repealed (18.07.2004) by *Equality Act 2004* (24/2004), s. 14, commenced on enactment.

Positive action on equal opportunities.

24.—F51**[**(1) This Act is without prejudice to any measures—

(*a*) maintained or adopted with a view to ensuring full equality in practice between men and women in their employments, and

(*b*) providing for specific advantages so as—

(i) to make it easier for an under-represented sex to pursue a vocational activity, or

(ii) to prevent or compensate for disadvantages in professional careers.**]**

(2) In the Defence Act, 1954, in section 289(2) (the Army Nursing Service limited to women) for the word "women" there shall be inserted "persons".

Annotations

Amendments:

F51 Substituted (18.07.2004) by *Equality Act 2004* (23/2004), s. 15, commenced on enactment.

Exclusion of discrimination in certain employments.

F52**[25.**—(1) A difference of treatment which is based on a characteristic related to the gender ground in respect of access to employment in a particular post shall not constitute discrimination under this Part or *Part II* where, by reason of the

particular occupational activities concerned or of the context in which they are carried out—

(*a*) the characteristic constitutes a genuine and determining occupational requirement for the post, and

(*b*) the objective is legitimate and the requirement proportionate.

(2) In *subsection (1)* the reference to employment includes a reference to any training leading to it.**]**

Annotations

Amendments:

F52 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 16, commenced on enactment.

Exceptions relating to family and personal matters.

26.—(1) Nothing in this Act shall make it unlawful for an employer to arrange for or provide treatment which confers benefits on women in connection with pregnancy and maternity (including breast feeding) or adoption.

(2) F53**[**...**]**

Annotations

Amendments:

F53 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 17, commenced on enactment.

Garda Síochána and prison service.

27.—(1) With regard to employment in the Garda Síochána or the prison service F54**[**and without prejudice to *section 25***]**, nothing in this Act—

(*a*) applies to the assignment of a man or, as the case may require, a woman to a particular post where this is essential—

(i) in the interests of privacy or decency,

(ii) in order to guard, escort or control violent individuals or quell riots or violent disturbances, or

(iii) in order, within the Garda Síochána, to disarm or arrest violent individuals, to control or disperse violent crowds or to effect the rescue of hostages or other persons held unlawfully, or

(*b*) prevents the application of one criterion as to height for men and another for women, if the criteria chosen are such that the proportion of women in the State likely to meet the criterion for women is approximately the same as the proportion of men in the State likely to meet the criterion for men.

(2) (*a*) If—

(i) in the opinion of the Minister there are insufficient numbers of either men or women serving in the Garda Síochána to be assigned to such posts as are for the time being referred to in *subsection (1)(a)*, and

(ii) the Minister by order under this subsection so provides,

this Act shall not apply to such competitions for recruitment to the Garda Síochána as may be specified in the order.

(*b*) If—

(i) in the opinion of the Minister there are insufficient numbers of either men or women serving in the prison service to be assigned to such posts as are for the time being referred to in *subsection (1)(a)*, and

(ii) the Minister by order under this subsection so provides,

this Act shall not apply to such competitions for recruitment to the prison service as may be specified in the order.

Annotations

Amendments:

F54 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 18, commenced on enactment.

PART IV

Specific Provisions as to Equality Between Other Categories of Persons

The comparators.

28.—(1) For the purpose of this Part, "C" and "D" represent 2 persons who differ as follows:

(*a*) in relation to the F55**[**civil status**]** ground, C and D have different F55**[**civil status**]**;

(*b*) in relation to the family status ground, C has family status and D does not, or *vice versa*;

(*c*) in relation to the sexual orientation ground, C and D are of different sexual orientations;

(*d*) in relation to the religion ground, C and D have different religious beliefs or C has a religious belief and D does not, or *vice versa*;

(*e*) in relation to the age ground, C and D are of different ages;

(*f*) in relation to the disability ground, C is a person with a disability and D is not, or *vice versa*, or C and D are persons with different disabilities;

(*g*) in relation to the ground of race, C and D differ as to race, colour, nationality or ethnic or national origins or any combination of those factors;

(*h*) in relation to the F56**[**Traveller**]** community ground, C is a member of the F56**[**Traveller**]** community and D is not, or *vice versa*.

(2) In the following provisions of this Part, any reference to C and D which does not apply to a specific discriminatory ground shall be treated as a reference to C and D in the context of each of the discriminatory grounds (other than the gender ground) considered separately.

(3) Any reference in this Act to persons having the same relevant characteristic as C (or as D) shall be construed by reference to the discriminatory ground in relation to which the reference applies or, as the case may be, in relation to each of the discriminatory grounds (other than the gender ground) separately, so that—

(*a*) in relation to the F55**[**civil status**]** ground, the relevant characteristic is having the same F55**[**civil status**]** as C (or, as the case may be, as D), and

(*b*) in relation to the family status ground, the relevant characteristic is having the same, or the same lack of, family status as C (or, as the case may be, as D),

and so on for each of the other discriminatory grounds.

Annotations

Amendments:

F55 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010.

F56 Substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (d), S.I. No. 351 of 2000.

Entitlement to equal remuneration.

29.—(1) It shall be a term of the contract under which C is employed that, subject to this Act, C shall at any time be entitled to the same rate of remuneration for the work which C is employed to do as D who, at that or any other relevant time, is employed to do like work by the same or an associated employer.

(2) For the purposes of *subsection (1)*, in relation to a particular time, a relevant time is any time (on or after the commencement of this section) which falls during the 3 years which precede, or the 3 years which follow, the particular time.

(3) For the purposes of this Part, where D's employer is an associated employer of C's employer, C and D shall not be regarded as employed to do like work unless they both have the same or reasonably comparable terms and conditions of employment.

F57**[**(4) *Section 19(4)* applies in relation to C and D as it applies in relation to A and B, with the modification that the reference in it to persons of a particular gender (being As or Bs) is a reference to persons (being Cs or Ds) who differ in a respect mentioned in any paragraph of *section 28(1)* and with any other necessary modifications.**]**

(5) Subject to *subsection (4)*, nothing in this Part shall prevent an employer from paying, on grounds other than the discriminatory grounds, different rates of remuneration to different employees.

Annotations

Amendments:

F57 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 19, commenced on enactment.

Equality clause relating to non-gender issues.

30.—(1) If and so far as the terms of a contract of employment do not include (expressly or by reference to a collective agreement or otherwise) a non-discriminatory equality clause, they shall be taken to include one.

(2) A non-discriminatory equality clause is a provision relating to the terms of a contract of employment, other than a term relating to remuneration or pension rights, which has the effect that if—

(*a*) C is employed in circumstances where the work done by C is not materially different from that done by D in the same employment, and

(*b*) at any time C's contract of employment would (but for the non-discriminatory equality clause)—

(i) contain a term which is or becomes less favourable to C than a term of a similar kind in D's contract of employment, or

(ii) not include a term corresponding to a term in D's contract of employment which benefits D,

then the terms of C's contract of employment shall be treated as modified so that the term in question is not less favourable to C or, as the case may be, so that they include a similar term benefiting C.

(3) A non-discriminatory equality clause shall not operate in relation to a difference between C's contract of employment and D's contract of employment if the employer proves that the difference is genuinely based on grounds which are not among those specified in *paragraphs (a)* to *(h)* of *section 28(1)*.

(4) Without prejudice to the generality of *section 8(1)*, where a person offers C employment on certain terms and, were C to accept the offer on those terms, the non-discriminatory equality clause in C's contract of employment would have the effect of modifying the terms in either of the ways specified in *subsection (2)*, the making of the offer shall be taken to amount to discrimination against C in relation to C's conditions of employment on whichever of the discriminatory grounds is (or are) relevant to the difference (or differences) between C and D.

Indirect discrimination.

31.—F58**[**(1) *Subsections (1)* and *(1A)* (inserted by section 13 of the Equality Act 2004) of *section 22* apply, in relation to C and D as they apply in relation to A and B, with the modification that the reference in *subsection (1)* to persons of a particular gender (being As or Bs) is a reference to persons (being Cs or Ds) who differ in a respect mentioned in any paragraph of *section 28(1)* and with any other necessary modifications.**]**

(2) F59**[**...**]**

(3) *Subsection (1)* shall apply with the necessary modifications in relation to—

(*a*) the provision of any such services of an employment agency as are referred to in *paragraphs (a)* and *(b)* of *section 11(1)*,

(*b*) participation in any such course or facility as is referred to in *paragraphs (a)* to *(c)* of *section 12(1)*.

(4) *Subsection (3)* of *section 8* applies for the purposes of *subsection (1)* and, in so far as it relates to an employer, *subsection (5)* as it applies for the purposes of *subsections (4)* to *(8)* of that section.

(5) If a provision is such that, apart from this subsection, an employer or regulatory body would be regarded—

(*a*) by virtue of *subsection (1)* F60**[**...**]**, as discriminating against an individual on the F61**[**civil status**]** ground or the family status ground, and

(*b*) by virtue of *section 22*, also as discriminating against the same individual on the gender ground,

the employer or regulatory body shall not be regarded as discriminating against that individual by virtue of *subsection (1)* F60**[**...**]**.

Annotations

Amendments:

F58 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 20(a), commenced on enactment.

F59 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 20(a), commenced on enactment.

F60 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 20(b), commenced on enactment.

F61 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010.

Harassment in the workplace etc.

32.—F62**[...]**

Annotations

Amendments:

F62 Repealed (18.07.2004) by *Equality Act 2004* (24/2004), s. 21, commenced on enactment.

Positive action permitted.

F63**[33.**—Nothing in this Part or *Part II* shall render unlawful measures maintained or adopted with a view to ensuring full equality in practice between employees, being measures—

(*a*) to prevent or compensate for disadvantages linked to any of the discriminatory grounds (other than the gender ground),

(*b*) to protect the health or safety at work of persons with a disability, or

(*c*) to create or maintain facilities for safeguarding or promoting the integration of such persons into the working environment.**]**

Annotations

Amendments:

F63 Substituted (18.072004) by *Equality Act 2004* (24/2004), s. 22, commenced on enactment.

Modifications (not altering text):

Editorial Notes:

E31 Previous affecting provision: word "traveller" in subs. (1)(c) capitalised (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (e), S.I. No. 351 of 2000; superseded as per F-note above.

Savings and exceptions related to the family, age or disability.

34.—(1) In relation to the discriminatory grounds specified in *paragraphs (a)* to *(h)* of *section 28(1)*, nothing in this Part or *Part II* shall make it unlawful for an employer to provide—

(*a*) a benefit to an employee in respect of events related to members of the employee's family or any description of those members,

(*b*) a benefit to or in respect of a person as a member of an employee's family,

(*c*) a benefit to an employee on or by reference to an event occasioning a change in the F64**[**civil status**]** of the employee, or

(*d*) to an employee who has family status a benefit intended directly to provide or assist in the provision, during working hours, of care for a person for whom the employee has responsibility as mentioned in *paragraphs (a)* and *(b)* of the definition of "family status" in *section 2(1)*.

(2) In *subsection (1)* "employer" includes an employment agency, a person offering a course of vocational training as mentioned in *section 12(1)* and a regulatory body; and accordingly references to an employee include—

(*a*) a person seeking or using any service provided by the employment agency,

(*b*) a person participating in any such course or facility as is referred to in *paragraphs (a)* to *(c)* of *section 12(1)*, and

(*c*) a person who is a member of the regulatory body.

F65**[**(3) In an occupational benefits scheme it shall not constitute discrimination on the age ground for an employer—

(*a*) to fix ages for admission to such a scheme or for entitlement to benefits under it,

(*b*) to fix different such ages for all employees or a category of employees,

(*c*) to use, in the context of such a scheme, age criteria in actuarial calculations, or

(*d*) to provide different rates of severance payment for different employees or groups or categories of employees, being rates based on or taking into account the period between the age of an employee on leaving the employment and his or her compulsory retirement age,

provided that that does not constitute discrimination on the gender ground.**]**

F66**[**(3A) In subsection (3)—

"occupational benefits scheme" includes any scheme (whether statutory or non-statutory) providing for benefits to employees or any category of employees on their becoming ill, incapacitated or redundant but does not include any occupational pension scheme providing for pensions, gratuities or other allowances payable on retirement or death;

"severance payment" means a sum paid voluntarily by an employer to an employee otherwise than as pay when the employee leaves the employment.**]**

F67**[**(4) Without prejudice to *subsection (3)*, it shall not constitute discrimination on the age ground to fix different ages for the retirement (whether voluntarily or compulsorily) of employees or any class or description of employees if—

(*a*) it is objectively and reasonably justified by a legitimate aim, and

(*b*) the means of achieving that aim are appropriate and necessary.**]**

(5) Without prejudice to the generality of *subsection (3)*, it shall not constitute discrimination on the age ground to set, in relation to any job, a maximum age for recruitment which takes account of—

(*a*) any cost or period of time involved in training a recruit to a standard at which the recruit will be effective in that job, and

(*b*) the need for there to be a reasonable period of time prior to retirement age during which the recruit will be effective in that job.

(6) Where immediately before the relevant day, arrangements are in force in any employment for age-related remuneration, it shall be a sufficient compliance with this Part and *Part II* if those arrangements are brought to an end within the period of 3 years beginning on the relevant day.

(7) It shall not constitute discrimination on the age ground for an employer to provide for different persons—

(*a*) different rates of remuneration, or

(*b*) different terms and conditions of employment,

if the difference is based on their relative seniority (or length of service) in a particular post or employment.

F66**[**(7A) Nothing in this Act invalidates any term in a collective agreement, whenever made, to the effect that in particular circumstances, where length of service would otherwise be regarded as equal, seniority in a particular post or employment may be determined by reference to the relative ages of employees on their entry to that post or employment.**]**

(8) In this section "the relevant day" means the day appointed for the coming into operation of *section 29*.

Annotations

Amendments:

F64 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010.

F65 Substituted (18.07.2004) by *Equality Act 2004* (24/2004) s. 23(a), commenced on enactment.

F66 Inserted (18.07.2004) by *Equality Act 2004* (24/2004) s. 23(a) and (b), commenced on enactment.

F67 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 10, S.I. No. 610 of 2015.

Special provisions related to persons with disabilities.

35.—F68**[**(1) Nothing in this Part or *Part II* shall make it unlawful for an employer to provide, for an employee with a disability, a particular rate of remuneration for work of a particular description if, by reason of the disability, the amount of that work done by the employee during a particular period is less than the amount of similar work done, or which could reasonably be expected to be done, during that period by an employee without the disability.**]**

(2) Nothing in this Part or *Part II* shall make it unlawful for an employer or any other person to provide, for a person with a disability, special treatment or facilities where the provision of that treatment or those facilities—

(*a*) enables or assists that person to undertake vocational training, to take part in a selection process or to work, or

(*b*) provides that person with a training or working environment suited to the disability, or

(*c*) otherwise assists that person in relation to vocational training or work.

(3) Where, by virtue of *subsection (1)* or *(2)*, D, as a person with a disability, receives a particular rate of remuneration or, as the case may be, special treatment or facilities, C, as a person without a disability, or with a different disability, shall not be entitled under this Act to that rate of remuneration, that treatment or those facilities.

F69**[**(4) References in this section to a particular rate of remuneration are to a rate of remuneration which is not below the minimum rate to which the employee concerned is entitled under the National Minimum Wage Act 2000.**]**

Annotations

Amendments:

F68 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 24(a), commenced on enactment.

F69 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 24(b), commenced on enactment.

Imposition of certain requirements to be lawful.

36.—(1) Nothing in this Part or *Part II* shall make unlawful the application of any provision (whether in the nature of a requirement, practice or otherwise) such as is mentioned in *subsection (2)* with respect to—

(*a*) holding office under, or in the service of, the State (including the Garda Síochána and the Defence Forces) or otherwise as a civil servant, within the meaning of the Civil Service Regulation Act, 1956, or

(*b*) officers or servants of a local authority, for the purposes of the Local Government Act, 1941, a harbour authority F70**[**or a health board or a member of staff of an education and training board**]**.

(2) The provisions referred to in *subsection (1)* are those relating to all or any of the following:

(*a*) residence;

(*b*) citizenship;

(*c*) proficiency in the Irish language.

(3) Nothing in this Part or *Part II* shall make unlawful the application of any provision (whether in the nature of a requirement, practice or otherwise) in relation to proficiency in the Irish language with respect to teachers in primary and post-primary schools.

(4) Nothing in this Part or *Part II* shall make it unlawful to require, in relation to a particular post—

(*a*) the holding of a specified educational, technical or professional qualification which is a generally accepted qualification in the State for posts of that description, or

(*b*) the production and evaluation of information about any qualification other than such a specified qualification.

(5) Nothing in this Part or *Part II* shall make it unlawful for a body controlling the entry to, or carrying on of, a profession, vocation or occupation to require a person carrying on or wishing to enter that profession, vocation or occupation to hold a specified educational, technical or other qualification which is appropriate in the circumstances.

(6) Nothing in this section shall render lawful discrimination on the gender ground.

Annotations

Amendments:

F70 Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 25, S.I. No. 211 of 2013.

Exclusion of discrimination on particular grounds in certain employments.

37.—(1) F71**[**Subject to *subsections (1A)* and *(1B)*, a religious, educational or medical institution**]** which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person for the purposes of this Part or *Part II* if—

(*a*) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or

(*b*) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.

F72**[**(1A) Where an educational or medical institution referred to in *subsection (1)* is maintained, in whole or in part, by monies provided by the Oireachtas more favourable treatment on the religion ground referred to in *paragraph (a)* of that subsection shall be taken to be discrimination unless—

(*a*) that treatment does not constitute discrimination on any of the other discriminatory grounds, and

(*b*) by reason of the nature of the institution's activities or the context in which the activities are being carried out, the religion or belief of the employee or prospective employee constitutes a genuine, legitimate and justified occupational requirement having regard to the institution's ethos.**]**

F72**[**(1B) Where an educational or medical institution referred to *subsection (1)* is maintained, in whole or in part, by monies provided by the Oireachtas, action of the type referred to in *paragraph (b)* of that subsection shall be taken to be discrimination unless by reason of the nature of the employment concerned or the context in which it is carried out—

(*a*) the action is objectively justified by the institution's aim of preventing the undermining of the religious ethos of the institution, and

(*b*) the means of achieving that aim are appropriate and necessary.**]**

F72**[**(1C) An action referred to in *subsection (1B)* shall not be objectively justified in accordance with *paragraph (a)* of that subsection, or appropriate and necessary in accordance with *paragraph (b)* of that subsection, unless the action of the institution is—

(*a*) rationally and strictly related to the institution's religious ethos,

(*b*) a response to conduct of the employee or prospective employee undermining the religious ethos of the institution rather than a response to that employee's, or prospective employee's, gender, civil status, family status, sexual orientation, age, disability, race or membership of the Traveller community, and

(*c*) proportionate to the conduct of the employee or prospective employee, as the case may be, having due regard to—

(i) any other action the employer may take in the circumstances,

(ii) the consequences of that action for that employee or prospective employee,

(iii) the employee's or prospective employee's right to privacy, and

(iv) the actual damage caused to the religious ethos of the institution by the conduct of that employee or prospective employee.**]**

F73**[**(2) For the purposes of this Part a difference of treatment which is based on a characteristic related to any of the discriminatory grounds (except the gender ground) shall not constitute discrimination where, by reason of the particular occupational activities concerned or of the context in which they are carried out—

(*a*) the characteristic constitutes a genuine and determining occupational requirement, and

(*b*) the objective is legitimate and the requirement proportionate.

(3) It is an occupational requirement for employment in the Garda Síochána, prison service or any emergency service that persons employed therein are fully competent

and available to undertake, and fully capable of undertaking, the range of functions that they may be called upon to perform so that the operational capacity of the Garda Síochána or the service concerned may be preserved.

(4) If—

(*a*) the Minister is of opinion that the age profile of members of the Garda Síochána, prison service or any emergency service is such that its operational capacity is or is likely to be adversely affected, and

(*b*) he or she by order so declares,

the age ground shall not apply in relation to such competitions for recruitment to that service as are specified in the order.

(5) In relation to discrimination on the age ground or disability ground, nothing in this Part or Part II applies in relation to employment in the Defence Forces.

(6) In *subsection (4)(a)* the reference to the Minister, in relation to an emergency service, is a reference to the Minister of the Government with official functions in regard to that service.**]**

Annotations

Amendments:

F71 Substituted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 11(a), S.I. No. 610 of 2015.

F72 Inserted (1.01.2016) by *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 11(a), S.I. No. 610 of 2015.

F73 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 25, commenced on enactment.

PART V

Equality Authority

Annotations

Modifications (not altering text):

C13 Previous affecting povision: potential liability in relation to Part V (ss. 38-67) excluded (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 36(1), S.I. No. 351 of 2000; part repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

General

Continuation of Employment Equality Agency as Equality Authority.

38.—F74**[**...**]**

Annotations

Amendments:

F74 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Functions of Authority.

39.—F75**[**...**]**

Annotations

Amendments:

F75 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E32 Section amended by deletion of paras. (bb) and (c) (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(a), S.I. No. 410 of 2015; section already repealed as per F-note above.

E33 Previous affecting provision: para (bb) inserted (3.12.1998) by *Parental Leave Act 1998* (30/1998), s. 25(5), commenced as per s. 1(2); section repealed as per F-note above.

Strategic Plans.

40.—F76**[**...**]**

Annotations

Amendments:

F76 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Membership.

41.—F77**[**...**]**

Annotations

Amendments:

F77 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E34 Previous affecting provision: subs. (1) substituted and subs. (2) deleted (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 82, S.I. No. 274 of 2008; section repealed as per F-note above.

Chairperson.

42.—F78**[**...**]**

Annotations

Amendments:

F78 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C14 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Disqualification.

43.—F79**[**...**]**

Annotations

Amendments:

F79 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Ordinary members.

44.—F80**[**...**]**

Annotations

Amendments:

F80 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C15 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

Editorial Notes:

E35 Previous affecting provision: subs. (1)(c)(i) amended (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 102(3), S.I. No. 648 of 2010; section repealed as per F-note above.

E36 Previous affecting provision: subs. (1)(c)(i) amended (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (f), S.I. No. 351 of 2000; section repealed as per F-note above.

E37 Previous affecting provision: subs. (4) substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 26, commenced on enactment; section repealed as per F-note above.

Chairperson and ordinary members may be re-appointed.

45.—F81**[**...**]**

Annotations

Amendments:

F81 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Vice-chairperson.

46.—F82**[...]**

Annotations

Amendments:

F82 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C16 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Meetings and business.

47.—F83**[...]**

Annotations

Amendments:

F83 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E38 Previous affecting provision: subs. (4) substituted (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 83, S.I. No. 274 of 2008; section repealed as per F-note above.

Advisory committees.

48.—F84**[...]**

Annotations

Amendments:

F84 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C17 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per -note above.

Chief Executive Officer.

49.—F85**[**...**]**

Annotations

Amendments:

F85 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Accountability of Chief Executive Officer.

50.—F86**[**...**]**

Annotations

Amendments:

F86 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Staff.

51.—F87**[**...**]**

Annotations

Amendments:

F87 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C18 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

C19 Previous affecting provision: functions of Minister for Finance under subs. (2) transferred to Minister for Public Expenditure and Reform (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 9(2) and sch. 2 part 1, S.I. No. 401 of 2011; section repealed as per F-note above.

Editorial Notes:

E39 Previous affecting provision: subs. (3)(b) amended (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1), sch. 2 part 1, commenced on enactment; section repealed as per F-note above.

E40 Previous affecting provision: subs. (3) substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 27, commenced on enactment; section repealed as per F-note above.

Seal of Authority.

52.—F88**[**...**]**

Annotations

Amendments:

F88 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Accounts and audits.

53.—F89**[**...**]**

Annotations

Amendments:

F89 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Annual report and provision of information to Minister.

54.—F90**[**...**]**

Annotations

Amendments:

F90 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Grants and borrowing powers.

55.—F91**[**...**]**

Annotations

Amendments:

F91 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C20 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Codes of practice.

56.—F92**[**...**]**

Annotations

Amendments:

F92 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E41 Continuation in force of codes of practice made under section confirmed (1.011.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 31(4)(a), (b), S.I. No. 449 of 2014.

E42 Power pursuant to subss. (3)(a) and (5) exercised (31.05.2012) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012* (S.I. No. 208 of 2012).

E43 Previous affecting provision: paras. (1)(a) and (b) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (g)(i), S.I. No. 351 of 2000; section repealed as per F-note above.

E44 Previous affecting provision: subs. (4) amended (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (g)(ii), S.I. No. 351 of 2000; section repealed as per F-note above.

E45 Previous affecting provision: power pursuant to subs. (3) exercised (8.03.2002) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002* (S. I. No. 78 of 2002); revoked (31.05.2013) by *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012* (S.I. No. 208 of 2012), art. 3.

Research and information.

57.—F93**[**...**]**

Annotations

Amendments:

F93 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Inquiries.

58.—F94**[**...**]**

Annotations

Amendments:

F94 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Obtaining information etc. for purposes of inquiry.

59.—F95**[**...**]**

Annotations

Amendments:

F95 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Modifications (not altering text):

C21 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; repealed as per F-note above.

Editorial Notes:

E46 Previous affecting provision: subs. (3)(b) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (h), S.I. No. 351 of 2000; section repealed as per F-note above.

Offences relating to inquiries etc.

60.—F96**[**...**]**

Annotations

Amendments:

F96 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Recommendations arising out of and reports of inquiries.

61.—F97**[**...**]**

Annotations

Amendments:

F97 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E47 Previous affecting provision: subs. (1) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (i), S.I. No. 351 of 2000; section repealed as per F-note above.

Non-discrimination notices.

62.—F98**[**...**]**

Annotations

Amendments:

F98 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E48 Previous affecting provision: subs. 1(b) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (j), S.I. No. 351 of 2000; section repealed as per F-note above.

Appeal against non-discrimination notice.

63.—F99**[**...**]**

Annotations

Amendments:

F99 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E49 Previous affecting provision: subs. (1) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (k)(i), S.I. No. 351 of 2000; section repealed as per F-note above.

E50 Previous affecting provision: subss. (6) and (7) inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (k)(ii), S.I. No. 351 of 2000; section repealed as per F-note above.

Register of non-discrimination notices.

64.—F100**[**...**]**

Annotations

Amendments:

F100 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Injunctions for failure to comply with non-discrimination notice.

65.—F101**[**...**]**

Annotations

Amendments:

F101 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Offence relating to failure to comply with non-discrimination notice.

66.—F102**[**...**]**

Annotations

Amendments:

F102 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Assistance by Authority in connection with certain references.

67.—F103**[**...**]**

Annotations

Amendments:

F103 Part V (ss. 38 - 67) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E51 Previous affecting provision: subs. (1) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (l), S.I. No. 351 of 2000; section repealed as per F-note above.

E52 Previous affecting provision: subss. (5)-(8) inserted (18.07.2004) *Equality Act 2004* (24/20004), s. 28, commenced on enactment; section repealed as per F-note above.

PART VI

Equality Reviews and Action Plans and Review of Legislation

Definition (*Part VI*).

68.—F104**[**...**]**

Annotations

Amendments:

F104 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E53 Previous affecting provision: section amended (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (m), S.I. No. 351 of 2000; section repealed as per F-note above.

Equality reviews and action plans.

69.—F105**[**...**]**

Annotations

Amendments:

F105 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E54 Previous affecting provision: subss. (1), (2) and (6) amended (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (n)(i), (ii), (iii), (v), S.I. No. 351 of 2000; section repealed as per F-note above.

E55 Previous affecting provision: subs. (2A) inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (n)(iv), S.I. No. 351 of 2000; section repealed as per F-note above.

E56 Previous affecting provision: subs. (7) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (n)(vi), S.I. No. 351 of 2000; section repealed as per F-note above.

Enforcement powers in respect of equality reviews and action plans.

70.—F106**[**...**]**

Annotations

Amendments:

F106 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E57 Previous affecting provision: subs. (1)(a) amended (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (o), S.I. No. 351 of 2000; section repealed as per F-note above.

Appeal against substantive notice.

71.—F107**[**...**]**

Annotations

Amendments:

F107 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Editorial Notes:

E58 Previous affecting provision: subs. (1) substituted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (p)(i), S.I. No. 351 of 2000; section repealed as per F-note above.

E59 Previous affecting provision: subss. (6) and (7) inserted (25.10.2000) by *Equal Status Act 2000* (8/2000), s. 39 and sch. para. (p)(ii), S.I. No. 351 of 2000; section repealed as per F-note above.

Enforcement of substantive notices.

72.—F108**[**...**]**

Annotations

Amendments:

F108 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

Review of legislation.

73.—F109**[**...**]**

Annotations

Amendments:

F109 Part VI (ss. 68 - 73) repealed (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 7 and sch. 1, S.I. No. 449 of 2014.

PART VII

Other Remedies and Enforcement

Annotations

Modifications (not altering text):

C22 Application of Part VII (ss. 74-105) restricted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46(1) subject to transitional provisions in subs. (2).

Cesser of Labour Court jurisdiction to deal with claims for redress.

46.—(1) Subject to *subsection (2)* and section 83 of the Act of 1998, the Labour Court shall cease to have jurisdiction under Part VII of that Act in cases of dismissal in circumstances amounting to discrimination or victimisation, and accordingly the amendments set out in the Schedule to this Act shall have effect.

...

Editorial Notes:

E60 Power granted to Irish Human Rights and Equality Commission to provide legal and other assistance to persons making a reference or application under Part (1.11.2014) by *Irish Human Rights and Equality Commission Act 2014* (25/2014), s. 40(1)(c)(iii), S.I. No. 449 of 2014.

Introductory

Interpretation (*Part VII*).

74.—(1) In this Part, unless the context otherwise requires:

F110**[**"Act of 2015" means the Workplace Relations Act 2015;

"adjudication officer" has the same meaning as it has in the Act of 2015;**]**

"the complainant" has the meaning given by *section 77(4)*;

F111**[**F112**[**mediation officer**]**" and "F112**[**adjudication officer**]**" mean officers appointed as such under *subsection (4)* or *(4A)* of *section 75*;**]**

"the Equal Pay Directive" means Council Directive No. 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women;

"the Equal Treatment Directive" means Council Directive No. 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions;

F110**[**"mediation officer" has the same meaning as it has in the Act of 2015;**]**

"the respondent" has the meaning given by *section 77(4)*;

"victimisation" shall be construed in accordance with *subsection (2)*.

F111**[**(2) For the purposes of this Part victimisation occurs where dismissal or other adverse treatment of an employee by his or her employer occurs as a reaction to—

(*a*) a complaint of discrimination made by the employee to the employer,

(*b*) any proceedings by a complainant,

(*c*) an employee having represented or otherwise supported a complainant,

(*d*) the work of an employee having been compared with that of another employee for any of the purposes of this Act or any enactment repealed by this Act,

(*e*) an employee having been a witness in any proceedings under this Act or the Equal Status Act 2000 or any such repealed enactment,

(*f*) an employee having opposed by lawful means an act which is unlawful under this Act or the said Act of 2000 or which was unlawful under any such repealed enactment, or

(*g*) an employee having given notice of an intention to take any of the actions mentioned in the preceding paragraphs.

(3) For the purposes of *sections 77, 78, 83, 87* and *90* the date on which a case is referred, or an appeal made, under those provisions is the date on which the reference or appeal is received by the F112**[**Director General of the Workplace Relations Commission**]**, Labour Court or Circuit Court, as the case may be.**]**

Annotations

Amendments:

F110 Inserted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(b), S.I. No. 410 of 2015.

F111 Substituted and inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 29(a) and (b), commenced on enactment.

F112 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C23 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Equality Investigations

F113**[**Director General of the Workplace Relations Commission**]** and other officers.

75.—(1) F114**[**...**]**

(2) F114**[**...**]**

(2A) F114**[**...**]**

(3) F114**[**...**]**

(4) F114**[**...**]**

F115**[**(4A) F114**[**...**]**

(4B) The F113**[**Director General of the Workplace Relations Commission**]** may delegate to an F113**[**adjudication officer**]** or an F113**[**mediation officer**]** any functions conferred on him or her under this Act F114**[**...**]**.**]**

(5) The F113**[**Director General of the Workplace Relations Commission**]**, F113**[**mediation officer**]**s and F113**[**adjudication officer**]**s shall be independent in the performance of their functions.

(6) Subject to *subsection (7)*, F116**[**the delegation of a function under subsection (4B)**]** shall not affect the continuing power of the F113**[**Director General of the Workplace Relations Commission**]** to exercise that function concurrently with the officer to whom it is delegated.

(7) Where, under F117**[***subsection (4B)***]**, the F113**[**Director General of the Workplace Relations Commission**]** has delegated to an officer the function of hearing a case referred to the F113**[**Director General of the Workplace Relations Commission**]** F116**[**under section 77 or 86, or under section 21 of the Equal Status Act 2000—**]**

(*a*) the delegation shall be taken to include the power to issue a decision in the case,

(*b*) the function may not be exercised concurrently by the F113**[**Director General of the Workplace Relations Commission**]**, and

(*c*) the delegation may not be revoked or varied except at the request of the officer to whom the function was delegated or if there are exceptional circumstances preventing that officer from acting (or continuing to act).

(8) F114**[**...**]**

Annotations

Amendments:

F113 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F114 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(d), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F115 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 30(b)(i), (c) and (d), commenced on enactment.

F116 Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 21, commenced on enactment.

F117 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 30(e), commenced on enactment.

Modifications (not altering text):

C24 Functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Jobs, Enterprise and Innovation.

(2) References to the Department of Justice and Equality contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Jobs, Enterprise and Innovation.

3.—(1) The functions vested in the Minister for Justice and Equality by or under—

(a) sections 75, 76, 79, 94 and 100 of the Employment Equality Act 1998 (No. 21 of 1998),

...

are transferred to the Minister for Jobs, Enterprise and Innovation.

(2) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Jobs, Enterprise and Innovation.

...

C25 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 21 of 1998	Employment Equality Act 1998	Sections 42(1) and (2), 44(2) and (4), 46(2), 48(3) and (4), 51, 55(1), 59(4) and 75(1), (2) and (4A)
...	...	...

Editorial Notes:

E61 Existing rights commissioners and equality officers continued as adjudication officers for purposes of this Act (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 40(3), S.I. No. 410 of 2015, subject to exceptions in subss. (4)-(6), and term "rights commissioner" to be construed as adjudication officer (subs. (9)).

E62 Previous affecting provision: subs. (2A) inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 30(b)(i), (c) and (d), commenced on enactment; deleted as per F-note above.

E63 Previous affecting provision: subss. (3), (4) substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 30(d), commenced on enactment; deleted as per F-note above.

E64 Previous affecting provision: subs. (4A) inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 30(b)(i), (c) and (d), commenced on enactment; substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 21, commenced on enactment; deleted as per F-note above.

Redress

Right to information.

76.—(1) With a view to assisting a person ("X") who considers—

(*a*) that another person ("Y") may have discriminated against X in contravention of this Act or may have dismissed or otherwise penalised X in circumstances amounting to victimisation,

(*b*) that another person ("Y") who is responsible for providing remuneration to X is not providing that remuneration as required by an equal remuneration term, or

(*c*) that another person ("Y") with whom X has a contract of employment has not provided X with a benefit under an equality clause in that contract,

to decide whether to refer the matter under any provision of *section 77* and, in the event of such a reference, to formulate and present X's case in the most effective manner, the Minister may by regulations prescribe forms by which—

(i) X may question Y so as to obtain material information, and

(ii) Y may, if Y so wishes, reply to any questions.

(2) Subject to *subsections (3)* to *(7)*, information is for the purposes of this section "material information" if it is—

(*a*) information as to Y's reasons for doing or omitting to do any relevant act and as to any practices or procedures material to any such act,

(*b*) information, other than confidential information, about the remuneration or treatment of other persons who stand in relation to Y in the same or a similar position as X, or

F118**[**(*c*) other information which is not confidential information or information about the scale or financial resources of the employer's business and which, in the circumstances of the case in question, it is reasonable for X to require.**]**

(3) In *subsection (2)* "confidential information" means any information which relates to a particular individual, which can be identified as so relating and to the disclosure of which that individual does not agree.

(4) Nothing in this Act shall be construed as requiring Y or any other person—

(*a*) to furnish any reference (or any copy thereof or extract therefrom) or any report (or copy thereof or extract therefrom) relating to the character or the suitability for employment of any person (including X), or

(*b*) to disclose the contents of such a reference or report.

(5) In a case where a person considers that he or she may have been discriminated against by, or in the course of an interview conducted on behalf of—

F119**[**(*a*) the holder of a recruitment licence under the Public Service Management (Recruitment and Appointments) Act 2004 in the course of a recruitment or selection process, other than one designed to recruit or select only from and for the holder's own staff,**]**

(*b*) F120**[**...**]**

(*c*) the Minister for Defence in the course of a recruitment process for the Defence Forces, or

(*d*) the Commissioner of the Garda Síochána in the course of a recruitment process for the Garda Síochána,

information shall not be regarded as material information for the purposes of this section if it relates to communications with external advisers to any of the persons referred to in *paragraphs (a)* to *(d)* or if it goes beyond the permitted information specified in *subsection (6)*.

(6) For the purposes of *subsection (5)*, in relation to a recruitment or selection process, information is permitted information if it identifies the successful and the unsuccessful candidates—

(*a*) by reference to their sex, or

(*b*) in terms of the discriminatory grounds in *section 28(1)*, by reference to those who have the same relevant characteristic as C or the same relevant characteristic as D.

(7) This section is without prejudice to the other provisions of this Act relating to the obtaining of information.

Annotations

Amendments:

F118 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 31, commenced on enactment.

F119 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

F120 Deleted (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

Modifications (not altering text):

C26 Functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Jobs, Enterprise and Innovation.

(2) References to the Department of Justice and Equality contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Jobs, Enterprise and Innovation.

3.—(1) The functions vested in the Minister for Justice and Equality by or under —

(a) sections 75, 76, 79, 94 and 100 of the Employment Equality Act 1998 (No. 21 of 1998),

...

are transferred to the Minister for Jobs, Enterprise and Innovation.

(2) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Jobs, Enterprise and Innovation.

...

C27 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E65 Power pursuant to subs. (1) exercised (18.10.1999) by *Employment Equality Act, 1998 (Section 76 - Right To Information) Regulations 1999* (S.I. No. 321 of 1999).

The forum for seeking redress.

77.—F121**[**(1) A person who claims—

(*a*) to have been discriminated against or subjected to victimisation,

(*b*) to have been dismissed in circumstances amounting to discrimination or victimisation,

(*c*) not to be receiving remuneration in accordance with an equal remuneration term, or

(*d*) not to be receiving a benefit under an equality clause,

in contravention of this Act may, subject to *subsections (3)* to *(9)*, seek redress by referring the case to the F122**[**Director General of the Workplace Relations Commission**]**.**]**

(2) F123**[**...**]**

F121**[**(3) If the grounds for such a claim arise—

(*a*) under *Part III*, or

(*b*) in any other circumstances (including circumstances amounting to victimisation) to which the Equal Pay Directive or Equal Treatment Directive is relevant,

then, subject to *subsections (4)* to *(9)*, the person making the claim may seek redress by referring the case to the Circuit Court instead of to the F122**[**Director General of the Workplace Relations Commission**]**.**]**

F124**[**(4) In this Part, in relation to a claim referred under any provision of this section—

(*a*) "the complainant" means—

(i) the person by whom it is referred, or

(ii) where such a person is unable, by reason of an intellectual or a psychological disability, to pursue it effectively, his or her parent, guardian or other person acting in place of a parent, and**]**

(*b*) "the respondent" means the person who is alleged to have discriminated against the complainant or, as the case may be, who is responsible for providing the remuneration to which the equal remuneration term relates or who is responsible for providing the benefit under the equality clause or who is alleged to be responsible for the victimisation.

F124**[**(5) (*a*) Subject to *paragraph (b)*, a claim for redress in respect of discrimination or victimisation may not be referred under this section after the end of the period of 6 months from the date of occurrence of the discrimination or victimisation to which the case relates or, as the case may be, the date of its most recent occurrence.

(*b*) On application by a complainant the F122**[**Director General of the Workplace Relations Commission**]** or Circuit Court, as the case may be, may, for reasonable cause, direct that in relation to the complainant *paragraph (a)* shall have effect as if for the reference to a period of 6 months there were substituted a reference to such period not exceeding 12 months as is specified in the direction; and, where such a direction is given, this Part shall have effect accordingly.

(*c*) This subsection does not apply in relation to a claim not to be receiving remuneration in accordance with an equal remuneration term.

(6) Where a delay by a complainant in referring a case under this section is due to any misrepresentation by the respondent, *subsection (5)(a)* shall be construed as if the references to the date of occurrence of the discrimination or victimisation were references to the date on which the misrepresentation came to the complainant's notice.**]**

F125**[**(6A) For the purposes of this section—

(*a*) discrimination or victimisation occurs—

(i) if the act constituting it extends over a period, at the end of the period,

(ii) if it arises by virtue of a term in a contract, throughout the duration of the contract, and

(iii) if it arises by virtue of a provision which operates over a period, throughout the period,

(*b*) a deliberate omission by a person to do something occurs when the person decides not to do it, and

(*c*) a respondent is presumed, unless the contrary is shown, to decide not to do something when the respondent either—

(i) does an act inconsistent with doing it, or

(ii) the period expires during which the respondent might reasonably have been expected to do it.**]**

F126**[**(7) Where the complainant's claim for redress is in respect of discrimination—

(*a*) by the holder of a recruitment licence under the Public Service Management (Recruitment and Appointments) Act 2004 in the course of such a recruitment or selection process as is referred to in *section 76(5)(a)*,

(*b*) by the Minister for Defence in the course of a recruitment process for the Defence Forces, or

(*c*) by the Commissioner of the Garda Síochána in the course of a recruitment process for the Garda Síochána,

the complainant shall in the first instance refer the claim for redress to the holder of the recruitment licence concerned or, as the case may be, to the Minister for Defence or the Commissioner of the Garda Síochána.**]**

(8) Where *subsection (7)* applies to a claim for redress in respect of discrimination, the complainant may not refer the case under *subsection (1)* F123**[**...**]** or *(3)* unless—

(*a*) F126**[**the holder of the recruitment licence concerned**]** or, as the case may be, the Minister for Defence or the Commissioner of the Garda Síochána have failed to give a decision on the claim on or before the twenty-eighth day after it was referred, or

(*b*) the complainant is not satisfied with the decision given on the claim,

and in a case to which *paragraph (a)* or *(b)* relates, the end of the period of time which is applicable under *subsection (5)* (including, where appropriate, applicable under that subsection by reference to *subsection (6)*) shall be construed as—

(i) the end of that period, or

(ii) the end of the period of 28 days from the expiration of the period referred to in *paragraph (a)* or the date of the decision referred to in *paragraph (b)*,

whichever last occurs.

F124**[**(9) Where a claim for redress under this Act (other than on the age or disability ground)—

(*a*) relates to employment in the Defence Forces, and

(*b*) is made by a member thereof,

the claim shall, in the first instance, be referred for redress under the procedure set out in *section 104*.**]**

(10) Where *subsection (9)* applies to a claim for redress, the complainant shall not refer a case under *subsection (1)* F123**[**...**]** or *(3)* unless—

(*a*) a period of 12 months has elapsed after the referral under *section 104* to which the claim relates and the procedures under *section 104(2)(a)* have not been requested or have not been completed, or

(*b*) the complainant is not satisfied with the recommendation given under *section 104(2)(b)* on the claim,

and in a case to which *paragraph (a)* or *(b)* relates, the end of the period of time which is applicable under *subsection (5)* (including, where appropriate, applicable under that subsection by reference to *subsection (6)*) shall be construed as—

(i) the end of that period, or

(ii) the end of the period of 28 days from the expiration of the period referred to in *paragraph (a)* or the date of the recommendation referred to in *paragraph (b)*,

whichever last occurs.

F125**[**(11) A party to any proceedings under this Act before the F122**[**Director General of the Workplace Relations Commission**]** or Labour Court may be represented by any individual or body authorised by the party in that behalf.

(12) F127**[**(*a*) Not later than 42 days from the date of a decision of the F122**[**Director General of the Workplace Relations Commission**]** on an application by a complainant for an extension of time under *subsection (5)*, the complainant or respondent may appeal against the decision to the Labour Court on notice to the F122**[**Director General of the Workplace Relations Commission**]** specifying the grounds of the appeal.**]**

(*b*) On the appeal the Labour Court may affirm, quash or vary the decision.

(*c*) Unless otherwise agreed by the complainant and respondent, effect shall not be given to a decision of the F122**[**Director General of the Workplace Relations Commission**]** on such an application until—

(i) the period of 42 days mentioned in paragraph (*a*) has expired, or

(ii) any appeal against it has been determined,

whichever first occurs.

(13) This section is subject to *section 104*.**]**

Annotations

Amendments:

F121 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 1 and 2, commenced on enactment.

F122 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F123 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 1 and 3, commenced on enactment.

F124 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 32(a), (b) and (c), commenced on enactment.

F125 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 32(b) and (d), commenced on enactment.

F126 Substituted (6.10.2004) by *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004), s. 61(1) and sch. 2 part 1, commenced on enactment.

F127 Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 22, commenced on enactment.

F128[Dismissal of claim.

77A.—(1) The F129[Director General of the Workplace Relations Commission] may dismiss a claim at any stage if of opinion that it has been made in bad faith or is frivolous, vexatious or misconceived or relates to a trivial matter.

(2) (*a*) Not later than 42 days after the F129[Director General of the Workplace Relations Commission] dismisses a claim under this section, the complainant may appeal against the decision to the Labour Court on notice to the F129[Director General of the Workplace Relations Commission] specifying the grounds of the appeal.

(*b*) On the appeal the Labour Court may affirm or quash the decision.]

Annotations

Amendments:

F128 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 33, commenced on enactment.

F129 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C28 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Mediation.

F130[**78.** Section 39 of the Act of 2015 shall apply to a case referred to the Director General of the Workplace Relations Commission under *section 77* of this Act as it applies to a complaint presented, or dispute referred, to the Director General of the Workplace Relations Commission under section 41 of the Act of 2015, subject to the modification that references to a complaint or dispute under the said section 39 shall be construed as references to a case so referred.]

Annotations

Amendments:

F130 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(e), S.I. No. 410 of 2015.

Editorial Notes:

E66 Previous affecting provision: section amended (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 23, commenced on enactment; section substituted as per F-note above.

E67 Previous affecting provision: section amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 4, 5, 6, 7(a), (b), 8 and 9, commenced on enactment; section substituted as per F-note above.

E68 Previous affecting provision: section amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 34(a), (b) and (c), commenced on enactment; section substituted as per F-note above.

Investigations by F131[Director General of the Workplace Relations Commission] or the Labour Court.

F132[**79.**—(1) Where a case which has been referred to the F133[Director General of the Workplace Relations Commission] under *section 77*—

(*a*) does not fall to be dealt with by way of mediation under *section 78*, or

(*b*) falls to be dealt with under this section by virtue of *section 78(7)*,

the F133[Director General of the Workplace Relations Commission] shall investigate the case and may, as part of that investigation and if the F133[Director General of the Workplace Relations Commission] considers it appropriate, hear persons appearing to the F133[Director General of the Workplace Relations Commission] to be interested.]

F134[(1A) (*a*) Claims to have been discriminated against on more than one of the discriminatory grounds shall be investigated as a single case, and

(*b*) claims both to have been discriminated against on one or more than one of such grounds and to have been penalised in circumstances amounting to victimisation may, in an appropriate case, be so investigated,

but a decision shall be made on each of the claims.]

F135[(2) An investigation under this section shall be held in public unless the Director General of the Workplace Relations Commission, of his or her own motion or upon the application by or on behalf of any party, determines that, due to the existence of special circumstances, the investigation (or part thereof) should be held otherwise than in public.]

F137[(2A)(*a*) Where the F133[Director General of the Workplace Relations Commission] considers that the case may be dealt with on the basis of written submissions only, the F133[Director General of the Workplace Relations Commission] shall notify the parties in writing of his or her proposal to do so.

(*b*) A notification under *paragraph (a)* shall inform the parties of the right to make representations to the F133[Director General of the Workplace Relations Commission] in accordance with *paragraph (c)*.

(*c*) A person who receives a notification under *paragraph (a)* may, within 28 days from the issue of the notification, make representations to the F133[Director General of the Workplace Relations Commission] as to why the case should not be dealt with on the basis of written submissions only.

(*d*) Where, in representations made pursuant to *paragraph (c)*, objection is made to the F133[Director General of the Workplace Relations Commission] dealing with the matter on the basis of written submissions only, the F133[Director General of the Workplace Relations Commission] shall not determine the matter in that manner.]

(3) If, in a case which is referred on the ground that the complainant is not receiving remuneration in accordance with an equal remuneration term, a question arises whether the different rates of remuneration to which the case relates are lawful by

virtue of *section 19(5)* or *29(5)*, the F133**[**Director General of the Workplace Relations Commission**]** may direct that that question shall be investigated as a preliminary issue and shall proceed accordingly.

F134**[**(3A) If, in a case which is referred to the F133**[**Director General of the Workplace Relations Commission**]** under *section 77*, a question arises relating to the entitlement of any party to bring or contest proceedings under that section, including:

(*a*) whether the complainant has complied with the statutory requirements relating to such referrals,

(*b*) whether the discrimination or victimisation concerned occurred on or after 18 October 1999,

(*c*) whether the complainant is an employee, or

(*d*) any other related question of law or fact,

the F133**[**Director General of the Workplace Relations Commission**]** may direct that the question be investigated as a preliminary issue and shall proceed accordingly.**]**

(4) Subject to *subsections (2)* and *(3)*, the Minister may by regulations specify—

(*a*) procedures to be followed by the F133**[**Director General of the Workplace Relations Commission**]** F136**[**...**]** in carrying out investigations (or any description of investigations) under this section, and

(*b*) time limits applicable to such investigations, including procedures for extending those limits in certain circumstances,

but, before making any such regulations, the Minister shall consult F136**[**...**]** the Authority and the Director F136**[**...**]**.

(5) Unless the Director F136**[**...**]** considers it necessary to do so in order to bring an investigation to a proper conclusion, information shall be neither sought nor relied upon for the purpose of an investigation under this section (or of any appeal subsequent thereto) if it relates to or is derived from communications with external advisers to any of the persons referred to in *paragraphs (a)* to *(d)* of *section 76(5)*.

F137**[**(5A) F138**[**...**]]**

(6) At the conclusion of an investigation under this section (including an investigation of a preliminary issue under F139**[***subsection (3)* or *(3A)***]**), the F133**[**Director General of the Workplace Relations Commission**]** shall F139**[**make a decision**]** F136**[**...**]** and, if the decision F136**[**...**]** is in favour of the complainant—

(*a*) it shall provide for redress in accordance with *section 82*, or

(*b*) in the case of a decision on a preliminary issue under F132**[***subsection (3)* or *(3A)***]**, it shall be followed by an investigation of the substantive issue.

F134**[**(7) F138**[**...**]]**

F140**[**(8) (*a*) The Director General of the Workplace Relations Commission may require a person giving evidence in an investigation under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.

(*b*) A person who, in or for the purpose of an investigation under this section, gives a statement material in the investigation while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or

(ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.**]**

Annotations

Amendments:

F131 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F132 Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 24(a) and (d), commenced on enactment.

F133 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F134 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 35 (a), (b) and (d), commenced on enactment.

F135 Substituted (29.07.2021) by *Workplace Relations (Miscellaneous Provisions) Act 2021* (29/2021), s. 11(a), S.I. No. 397 of 2021.

F136 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 10(a)-(c), 12(a)-(c), 13 and 14(a) and (b), commenced on enactment.

F137 Inserted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 24(b) and (c), commenced on enactment.

F138 Deleted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(f), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F139 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 35(c)(i) and (ii), commenced on enactment.

F140 Inserted (29.07.2021) by *Workplace Relations (Miscellaneous Provisions) Act 2021* (29/2021), s. 11(b), S.I. No. 397 of 2021. A class B fine means a fine not exceeding €4,000 as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 5(1), S.I. No. 662 of 2010.

Modifications (not altering text):

C29 Functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Jobs, Enterprise and Innovation.

(2) References to the Department of Justice and Equality contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Jobs, Enterprise and Innovation.

3.—(1) The functions vested in the Minister for Justice and Equality by or under—

(a) sections 75, 76, 79, 94 and 100 of the Employment Equality Act 1998 (No. 21 of 1998),

...

are transferred to the Minister for Jobs, Enterprise and Innovation.

(2) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Jobs, Enterprise and Innovation.

...

Editorial Notes:

E69 Previous affecting provision: subs. (2) amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 11, commenced on enactment; substituted as per F-note above.

References to the Circuit Court.

80.—(1) This section applies where a case is referred to the Circuit Court under *section 77(3)*; and any reference in *subsections (2)* to *(5)* of this section to the proceedings is a reference to the proceedings on the reference.

(2) The jurisdiction of the Circuit Court shall be exercised by the judge for the time being assigned to the circuit where the respondent resides or ordinarily carries on any profession, business or occupation.

(3) With the substitution of a reference to the Circuit Court for the reference to the F141**[**Director General of the Workplace Relations Commission**]**, *section 79(3)* shall apply in relation to a reference to the Circuit Court as it applies in relation to a reference to the F141**[**Director General of the Workplace Relations Commission**]**.

(4) If requested to do so by the Circuit Court, the F141**[**Director General of the Workplace Relations Commission**]** shall nominate an F142**[**adjudication officer**]** to investigate, and prepare a report on, any question specified by the Circuit Court and arising on the reference (including, in particular, any question whether persons are employed to do like work).

(5) Where a report is prepared for the Circuit Court under *subsection (4)*, then, subject to any directions of the Circuit Court—

(*a*) the F142**[**adjudication officer**]** shall furnish a copy of the report to the complainant and the respondent and to any other person to whom it relates,

(*b*) the report shall be received in evidence in the proceedings, and

(*c*) without prejudice to the power of the Circuit Court to require the F142**[**adjudication officer**]** by whom the report was prepared to attend and give evidence in the proceedings, the F142**[**adjudication officer**]** may be called as a witness in the proceedings by the complainant or the respondent.

Annotations

Amendments:

F141 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F142 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(i), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C30 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Consequences of failure to supply information etc.

81.—If, in the course of proceedings on a reference under *section 77(3)* or of an investigation under *section 79*, it appears to the Circuit Court F143**[**or the F144**[**Director General of the Workplace Relations Commission**]]** as the case may be—

(*a*) that the respondent failed to supply information which the complainant sought by questions under *section 76* and which was in the respondent's possession or power, or

(*b*) that the information supplied by the respondent in response to any such question was false or misleading or was otherwise not such as the complainant might reasonably have required in order to make the decision referred to in *section 76(1)*,

the Circuit Court F143**[**or the F144**[**Director General of the Workplace Relations Commission**]]** (as the case may require) may draw such inferences as seem appropriate from the failure to supply the information or, as the case may be, for the supply of information as mentioned in *paragraph (b)*.

Annotations

Amendments:

F143 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 15, commenced on enactment.

F144 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C31 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Redress which may be ordered.

82.—(1) Subject to this section, the types of redress for which a decision of the F145**[**Director General of the Workplace Relations Commission**]** under *section 79* may provide are such one or more of the following as may be appropriate in the circumstances of the particular case:

(*a*) an order for compensation in the form of arrears of remuneration (attributable to a failure to provide equal remuneration) in respect of so much of the

period of employment as begins not more than 3 years before the date of the referral under *section 77(1)* which led to the decision;

(*b*) an order for equal remuneration from the date referred to in *paragraph (a)*;

(*c*) an order for compensation for the effects of acts of discrimination or victimisation which occurred not earlier than 6 years before the date of the referral of the case under *section 77*;

(*d*) an order for equal treatment in whatever respect is relevant to the case;

(*e*) an order that a person or persons specified in the order take a course of action which is so F146**[**specified;**]**

F147**[**(*f*) an order for re-instatement or re-engagement, with or without an order for compensation.**]**

(2) F148**[**...**]**

(3) The types of redress for which the Circuit Court may provide on a reference under *section 77(3)* are such one or more of the following as may be appropriate in the circumstances of the particular case:

(*a*) an order for compensation in the form of arrears of remuneration (attributable to a failure to provide equal remuneration) in respect of so much of the period of employment as begins not more than 6 years before the date of the referral;

(*b*) an order for equal remuneration from the date of the referral;

(*c*) the orders referred to in F146**[***paragraphs (c)* to *(f)***]** of *subsection (1)*;

(*d*) F148**[**...**]**

and no enactment relating to the jurisdiction of the Circuit Court shall be taken to limit the amount of compensation or remuneration which may be ordered by the Circuit Court by virtue of this subsection.

F149**[**(4) The maximum amount which may be ordered by the F145**[**Director General of the Workplace Relations Commission**]** by way of compensation under *subsection (1)(c)* or *(1)(f)* shall be—

(*a*) in any case where the complainant was in receipt of remuneration at the date of the reference of the case, or if it was earlier, the date of dismissal, an amount equal to the greatest of—

(i) 104 times the amount of that remuneration, determined on a weekly basis,

(ii) 104 times the amount, determined on a weekly basis, which the complainant would have received at that date but for the act of discrimination or victimisation concerned, or

(iii) €40,000,

or

(*b*) in any other case, €13,000. **]**

(5) Where the case for which the redress is to be provided is referred to the F145**[**Director General of the Workplace Relations Commission**]** F148**[**...**]** and arises—

(*a*) under *Part III*, or

(*b*) in any other circumstances (including circumstances amounting to victimisation) to which the Equal Pay Directive or the Equal Treatment Directive is relevant,

the F145**[**Director General of the Workplace Relations Commission**]** F148**[**...**]** may, in addition to making an order for compensation, also order the payment of interest, at the rate which is applicable under section 22(1) of the Courts Act, 1981—

(i) in respect of the whole or any part of the amount of the compensation, and

(ii) in respect of the period beginning on the relevant date and ending on the date of the payment,

and, for the purposes of *subparagraph (ii)*, "the relevant date" means the first day of the period (if any) to which the compensation is expressed to be referable or, if there is no such period, the date of the reference under *section 77(1)*.

F150**[**(6) (*a*) The maximum amount of compensation specified in *subsection (4)* applies notwithstanding that conduct the subject of the investigation by the F145**[**Director General of the Workplace Relations Commission**]** constituted—

(i) discrimination on more than one of the discriminatory grounds, or

(ii) both discrimination on one or more than one of such grounds and harassment or sexual harassment.

(*b*) In *paragraph (a)* "discrimination" does not include non-compliance with an equal remuneration term.

(7) An order for compensation under this section may not be made in favour of the Authority in a case referred by it to the F145**[**Director General of the Workplace Relations Commission**]** under *section 85(1)*.

(8) Where an act constitutes victimisation under both this Act and the Equal Status Act 2000, redress may be provided under only one of them.

(9) Where a delay in referring a case under this Act to the F145**[**Director General of the Workplace Relations Commission**]** or Circuit Court is attributable to the respondent's having misrepresented to the complainant the facts of the case, references in this section to the date of referral shall be construed as references to the date of the misrepresentation.**]**

Annotations

Amendments:

F145 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F146 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 16(a) and 18(a), commenced on enactment.

F147 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 16(b) and 19(a), commenced on enactment.

F148 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 17, 18(b), 19(b) and 20(a) and (b), commenced on enactment.

F149 Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 25(1), commenced on enactment, subject to subs. (2) which provides that the substitution applies as respects a claim under s. 77(1) where the act or omission occurs after the substitution date.

F150 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 36, commenced on enactment.

Appeals from the F151**[**Director General of the Workplace Relations Commission**]** to the Labour Court.

F152**[83.** Section 44 of the Act of 2015 shall apply to a decision of the Director General of the Workplace Relations Commission under *section 79* as it applies to a decision of an adjudication officer under section 41 of that Act, subject to the following modifications:

(*a*) the substitution of the following subsection for subsection (1):

"(1) (a) A party to a case referred to the Director General of the Workplace Relations Commission under section 77 of the Act of 1998 may appeal a decision of the Director General given in an investigation in relation to that case under section 79 of that Act to the Labour Court and, where the party does so, the Labour Court shall—

(i) give the parties to the appeal an opportunity to be heard by it and to present to it any evidence relevant to the appeal,

(ii) make a decision in relation to the appeal affirming, varying or setting aside the decision of the adjudication officer to which the appeal relates, and

(iii) give the parties to the appeal a copy of that decision in writing.

(*b*) The Labour Court shall have power to grant such redress in an appeal under this paragraph as the Director General has power to grant in an investigation under section 79 of the Act of 1998.";

and

(*b*) any other necessary modifications.**]**

Annotations

Amendments:

F151 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F152 Substituted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 17(1)(a), S.I. No. 411 of 2015.

Modifications (not altering text):

C32 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E70 Previous affecting provision: section substituted by *Workplace Relations Act 2015* (16/2015), s. 83(1)(g), not commenced; deleted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 20(1)(n)(i), S.I. No. 411 of 2015.

E71 Previous affecting provision: subs. (5) amended (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 26, commenced on enactment; section substituted as per F-note above.

References by the Labour Court to the F153**[**Director General of the Workplace Relations Commission.**]**

84.—(1) F154**[**...**]**

(2) Where an appeal is brought to the Labour Court under *section 83* and it considers that its determination on the appeal would be assisted by the exercise of its powers under this subsection, the Labour Court may refer all or any of the matters in issue on the appeal to the F153**[**Director General of the Workplace Relations Commission**]** for further investigation or, as appropriate, re-investigation; and, where such a reference is made, the F153**[**Director General of the Workplace Relations Commission**]** shall conduct the further or new investigation of the matters so referred and submit a report thereon to the Labour Court.

(3) Where the Labour Court refers any matters to the F153**[**Director General of the Workplace Relations Commission**]** under F155**[***subsection (2)***]**—

(*a*) it may suspend, in whole or in part, or adjourn its investigation of the case in question or, as the case may be, its hearing of the appeal, pending the receipt of a report from the F153**[**Director General of the Workplace Relations Commission**]**, and

(*b*) it shall take account of the F153**[**Director General of the Workplace Relations Commission**]**'s report on the matters referred in reaching its determination.

(4) Where, on an appeal under *section 83*, the Labour Court determines that the decision of the F153**[**Director General of the Workplace Relations Commission**]** which is in question should be set aside, it may, by its determination, also refer the matter in issue back to the F153**[**Director General of the Workplace Relations Commission**]** for a new investigation and decision under *section 79*.

Annotations

Amendments:

F153 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015.

F154 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 21, commenced on enactment.

F155 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 22, commenced on enactment.

Modifications (not altering text):

C33 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Enforcement powers of the Authority.

85.—(1) Where it appears to the Authority—

(*a*) that discrimination or victimisation is being generally practised against persons or that a practice referred to in *section 8(4)* is being applied or operated,

(*b*) that discrimination or victimisation has occurred in relation to a particular person who has not made a reference under *section 77* in relation to the discrimination or victimisation and that it is not reasonable to expect that person to make such a reference,

(*c*) that there is a failure to comply with an equal remuneration term or an equality clause either generally in a business or in relation to a particular person who has not made a reference under *section 77* in relation to the failure and whom it is not reasonable to expect to make such a reference,

(*d*) that a publication or display has been made in contravention of *section 10*,

(*e*) that, contrary to *section 14*, a person has procured or attempted to procure another to do anything which constitutes discrimination or victimisation, or

(*f*) that a person has procured or attempted to procure another to break an equal remuneration term or an equality clause,

the Authority may refer the matter to the F156**[**Director General of the Workplace Relations Commission**]**.

(2) Where the Authority refers a matter to the F156**[**Director General of the Workplace Relations Commission**]** under *subsection (1)*, the preceding provisions of this Part shall apply as if it were a case referred under *section 77*, except that—

(*a*) any reference to the complainant shall be construed as a reference to the Authority,

(*b*) any reference to the respondent shall be construed as a reference to the person who, in the opinion of the Authority, practised the discrimination or, as the case may require, was responsible for the failure to comply with the equal remuneration term or equality clause or for the victimisation or the publication or display or for the procurement or attempted procurement, and

(*c*) any reference to the parties shall be taken to include, in the case of a matter referred by virtue of any of *paragraphs (a)* to *(c)* of *subsection (1)*, any person who was discriminated against or victimised or suffered from the failure to comply as mentioned in the paragraph concerned.

(3) In a decision under *section 79*, as applied by *subsection (2)*, the following types of redress shall be available:

(*a*) redress as under *section 82* (construing references in that section to the complainant as references to the person referred to in *subsection (2)(c)*);

(*b*) where the reference was by virtue of *subsection (1)(d)*, a decision that a publication or display was or was not made in contravention of *section 10*; and

(*c*) where the reference was by virtue of *paragraph (e)* or *(f)* of *subsection (1)*, a decision that the person concerned has or has not procured or attempted to procure as mentioned in the paragraph concerned.

(4) *Subsection (5)* applies in a case where the Authority satisfies the High Court or, as the case may be, the Circuit Court that, following a decision under *section 79*, as applied by *subsection (2)*, in a matter referred by virtue of any paragraph of *subsection (1)*, there is a likelihood of—

(*a*) further discrimination or victimisation,

(*b*) a further failure to comply with an equal remuneration term or equality clause,

(*c*) a further publication or display in contravention of *section 10*, or

(*d*) further procuring or attempting to procure as mentioned in *paragraph (e)* or *(f)* of *subsection (1)*, by a person in relation to whom the decision was made, and of the type the subject of the decision.

(5) In a case to which this subsection applies, the High Court or the Circuit Court, on the motion of the Authority specifying the person in question, may grant an injunction to prevent that person from continuing any conduct (such as is mentioned in *subsection (4)*), of a type so specified.

F157**[**(5A) Where the Authority refers, or is considering whether to refer, a matter to the F156**[**Director General of the Workplace Relations Commission**]** under *subsection (1)* in relation to a person referred to in any of *paragraphs (a)* to (*c*) of that subsection, *subsections (5)* to *(8)* of *section 67* shall apply and have effect in relation to that person as those subsections do in relation to a person requesting assistance under that section.**]**

(6) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the person specified in the Authority's motion ordinarily resides or carries on any profession, business or occupation.

Annotations

Amendments:

F156 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(10(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F157 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 37, commenced on enactment.

Modifications (not altering text):

C34 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

F158**[**Burden of proof.

85A.—(1) Where in any proceedings facts are established by or on behalf of a complainant from which it may be presumed that there has been discrimination in relation to him or her, it is for the respondent to prove the contrary.

(2) This section is without prejudice to any other enactment or rule of law in relation to the burden of proof in any proceedings which may be more favourable to a complainant.

(3) Where, in any proceedings arising from a reference of a matter by the Authority to the F159**[**Director General of the Workplace Relations Commission**]** under *section 85(1)*, facts are established by or on behalf of the Authority from which it may be presumed that an action or a failure mentioned in a paragraph of that provision has occurred, it is for the respondent to prove the contrary.

(4) In this section "discrimination" includes—

(*a*) indirect discrimination,

(*b*) victimisation,

(*c*) harassment or sexual harassment,

(*d*) the inclusion in a collective agreement to which *section 9* applies of a provision which, by virtue of that section, is null and void.

(5) The European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001 (S.I. No. 337 of 2001), in so far as they relate to proceedings under this Act, are revoked.**]**

Annotations

Amendments:

F158 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 38, commenced on enactment.

F159 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015.

F160**[**Application to Circuit Court or High Court in case of failure to comply with regulations made under *section 20A*

85B. (1) Subject to *subsection (3)*, where the Irish Human Rights and Equality Commission is satisfied that it has reasonable grounds for believing that there has been a failure by a person (in this section referred to as the "person concerned") to comply with regulations made under *section 20A*, it may make an application to the Circuit Court or the High Court for the grant of an order requiring the person concerned to comply with those regulations.

(2) The Circuit Court or the High Court may grant the order sought by an application under *subsection (1)* if the Court is satisfied that the person concerned has failed to comply with regulations made under *section 20A*.

(3) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the person concerned ordinarily resides or carries on any profession, business or occupation.**]**

Annotations

Amendments:

F160 Inserted (31.05.2022) by *Gender Pay Gap Information Act 2021* (20/2021), s. 3, S.I. No. 263 of 2022.

F161[Redress through Workplace Relations Commission

85C. (1) An employee (in this section referred to as the "complainant") who claims that his or her current employer (in this section referred to as the "respondent") has failed to comply with regulations made under *section 20A* (such claim in this section being referred to as the "complaint") may refer the complaint to the Director General of the Workplace Relations Commission.

(2) (*a*) Subject to *paragraphs (b)* and *(d)*, the Director General shall investigate the complaint if he or she is satisfied that there is a prima facie case to warrant the investigation.

(*b*) (i) The Director General may, by notice in writing given to the complainant or respondent, or both, require the complainant or respondent, or both, to give to the Director General, within the period specified in the notice (being a period reasonable in the circumstances), such further information that the Director General may reasonably require in order to assist the Director General to decide whether or not there is a prima facie case referred to in *paragraph (a)*.

(ii) The complainant or respondent given a notice under *subparagraph (i)* shall comply with the notice.

(*c*) The Director General may, as part of an investigation (if any) of the complaint and if he or she considers it appropriate to do so, hear persons appearing to the Director General to be interested and desiring to be so heard.

(*d*) *Section 77A* shall, with all necessary modifications, apply to a complaint as that section applies to a claim.

(3) *Subsections (3A)* and *(4)* of *section 79* shall, with all necessary modifications, apply in relation to an investigation by the Director General under *subsection (2)* as they apply in relation to an investigation by the Director General under that section.

(4) At the conclusion of an investigation under *subsection (2)* (including an investigation of a preliminary issue under *subsection (3A)* of *section 79*), the Director General shall make and issue a decision and, if the decision is in favour of the complainant—

(*a*) the Director General may provide for an order that the respondent take a specified course of action in order to comply with regulations made under *section 20A*, or

(*b*) in the case of a decision on a preliminary issue under *subsection (3A)* of *section 79*, it shall be followed by an investigation of the complaint.

(5) Not later than 42 days from the date of such a decision, the complainant, on notice to the respondent, or the respondent, on notice to the complainant, may appeal to the Labour Court by notice in writing specifying the grounds of the appeal.

(6) Proceedings under *subsection (5)* shall be conducted in public unless the Labour Court, upon the application of a party to the proceedings, determines that, due to the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.

(7) The Labour Court shall issue a determination on the appeal under *subsection (5)* and the Court shall have power to grant such redress as the Director General has under *subsection (4)(a)*.

(8) Notwithstanding anything in *section 89*, the publication of decisions and determinations shall include the names of the complainant and respondent.**]**

Annotations

Amendments:

F161 Inserted (31.05.2022) by *Gender Pay Gap Information Act 2021* (20/2021), s. 3, S.I. No. 263 of 2022.

Collective Agreements

Reference of collective agreements to F162**[**Director General of the Workplace Relations Commission**]**.

86.—(1) If the Authority or a person who is affected by a collective agreement claims that a provision of that agreement is null and void by virtue of *section 9*, the Authority or that person may refer the question of that agreement to the F162**[**Director General of the Workplace Relations Commission**]**; and in this section (and *section 87*) the Authority or the person making such a reference is referred to as "the complainant".

(2) For the purposes of this section (and *section 87*)—

(*a*) the expression "collective agreement" shall be taken to include an order or agreement falling within *paragraph (b)* or *(c)* of *section 9 (3)*,

(*b*) a person is affected by a collective agreement if that person is an employee whose remuneration or whose conditions of employment are, in whole or in part, governed by the agreement (or any part of it), and

(*c*) "the respondents" means the parties to the agreement, other than (where relevant) the complainant.

(3) Subject to *subsection (4)*, where a collective agreement is referred to the F162**[**Director General of the Workplace Relations Commission**]** under this section, the F162**[**Director General of the Workplace Relations Commission**]** shall consider whether the question of the possible nullity of a provision of the agreement appears to be one which could be resolved by mediation and—

(*a*) if the F162**[**Director General of the Workplace Relations Commission**]** considers that the question could be so resolved, the F162**[**Director General of the Workplace Relations Commission**]** shall refer the agreement to an F163**[**mediation officer**]** for mediation in accordance with *section 87*, and

(*b*) if the F162**[**Director General of the Workplace Relations Commission**]** considers that the question could not be so resolved, the F162**[**Director General of the Workplace Relations Commission**]** shall proceed in accordance with *paragraph (b)* or *(c)* of *subsection (4)*.

(4) If the complainant or the respondents object to a reference under *subsection (3)(a)* (or if *section 78(7)* applies in accordance with *subsection (6)*) the Director—

(*a*) shall not exercise the powers under *subsection (3)(a)*,

(*b*) shall investigate the agreement and, for that purpose, hear all persons appearing to the F162**[**Director General of the Workplace Relations Commission**]** to be interested and desiring to be heard, and

(*c*) shall issue a decision in accordance with *section 87*,

and *subsections (3)* and *(4)* of *section 79* shall apply in relation to an investigation by the F162**[**Director General of the Workplace Relations Commission**]** under this subsection as they apply in relation to an investigation by the F162**[**Director General of the Workplace Relations Commission**]** under that section.

(5) Mediation under *subsection (3)* or an investigation under *subsection (4)* shall be conducted in private.

(6) Where a collective agreement is referred for mediation under *subsection (3)*, *subsections (5)* to *(7)* of *section 78* shall apply as they apply where a case which has been referred to an F163**[**mediation officer**]** under *section 78(1)* but, for the purpose of that application—

(*a*) references in those subsections to the complainant and the respondent shall be construed as references to the complainant and the respondents, within the meaning of this section, and

(*b*) *section 78(7)* shall have effect as if, for the words following *paragraph (c)* thereof, there were substituted "the Director shall investigate the matter of the agreement under *section 86(4)*".

Annotations

Amendments:

F162 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

F163 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(iii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C35 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Mediation, decisions and appeals relating to collective agreements.

87.—(1) Where a collective agreement is referred to the F164**[**Director General of the Workplace Relations Commission**]** under *section 86*, it shall be the purpose of—

(*a*) mediation by an F164**[**mediation officer**]** under *subsection (3)* of that section, or

(*b*) a decision of the F164**[**Director General of the Workplace Relations Commission**]** under *subsection (4)* of that section,

to identify which (if any) provisions of the agreement are null and void by virtue of *section 9* and, if the F164**[**mediation officer**]** or, as the case may be, the F164**[**Director General of the Workplace Relations Commission**]** thinks it appropriate, to provide guidance to the parties to the agreement as to how alternative or amended provisions might be devised which it would be lawful to include in the agreement.

(2) Not later than 42 days from the date of such a decision as is referred to in *subsection (1)(b)*, the complainant or the respondent may appeal to the Labour Court by notice in writing specifying the grounds of the appeal.

(3) The Labour Court shall hear an appeal under *subsection (2)* in private unless, at the request of one of the parties, it determines to hold the appeal, or so much of it as it does not consider should be treated as confidential, in public, and the enactments specified in *section 83 (3)* shall apply to such an appeal as they apply to an appeal under *section 83*.

(4) In its determination of an appeal under *subsection (2)* the Labour Court shall seek to achieve the purpose specified in *subsection (1)*.

(5) In this section "collective agreement", "the complainant" and "the respondent" have the same meaning as in *section 86*.

Annotations

Amendments:

F164 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), (iii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C36 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Decisions and Determinations Generally

Form and content of decisions and determinations.

88.—(1) Every decision of the F165**[**Director General of the Workplace Relations Commission**]** or determination of the Labour Court under this Part shall be in writing and—

(*a*) if the F165**[**Director General of the Workplace Relations Commission**]** or the Labour Court thinks fit, or

(*b*) if any of the parties so requests,

the decision or determination shall include a statement of the reasons why the F165**[**Director General of the Workplace Relations Commission**]** reached that decision or, as the case may be, why the Labour Court reached that determination.

(2) By notice in writing to the parties, the F165**[**Director General of the Workplace Relations Commission**]** or, as the case may be, the Chairman of the Labour Court may correct any mistake (including an omission) of a verbal or formal nature in a decision or determination under this Part.

(3) In this section "the parties" means—

(*a*) in the case of a decision F166**[**...**]** under *section 79*, the complainant and the respondent as defined in *section 77(4)*,

(*b*) in the case of a determination under *section 83*, the parties to the appeal,

(*c*) in the case of a decision under *section 85*, the Authority and the persons referred to in *subsections (2) (b)* and *(c)* of that F167**[**section,**]**

F168**[**(*ca*) in the case of a decision or determination under *section 85C*, the complainant and the respondent, within the meaning of that section, and**]**

(*d*) in the case of a decision under *section 86* or a determination under *section 87*, the complainant and the respondents, within the meaning of *section 86*.

(4) If any person who participated in an investigation under *section 79* or *86* is not correctly identified in the resulting decision or determination, the correction of that error shall be regarded as falling within *subsection (2)*.

Annotations

Amendments:

F165 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F166 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 23, commenced on enactment.

F167 Substituted (31.05.2022) by *Gender Pay Gap Information Act 2021* (20/2021), s. 4(a), S.I. No. 263 of 2022.

F168 Inserted (31.05.2022) by *Gender Pay Gap Information Act 2021* (20/2021), s. 4(b), S.I. No. 263 of 2022.

Modifications (not altering text):

C37 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Supply and publication of decisions and determinations.

89.—(1) A copy of every decision of the F169**[**Director General of the Workplace Relations Commission**]** under this Part shall be given—

(*a*) to each of the parties, and

(*b*) to the Labour Court,

and every such decision shall be published F170**[**on the internet in such form and in such manner as the Director General of the Workplace Relations Commission considers appropriate**]**.

(2) A copy of every determination of the Labour Court under this Part shall be given to each of the parties; and every such determination shall be published and a copy thereof made available for inspection at the office of the Labour Court.

(3) In this section "the parties" has the same meaning as in *section 88*.

(4) Any reference in this section to a decision or determination includes a reference to any statement of reasons included in the decision or determination as mentioned in *section 88(1)*.

(5) The contents of any document which is published or made available by virtue of this section shall be protected by absolute privilege.

Annotations

Amendments:

F169 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F170 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(h), S.I. No. 410 of 2015, subject to transitional provisions in subs. (2).

Modifications (not altering text):

C38 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Appeals and references from the Labour Court.

90.—F171**[**(1) Where a determination is made by the Labour Court on an appeal under this Part, either of the parties may appeal to the High Court on a point of law.

(2) The Labour Court may—

(*a*) refer to the High Court a point of law arising in the course of such an appeal, and

(*b*) if it thinks it appropriate, adjourn the appeal pending the outcome of the reference.**]**

(3) F172**[**...**]**

(4) F172**[**...**]**

(5) F172**[**...**]**

(6) F172**[**...**]**

Annotations

Amendments:

F171 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 24, commenced on enactment.

F172 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 24, commenced on enactment.

Modifications (not altering text):

C39 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Enforcement by Circuit Court

Enforcement of determinations, decisions and mediated settlements.

F173**[91.** (1) Section 43 of the Act of 2015 shall apply to a decision of the Director General of the Workplace Relations Commission under *section 79* as it applies to a decision of an adjudication officer under section 41 of that Act, subject to—

(*a*) the modification that the following paragraph is substituted for *paragraph (a)* of *subsection (1)*:

"(*a*) on application to it in that behalf by the complainant concerned, the Irish Human Rights and Equality Commission, or",

and

(*b*) the following modifications:

(i) references to a complaint or dispute referred to an adjudication officer under section 41 shall be construed as references to a case referred to the Director General of the Workplace Relations Commission under *section 77* of this Act;

(ii) references to a complaint or dispute shall be construed as references to a case referred to the Director General of the Workplace Relations Commission under *section 77* of this Act;

(iii) references to decision of an adjudication officer shall be construed as references to decision of the Director General of the Workplace Relations Commission under *section 79* of this Act;

(iv) the reference to decision of an adjudication officer under that section shall be construed as a reference to decision of the Director General of the Workplace Relations Commission under *section 79* of this Act; and

(v) references to employee shall be construed as references to complainant within the meaning of *Part VII* of this Act and references to employer shall be construed as references to respondent within such meaning.

(2) Section 45 of the Act of 2015 shall apply to a decision of the Labour Court under section 44 of that Act upon an appeal from a decision of the Director General of the Workplace Relations Commission under *section 79* subject to the modification that the following paragraph is substituted for *paragraph (b)* of *subsection (1)*:

"(*b*) on application to it in that behalf, with the consent of the complainant, by the Irish Human Rights and Equality Commission,".**]**

Annotations

Amendments:

F173 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(i), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C40 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E72 Previous affecting provision: section amended (18.07.2004) by *Equality Act 2004* (24/2004), ss. 39(a)-(d), 46 and sch. para. 25, commenced on enactment; section substituted as per F-note above.

Additional powers of Circuit Court on enforcement.

92.—F174**[**...**]**

Annotations

Amendments:

F174 Deleted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(j), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Editorial Notes:

E73 Previous affecting provision: subs. (3) amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 26, commenced on enactment; section substituted as per F-note above.

E74 Previous affecting provision: application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment; section deleted as per F-note above.

Compensation *in lieu* of re-instatement or re-engagement.

93.—(1) On an application under *section 91* which relates to a determination F175**[**or decision**]** requiring an employer to re-instate or re-engage an employee, the Circuit Court may, if in all the circumstances it considers it appropriate to do so, instead of making an order under *subsection (1)* of that section, make a compensation order under this section.

(2) A compensation order under this section is an order directing the employer (*in lieu* of re-instatement or re-engagement) to pay compensation to the employee.

(3) The maximum amount of compensation which may be ordered under this section is an amount equal to 104 times the amount of the employee's weekly remuneration at the rate which the employee was receiving at the date of the reference of the case under *section 77* or would have received at that date but for the discrimination in question.

Annotations

Amendments:

F175 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 27, commenced on enactment.

Modifications (not altering text):

C41 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Information

Powers to enter premises, obtain information, etc.

94.—(1) Subject to *subsection (3)*, this section has effect for the purpose of enabling information to be obtained which the F176**[**Director General of the Workplace Relations Commission**]** or the Labour Court may require to enable them to exercise their functions under this Part; and in this section—

(*a*) a "designated officer" means the F176**[**Director General of the Workplace Relations Commission**]**, the Chairman of the Labour Court F177**[**, an inspector

appointed under section 26 of the Act of 2015**]**, an F176**[**adjudication officer**]** or a person authorised in that behalf by the F176**[**Director General of the Workplace Relations Commission**]** or the Chairman, and

(*b*) "material information" means information which a designated officer has reasonable grounds for believing to be relevant for the purpose set out above.

(2) For the purpose set out in *subsection (1)*, a designated officer may do any one or more of the following:

(*a*) at all reasonable times, peaceably enter premises;

(*b*) require any person to produce to the designated officer any records, books, documents or other things which are in that person's power or control and which the designated officer has reasonable grounds for believing to contain material information and to give the designated officer such information and access as may reasonably be required in relation to the contents of any such records, books, documents or other things;

(*c*) inspect and copy or take extracts from any such records, books, documents or other things;

(*d*) inspect any work in progress at any premises.

(3) An F176**[**adjudication officer**]** who is nominated by the F176**[**Director General of the Workplace Relations Commission**]** under *section 80(4)* to investigate and prepare a report on a question specified by the Circuit Court may, for the purpose of that investigation and report, exercise any of the powers in *paragraphs (a)* to *(d)* of *subsection (2)*; and, for the purpose of the application of this section in such a case—

(*a*) any reference in *subsections (2)*, *(5)* and *(6)* to a designated officer shall be construed as a reference to the F176**[**adjudication officer**]** who is so nominated, and

(*b*) "material information" shall be construed as information which that F176**[**adjudication officer**]** has reasonable grounds for believing to be relevant for the purpose of the investigation and report.

(4) The powers conferred by *subsection (2)* shall not be exercised in respect of a dwelling or any person, record, book, document or other thing in a dwelling unless—

(*a*) where the powers are to be exercised by virtue of *subsection (1)*, the Minister (or an officer of the Minister authorised by the Minister in that behalf) certifies in writing that there are reasonable grounds for believing that there is in the dwelling information which is material to the investigation of a case, or the consideration of an appeal, under this Part, or

(*b*) where the powers are to be exercised by virtue of *subsection (3)*, the Circuit Court is satisfied that there are reasonable grounds for believing that there is in the dwelling information which is material to the F176**[**adjudication officer**]**'s investigation.

(5) If a judge of the District Court is satisfied by information on oath of a designated officer that there is reasonable cause for suspecting that any records, books, documents or other things containing material information are to be found at any premises, the judge may issue a search warrant under this section.

(6) A search warrant issued under this section shall be expressed and operate to authorise a named designated officer, accompanied by such other persons as the named designated officer thinks necessary, at any time or times within 1 month from the date of issue of the warrant, on production if so requested of the warrant—

(*a*) to enter the premises named in the warrant, if necessary by force,

(*b*) to search these premises, and

(*c*) to exercise any such power as is described in *subsection (2) (b)* or *(c)* in relation to persons and records, books, documents or other things found at the premises.

Annotations

Amendments:

F176 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(i), (ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F177 Inserted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(k), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C42 Functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Jobs, Enterprise and Innovation.

(2) References to the Department of Justice and Equality contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Jobs, Enterprise and Innovation.

3.—(1) The functions vested in the Minister for Justice and Equality by or under—

(*a*) sections 75, 76, 79, 94 and 100 of the Employment Equality Act 1998 (No. 21 of 1998),

...

are transferred to the Minister for Jobs, Enterprise and Innovation.

(2) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Jobs, Enterprise and Innovation.

...

C43 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, **[**76, 77A**]**, 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Requirements on persons to provide information.

95.—(1) For the purpose of enabling the F178**[**Director General of the Workplace Relations Commission**]** or the Labour Court to exercise their functions under this Part, the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman of the Labour Court—

(*a*) may require any person who, in the opinion of the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman (as the case may be) is in possession of, or has in his or her power or control, any information that is relevant to the exercise of those functions to furnish that information to the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman, and

(*b*) where appropriate, may require any such person to attend before the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman for that purpose,

and the person shall comply with any requirement so made.

(2) A requirement under *subsection (1)* may specify a time and place at which information is to be furnished or a person is to attend; and if no such time or place is specified in the requirement, the person to whom the requirement is addressed shall comply with it as soon as is reasonably practicable.

(3) Any persons required to attend before the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman of the Labour Court under *subsection (1)(b)* shall—

(*a*) answer fully and truthfully any questions put to them by the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman (other than any question tending to incriminate the person asked), and

(*b*) if so requested by the F178**[**Director General of the Workplace Relations Commission**]** or the Chairman, sign a declaration of the truth of their answers to any such questions.

(4) For the purpose of enabling an F178**[**adjudication officer**]** nominated by the F178**[**Director General of the Workplace Relations Commission**]** under *section 80(4)* to perform the functions of investigating and preparing a report on a question specified by the Circuit Court, *subsections (1)* to *(3)* shall apply with the substitution of a reference to the F178**[**adjudication officer**]** for any reference to the F178**[**Director General of the Workplace Relations Commission**]**.

Annotations

Amendments:

F178 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/215), s. 83(1)(c)(i), (ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C44 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Sanctions for failure or refusal to supply documents, information, etc.

96.—(1) If it appears to the F179**[**Director General of the Workplace Relations Commission**]**, the Chairman of the Labour Court or an F179**[**adjudication officer**]** that any person has failed to comply with—

(*a*) a requirement under *section 94(2) (b)*, or

(*b*) a requirement under *section 95(1)*,

then, according as the case may require, the F179**[**Director General of the Workplace Relations Commission**]**, the Chairman or the F179**[**adjudication officer**]** may apply to the Circuit Court for an order under this section.

(2) Subject to *subsection (3)* if, on an application under this section, the Circuit Court is satisfied as to the failure of the person concerned to comply with the requirement in question, the Circuit Court may make an order requiring that person to comply with the requirement.

(3) If, on an application under this section, the Circuit Court is of the opinion that the requirement in question purports to require the person concerned—

(*a*) to produce any record, book, document or other thing, or

(*b*) to furnish any information,

for which that person is entitled to claim legal professional privilege, the Circuit Court shall set aside the requirement.

(4) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the respondent ordinarily resides or carries on any profession, business or occupation.

Annotations

Amendments:

F179 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(i), (ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C45 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Supplementary provisions as to information.

97.—(1) Where, in the course, or for the purposes, of any investigation, mediation or hearing under this Part, any person discloses information to the Labour Court, the F180**[**Director General of the Workplace Relations Commission**]**, an F180**[**mediation officer**]** or any other person entitled to obtain it, the making of the disclosure shall not give rise to any liability (in contract, tort or otherwise) on the part of the person making it.

(2) No information furnished to, or otherwise acquired by, the Labour Court, the F180**[**Director General of the Workplace Relations Commission**]** or any other person, by virtue of *sections 94* to *96*, or otherwise in the course, or for the purposes, of any investigation, mediation or hearing under this Part shall be published or otherwise disclosed except—

(*a*) for the purposes of such an investigation, mediation or hearing,

(*b*) on the order of the High Court or the Circuit Court,

(*c*) with the consent of the person furnishing the information and of any other person to whom the information may relate,

(*d*) in a decision of the F180**[**Director General of the Workplace Relations Commission**]** or a determination of the Labour Court which is published or made available under *section 89* and to which the disclosure of the information is relevant, or

(*e*) for the purposes of an application under *section 96*.

(3) In *subsection (2)* any reference to information includes any record, book, document or other thing in which the information is contained.

(4) Any person who discloses information in contravention of *subsection (2)* shall be guilty of an offence under this section.

Annotations

Amendments:

F180 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), (iii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C46 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Offences

Penalty for dismissal of employee for exercising rights.

98.—(1) If an employee is dismissed in circumstances amounting to victimisation, the employee's employer shall be guilty of an offence and if, in a prosecution for an offence under this section, it is proved—

(*a*) that the employee was dismissed, and

(*b*) that the employee, in good faith, did one or more of the acts specified in F181**[***paragraphs (a) to (g)***]** of *section 74(2)*,

that proof shall, without more, be evidence until the contrary is proved, that the sole or main reason for the dismissal of the employee was that the employee, in good faith, did one or more of those acts.

(2) Subject to *subsection (4)*, on a conviction of an offence under this section, the court may, if it thinks fit and considers that the F182**[**Director General of the Workplace Relations Commission**]** would have power to do so—

(*a*) make an order for the re-instatement of the employee by the employer, or

(*b*) make an order for the re-engagement of the employee by the employer.

(3) Subject to *subsection (4)*, if the court by which a person is convicted of an offence under this section does not make an order under *subsection (2) (a)* or *(b)*, it may, if it thinks fit, in addition to imposing a fine for the offence, order the employer to pay to the employee concerned such amount of compensation as, subject to *subsection (5)*, the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the employer or the employee concerned.

(4) The court shall not exercise its powers under *subsection (2)* or *(3)* unless the employee concerned consents.

(5) The amount of compensation which may be ordered under *subsection (3)* shall not exceed either—

(*a*) the amount which, having regard to *subsections (4)* and *(5)* of *section 82*, the F182**[**Director General of the Workplace Relations Commission**]** could order by way of compensation under F183**[***paragraph (c)* or *(f)* of *section 81(1)***]** on a claim for redress in respect of the dismissal, or

(*b*) if the order is made by the District Court, £5,000 or such other amount as may stand prescribed for the time being by law as the limit of that court's jurisdiction in tort,

and, in applying any provision of *section 82* for the purposes of *paragraph (a)*, any reference to the date of the reference shall be construed as a reference to the date of the dismissal and any reference to the date of the F182**[**Director General of the Workplace Relations Commission**]** shall be construed as a reference to the date of the conviction of the offence.

(6) Where, on conviction of an employer for an offence under this section, the court makes an order under *subsection (2) (a)* or *(b)* or *subsection (3)*—

(*a*) whether or not the employer appeals against the conviction or sentence, the employer may appeal against the order to the court to which an appeal lies against the conviction, and

(*b*) the court hearing an appeal against the conviction or sentence, or an appeal against the order alone, may revoke or vary the order and, in particular, where the order was made under *subsection (3)*, may vary the amount of the compensation.

(7) Where the court makes an order under *subsection (3)* for the payment of an amount of compensation—

(*a*) without prejudice to any right of appeal by any other person, the employee concerned shall have a right of appeal, limited to the amount of the compensation, to either the High Court or, as the case may be, to the judge of the Circuit Court in whose circuit is situated the district (or any part thereof) of the judge of the District Court by whom the compensation was ordered, and

(*b*) to the extent of the amount of compensation paid, the payment by the employer of the compensation shall be a good defence in any civil proceedings brought by the employee concerned in respect of the remuneration which the employee would have received if the dismissal had not occurred.

(8) Where an appeal is brought under *subsection (7)(a)*, the decision of the High Court or, as the case may be, the judge of the Circuit Court shall be final.

Annotations

Amendments:

F181 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 40, commenced on enactment.

F182 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F183 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 28 and 29, commenced on enactment.

Modifications (not altering text):

C47 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E75 Previous affecting provision: subss. (2), (5) amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 28 and 29, commenced on enactment; substituted as per F-note above.

Obstruction etc. of F184**[**Director General of the Workplace Relations Commission**]** and other officers.

99.—(1) Any person who—

(*a*) obstructs or impedes the Labour Court, the F184**[**Director General of the Workplace Relations Commission**]** or an F184**[**adjudication officer**]** in the exercise of powers under this Part, or

(*b*) fails to comply with a requirement of the Labour Court, the F184**[**Director General of the Workplace Relations Commission**]** or an F184**[**adjudication officer**]** given under this Part,

shall be guilty of an offence under this section.

(2) Any reference in *subsection (1)* to an F184**[**adjudication officer**]** includes a reference to a person authorised under *section 94(1)(a)*.

Annotations

Amendments:

F184 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(i), (ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C48 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

F185**[**Award of expenses.

99A.—(1) Without prejudice to *section 99*, the Labour Court or the F186**[**Director General of the Workplace Relations Commission**]** may, if of opinion that a person is obstructing or impeding an investigation or appeal under this Act, order that the person pay to another person a specified amount in respect of the travelling or other expenses reasonably incurred by that other person in connection with the investigation or appeal.

(2) Notwithstanding *subsection (1)*, expenses shall not be payable in respect of the attendance at the investigation or appeal of any person representing a complainant or respondent.

(3) The amount of any expenses ordered to be paid under this section may be recovered as a simple contract debt.**]**

Annotations

Amendments:

F185 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 41, commenced on enactment.

F186 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Offences: general provisions.

100.—(1) A person who is guilty of an offence under any provision of this Act shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 1 year or both, or

(*b*) on conviction on indictment, to a fine not exceeding £25,000 or to imprisonment for a term not exceeding 2 years or both.

(2) If the contravention in respect of which a person is convicted of an offence under any provision of this Act is continued after the conviction, that person shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable on summary conviction to a fine not exceeding £250 or, on conviction on indictment, to a fine not exceeding £1,500.

(3) Summary proceedings for an offence under any provision of this Act may be instituted by the F187**[**Workplace Relations Commission**]** or the Authority.

(4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under any provision of this Act may be instituted within 12 months from the date of the offence.

(5) Where an offence under any provision of this Act which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person who, when the offence was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be guilty of an offence and liable to be proceeded against and punished as if guilty of the offence committed by the body corporate.

(6) In relation to a body corporate whose affairs are managed by its members, *subsection (5)* has effect as if "director" included a member of the body corporate.

Annotations

Amendments:

F187 Substituted (1.10.2015) by *Workplace Relations Commission Act 2015* (16/2015), s. 83(1)(l), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C49 Functions transferred and "Minister for Justice and Equality" and "Department of Justice and Equality" construed (1.01.2013) by *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012), arts. 2, 3(1)(a), 3(2), commenced as per art. 1(2).

2.—(1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Jobs, Enterprise and Innovation.

(2) References to the Department of Justice and Equality contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Jobs, Enterprise and Innovation.

3.—(1) The functions vested in the Minister for Justice and Equality by or under—

(a) sections 75, 76, 79, 94 and 100 of the Employment Equality Act 1998 (No. 21 of 1998),

...

are transferred to the Minister for Jobs, Enterprise and Innovation.

(2) References to the Minister for Justice and Equality contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Jobs, Enterprise and Innovation.

...

C50 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22,

S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E76 A fine of £1,500 converted (1.01.1999) to €1,904.60. This translates into a class C fine not exceeding €2,500 as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 6(2) and table ref. no. 1, S.I. No. 662 of 2010.

E77 A fine of £25,000 converted (1.01.1999) to €31,743.45.

E78 A fine of £250 converted (1.01.1999) to €317.43. This translates into a class E fine not exceeding €500 as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 8(2) and table ref. no. 1, S.I. No. 662 of 2010.

Supplementary

Alternative avenues of redress.

101.—(1) If an individual has instituted proceedings for damages at common law in respect of a failure, by an employer or any other person, to comply with an equal remuneration term or an equality clause, then, if the hearing of the case has begun, the individual may not seek redress (or exercise any other power) under this Part in respect of the failure to comply with the equal remuneration term or the equality clause, as the case may be.

F188**[**(2) Where an individual has referred a case to the F189**[**Director General of the Workplace Relations Commission**]** under *section 77(1)* and either a settlement has been reached by mediation or the F189**[**Director General of the Workplace Relations Commission**]** has begun an investigation under *section 79*, the individual—

(*a*) shall not be entitled to recover damages at common law in respect of the case, and

(*b*) if he or she was dismissed before so referring the case, shall not be entitled to seek redress (or to exercise, or continue to exercise, any other power) under the Unfair Dismissals Acts 1977 to 1993 in respect of the dismissal F190**[**, unless the F189**[**Director General of the Workplace Relations Commission**]**, having completed the investigation and in an appropriate case, directs otherwise and so notifies the complainant and respondent**]**.**]**

(3) If an individual has referred a case to the Circuit Court under *section 77(3)* in respect of such a failure as is mentioned in *subsection (1)*, the individual shall not be entitled to recover damages at common law in respect of that failure.

(4) F188**[**An employee who has been dismissed shall not be entitled to seek redress under this Part in respect of the dismissal if**]**—

(*a*) the employee has instituted proceedings for damages at common law for wrongful dismissal and the hearing of the case has begun, F191**[**or**]**

F192**[**(*b*) an adjudication officer has made a decision to which subsection (1) of section 8 of the Unfair Dismissals Act 1977 applies in respect of the dismissal.**]**

(*c*) the Employment Appeals Tribunal has begun a hearing into the matter of the dismissal.

F193**[**(4A) (*a*) Where an employee refers—

(i) a case or claim under *section 77*, and

(ii) a claim for redress under the Act of 1977,

to the Director General of the Workplace Relations Commission in respect of a dismissal, then, from the relevant date, the case or claim referred to in *subparagraph (i)* shall, in so far only as it relates to such dismissal, be deemed to have been withdrawn unless, before the relevant date, the employee withdraws the claim under the Act of 1977.

(*b*) In this subsection—

"Act of 1977" means the Unfair Dismissals Act 1977;

"dismissal" has the same meaning as it has in the Act of 1977;

"relevant date" means such date as may be prescribed by, or determined in accordance with, regulations made by the Minister for Jobs, Enterprise and Innovation.**]**

F194**[**(5) Where the F189**[**Director General of the Workplace Relations Commission**]** issues a direction under *subsection (2)(b)*, the resulting entitlement of the employee under that subsection is deemed to have effect from the date of the direction.**]**

(6) F195**[**...**]**

Annotations

Amendments:

F188 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 30 and 31, commenced on enactment.

F189 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F190 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 42(a), commenced on enactment.

F191 Inserted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 17(1)(b)(i), commenced as per subs. (2) by S.I. No. 410 of 2015.

F192 Substituted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 17(1)(b)(ii), commenced as per subs. (2) by S.I. No. 410 of 2015.

F193 Inserted (8.02.2016) by *Credit Guarantee (Amendment) Act 2016* (1/2016), s. 17, commenced on enactment.

F194 Substituted (18.07.2004) by *Equality Act 2004* (24/2004), s. 42(b), commenced on enactment.

F195 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 32, commenced on enactment.

Modifications (not altering text):

C51 Prospective affecting provision: functions transferred and Employment Appeals Tribunal construed by *Workplace Relations Act 2015* (16/2015), s. 66, not commenced as of date of revision.

Transfer of functions from Employment Appeals Tribunal

66.(1) (a) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Commission in so far as they relate to any claim for redress, dispute or complaint determined by the Employment Appeals Tribunal under an employment enactment before that day.

(b) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Labour Court in so far as they relate to appeals determined by the Employment Appeals Tribunal under an employment enactment before that day.

(2) (a) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (a) of subsection (1) shall be construed as references to the Commission.

(b) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (b) of subsection (1) shall be construed as references to the Labour Court.

(3) This section shall come into operation on the dissolution day.

C52 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section 'the Act of 1998' means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E79 Power pursuant to subs. (4A) exercised and "relevant date" for the purposes of subs. (4A) prescribed (7.03.2016) by *Employment Equality Act 1998 (Withdrawal of Certain Claims) (Relevant Date) Regulations 2016* (S.I. No. 126 of 2016), reg. 2.

E80 Previous affecting provision: subs. (4)(a) amended, (b) substituted and (4A) inserted by *Workplace Relations Act 2015* (16/2015), s. 83(1)(m), not commenced; deleted (1.10.2015) by *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015), s. 17(1)(b), commenced as per subs. (2) by S.I. No. 410 of 2015.

F196**[**Parallel claims.

101A.—Where the conduct of an employer constitutes both a contravention of *Part III* or *IV* and a contravention of either the Protection of Employees (Part-Time Work) Act 2001 or the Protection of Employees (Fixed-Term Work) Act 2003, relief may not be granted to the employee concerned in respect of the conduct under both this Act and either of the said Acts.**]**

Annotations

Amendments:

F196 Inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 43, commenced on enactment.

Modifications (not altering text):

C53 Application of section adapted for purposes of *Pensions Act 1990*, Part VII by *Pensions Act 1990*, s. 81J and sch. 4 ref. no. 30A (as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, ref. no. 30A providing for alternative application of s. 101A as inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 66(3)(f)(vii), commenced on enactment.

Table heading: Substituted words for the purposes of Part VII

(2) Where the conduct of an employer constitutes both a contravention of Part VII of the Pensions Act 1990 and a contravention of either the Protection of Employees (Part-Time Work) Act 2001 or the Protection of Employees (Fixed-Term Work) Act 2003, relief may not be granted to the employee concerned in respect of the conduct under both this Act as it applies to Part VII of the Pensions Act 1990 and either of the said Acts.

Striking out cases which are not pursued.

102.—(1) Where—

F197**[**(*a*) a case is referred to the F198**[**Director General of the Workplace Relations Commission**]** under *section 77*,

(*b*) a matter is referred to the F198**[**Director General of the Workplace Relations Commission**]** under *section 85*,

(*c*) a collective agreement is referred to the F198**[**Director General of the Workplace Relations Commission**]** under *section 86*, or

(*d*) a case is referred to the F198**[**Director General of the Workplace Relations Commission**]** under the Anti-Discrimination (Pay) Act 1974 or the Employment Equality Act 1977,**]**

and, at any time after the expiry of 1 year from the date of the reference, it appears to the F198**[**Director General of the Workplace Relations Commission**]** that the complainant has not pursued, or has ceased to pursue, the reference, the F198**[**Director General of the Workplace Relations Commission**]** may strike out the reference.

(2) Where—

F197**[**(*a*) an appeal is brought to the Labour Court under this Part, or

(*b*) a case is referred to the Labour Court under the said Act of 1974 or 1977,**]**

and, at any time after the expiry of 1 year from the date of the reference or, as the case may be, the bringing of the appeal, it appears to the Labour Court that the complainant or, as the case may be, the appellant has not pursued, or has ceased to pursue, the matter, the Labour Court may strike out the reference or, as the case may be, the appeal.

(3) As soon as practicable after striking out a reference, the Director or, as the case may be, the Labour Court shall give notice in writing to the complainant and the respondent or respondents.

(4) As soon as practicable after striking out an appeal, the Labour Court shall give notice in writing to the appellant and the other party to the appeal.

(5) Where a reference or appeal is struck out under this section, no further proceedings may be taken in relation to that reference or appeal; but nothing in this section prevents any person from making a further reference in relation to the same matters (subject to any applicable time limit).

(6) In this section "the complainant", "the respondent" and "the respondents" have the same meanings as in *section 77*, *85* or *86* according to the nature of the reference concerned.

Annotations

Amendments:

F197 Substituted and inserted (18.07.2004) by *Equality Act 2004* (24/2004), s. 44(a) and (b), commenced on enactment.

F198 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C54 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Provisions relating to insolvency.

103.—(1) There shall be included among the debts which, under section 285 of the Companies Act, 1963, are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all relevant compensation payable F199**[**under this Part or section 44 of the Act of 2015 in accordance with *section 83***]** by the company, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by rules made under that Act.

(2) There shall be included among the debts which, under section 81 of the Bankruptcy Act, 1988, are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all relevant compensation payable F199**[**under this Part or under section 44 of the Act of 2015 in accordance with *section 83***]** by the bankrupt or arranging debtor, as the case may be, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by general orders made under that Act.

(3) For the purposes of this section "relevant compensation" means sums ordered to be paid by way of redress by virtue of—

(*a*) F200**[**...**]**

(*b*) a decision F201**[**...**]** under *section 79(6)* (including that provision as applied by *section 85(2)*),

F199**[**(*c*) a decision under section 44 of the Act of 2015 to which *section 83* applies.**]**

(*d*) F200**[**...**]**

(4) In the Protection of Employees (Employers' Insolvency) Act, 1984, section 6 (which provides for certain amounts to be paid out of the Social Insurance Fund) shall be amended in accordance with *subsections (5)* and *(6)*.

(5) At the end of subsection (2)(*a*)(viii)(II) there shall be inserted "or (III) which an employer is required to pay by virtue of a decision, determination or order of a court falling within *section 103(3)* of the *Employment Equality Act, 1998*,".

(6) In subsection (4)(*c*), after subparagraph (v) there shall be inserted—

"(vi) A payment shall not be made under this section in respect of an amount to which a decision or determination under any provision of the *Employment Equality Act, 1998*, applies unless—

(I) in case an appeal from the decision or determination is brought under that Part, the appeal is withdrawn, or

(II) in case there is no such appeal, the time for bringing such an appeal has expired.".

Annotations

Amendments:

F199 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(n)(i), (ii) and (iv), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F200 Deleted (1.10.2015) by *Workplace Relations Act 2015* (15/2015), s. 83(1)(n)(iii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F201 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 33(a) and (b), commenced on enactment.

Modifications (not altering text):

C55 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Editorial Notes:

E81 Previous affecting provision: subs. (3)(d) amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. para. 33(b), commenced on enactment; substituted as per F-note above.

Special provision as to Defence Forces.

104.—(1) Save as provided for by *section 77(10)*, nothing in this Part shall enable a member of the Defence Forces to refer any case relating to employment as a member of the Defence Forces to the F202**[**Director General of the Workplace Relations Commission**]** F203**[**...**]** or the Circuit Court or to exercise any other power conferred by the preceding provisions of this Part.

(2) If requested to do so by an officer, within the meaning of the Defence Act, 1954, who is authorised in that behalf, the F202**[**Director General of the Workplace Relations Commission**]** shall—

(*a*) investigate any matter which has been complained of in accordance with section 114 of that Act and which, apart from this section, would be a matter within the scope of an investigation by the F202**[**Director General of the Workplace Relations Commission**]** F203**[**...**]** under this Part or of proceedings before the Circuit Court under *section 77(3)*, and

(*b*) make a recommendation in respect of that matter to the officer concerned.

(3) A recommendation under *subsection (2)(b)* shall be in writing and shall include a statement of the reasons why the F202**[**Director General of the Workplace Relations Commission**]** made the recommendation and, in deciding what action is to be taken on the complaint, regard shall be had to the recommendation.

(4) The F202**[**Director General of the Workplace Relations Commission**]** shall give a copy of any recommendation made under *subsection (2)(b)* to the member of the Defence Forces who made the complaint which gave rise to the recommendation.

Annotations

Amendments:

F202 Substituted (1.10.2015) by *Workplace Relations Act 2015*, s. 83(1)(c)(ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F203 Deleted (18.07.2004) by *Equality Act 2004* (24/2004), s. 46 and sch. paras. 34 and 35, commenced on enactment.

Modifications (not altering text):

C56 Application of section extended with modifications by *Pensions Act 1990* (25/1990), s. 81J and sch. 4, as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, as amended (18.07.2004) by *Equality Act 2004* 24/2004), s. 66(3)(e), commenced on enactment.

Application of Employment Equality Act 1998.

81J.—(1) In this section "the Act of 1998" means the Employment Equality Act 1998.

(2) Sections 74, [76, 77A], 78 to 81, 83 to 85 and 86 to 104 of the Act of 1998 shall, where appropriate, apply in relation to this Part as they apply in relation to that Act but with the following modifications.

(3) Those modifications are that for the words set out in column (3) of the Fourth Schedule at a particular reference number, being words appearing in a section or sections of the Act of 1998 specified in column (2) of that Schedule at that reference number, there shall be substituted in the place or, as the case may be, each place where those words occur in that section or sections the words set out in column (4) of that Schedule at that reference number.

Amendment of Industrial Relations Act, 1990.

105.—The Industrial Relations Act, 1990, is hereby amended—

(*a*) in section 9 (application of provision of Part II of that Act), by the substitution in subsection (4) for "an equality officer" of "the F204**[**Director General of the Workplace Relations Commission**]**",

(*b*) in section 25 (functions of the Labour Relations Commission)—

(i) by the deletion, in subsection (1), of paragraph (*e*), and

(ii) by the deletion, in subsection (8), of "section 8(2) of the Anti-Discrimination (Pay) Act, 1974, or",

(*c*) by the deletion of section 37 (equality officers), and

(*d*) in section 42 (codes of practice), by the substitution in subsection (4) for "a rights commissioner or an equality officer" of "the F204**[**Director General of the Workplace Relations Commission**]** or a rights commissioner".

Annotations

Amendments:

F204 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(ii), S.I. No. 410 of 2015.

Editorial Notes:

E82 Previous affecting provision: paras. (a) and (d) amended (18.07.2004) by *Equality Act 2004* (24/2004), s. 45, commenced on enactment; substituted as per F-note above.

F205**[**Transitional provision.

106.—(1) This section applies to a claim for redress under a repealed enactment—

(*a*) which is made on or after the commencement of *Part VII* (the "commencement date"), and

(*b*) which relates—

(i) only to conduct before the commencement date, or

(ii) to conduct both before and after that date.

(2) In this section—

"commencement date" means the 18th day of October, 1999;

"conduct" means conduct alleged to have occurred;

"repealed enactment" means the Anti-Discrimination (Pay) Act, 1974, or the Employment Equality Act, 1977.

(3) A claim for redress to which this section applies shall—

(*a*) as regards the substance of the claim—

(i) if or in so far as the claim relates to conduct before the commencement date, be dealt with as if the enactment concerned had not been repealed, and

(ii) in so far as it may relate to conduct after that date, be dealt with under this Act,

and

(*b*) in all other respects, be dealt with as if it were a claim under *section 77*.

(4) For the purposes of *subsection (3)*—

(*a*) the claim concerned shall be referred or brought to the F206**[**Director General of the Workplace Relations Commission**]**, the Labour Court or the Circuit Court, as appropriate, and

(*b*) *Part VII* shall apply in relation to it, with the modification that *sections 76* and *82* shall not apply in relation to a case referred to in *paragraph (a)(i)* of that subsection and with any other necessary modifications.

(5) A claim for redress under a repealed enactment which is pending on the commencement date shall, if the conduct to which it relates also occurs after that

date, be treated as if it were a claim for redress to which this section applies, and accordingly *subsections (3)* and *(4)* shall apply in relation to it.

(6) A decision or determination on a claim for redress referred to in this section may, and at the request of the claimant shall, where appropriate, specify separate findings in relation to conduct before and after the commencement date.

(7) The F206**[**Director General of the Workplace Relations Commission**]** or a person appointed under *section 75(4)(a)* to be an F206**[**adjudication officer**]** may exercise the powers of an F206**[**adjudication officer**]** under a repealed enactment.

(8) This section shall be deemed to have come into operation on the commencement date.**]**

Annotations

Amendments:

F205 Inserted (18.10.1999) by *Equal Status Act 2000* (8/2000), s. 47, S.I. No. 351 of 2000 and subs. (8).

F206 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 83(1)(c)(i), (ii), S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Number 21 *of* 1998

EMPLOYMENT EQUALITY ACT 1998

REVISED

Updated to 31 May 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Employment Equality Acts 1998 to 2021: this Act is one of a group of Acts included in this collective citation (*Gender Pay Gap Information Act 2021*, s. 7(2)). The Acts in the group are:

- *Employment Equality Act 1998* (21/1998)
- *Equality Act 2004* (24/2004), Part 2
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), insofar as it relates to the previous two Acts
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), Part 16
- *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), ss. 18 to 26
- *Equality (Miscellaneous Provisions) Act 2015* (43/2015), ss. 3 to 11
- *Gender Pay Gap Information Act 2021* (20/2021), ss. 2 to 4

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at

www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024* (37/2024)
- *Employment Permits Act 2024* (17/2024)
- *Workplace Relations (Miscellaneous Provisions) Act 2021* (29/2021)
- *Gender Pay Gap Information Act 2021* (20/2021)
- *Credit Guarantee (Amendment) Act 2016* (1/2016)
- *Equality (Miscellaneous Provisions) Act 2015* (43/2015)
- *National Minimum Wage (Low Pay Commission) Act 2015* (22/2015)
- *Workplace Relations Act 2015* (16/2015)
- *Irish Human Rights and Equality Commission Act 2014* (25/2014)
- *Social Welfare and Pensions Act 2014* (16/2014)
- *Education and Training Boards Act 2013* (11/2013)
- *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012)
- *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011)
- *Ministers and Secretaries (Amendment) Act 2011* (10/2011)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Merchant Shipping Act 2010* (14/2010)
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008)
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007)
- *Equality Act 2004* (24/2004)
- *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004)
- *Public Service Management (Recruitment and Appointments) Act 2004* (33/2004)
- *Redundancy Payments Act 2003* (14/2003)
- *Equal Status Act 2000* (8/2000)
- *Parental Leave Act 1998* (30/1998)
- *Pensions Act 1990* (25/1990)

All Acts up to and including *Finance (Provision of Access to Cash Infrastructure) Act 2025* (4/2025), enacted 20 May 2025, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2025* (S.I. No. 212 of 2025)
- *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2024* (S.I. No. 259 of 2024)
- *Employment Equality Act 1998 (Section 12) (Reservation of Vocational Training Places) Order 2023* (S.I. No. 405 of 2023)
- *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) Regulations 2022* (S.I. No. 264 of 2022)
- *Disability, Equality, Human Rights, Integration and Reception (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 436 of 2020)
- *Employment Equality Act 1998 (Section 12) (Reservation of Vocational Training Places) Order 2018* (S.I. No. 260 of 2018)
- *Employment Equality Act 1998 (Withdrawal of Certain Claims) (Relevant Date) Regulations 2016* (S.I. No. 126 of 2016)
- *Employment Equality Acts 1998 to 2011 (section 12) (Church of Ireland College of Education) Order 2013* (S.I. No. 288 of 2013)
- *Equality Tribunal (Transfer of Departmental Administration and Ministerial Functions) Order 2012* (S.I. No. 531 of 2012)
- *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012* (S.I. No. 208 of 2012)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 139 of 2011)

- *Equality, Integration, Disability and Human Rights (Transfer of Departmental Administration and Ministerial Functions) Order 2010* (S.I. No. 217 of 2010)
- *Employment Equality Act 1998 (Section 12) (Church of Ireland College of Education) Order 2008* (S.I. No. 251 of 2008)
- *Employment Equality Act 1998 (section 12) (Church of Ireland College of Education) Order 2003* (S.I. No. 319 of 2003)
- *Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2002* (S.I. No. 78 of 2002)
- *European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001* (S.I. No. 337 of 2001)
- *Employment Equality Act 1998 (Section 12) (Church of Ireland College of Education) Order 2000* (S.I. No. 216 of 2000)
- *Employment Equality Act 1998 (Section 76 Right to Information) Regulations 1999* (S.I. No. 321 of 1999)
- *Employment Equality Act 1998 (Commencement) Order 1999* (S.I. No. 320 of 1999)

All statutory instruments up to and including *Employment Equality Act 1998 (Section 20A) (Gender Pay Gap Information) (Amendment) Regulations 2025* (S.I. No. 212 of 2025), made 27 May 2025, were considered in the preparation of this revision.