1978 No. 151

COUNTY COURTS

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

Made . . . . . *6th June* 1978

Coming into operation . . . . *10th July* 1978

To be laid before Parliament

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

Citation and commencement

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

Interpretation

2. In these rules—

"the Act" means the Fair Employment (Northern Ireland) Act 1976;

"the Agency" means the Fair Employment Agency for Northern Ireland;

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

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

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

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

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

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

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(b) 1976 c. 25
(c) S.R. 1976 No. 374 (II, p. 1774)

(4) In this rule—

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

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

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

Appeals under section 28 *of the Act*

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

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

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

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

Applications under section 36 *of the Act*

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

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

Service of notice of application or appeal and entry for hearing

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

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

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

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

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

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

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

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

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

Jurisdiction of Belfast Recorder's Court

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

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

Northern Ireland Office
6th June 1978

SCHEDULE

FORMS

FORM NO. 1 Rule 3

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

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

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

BETWEEN

the Fair Employment Agency for Northern Ireland
Applicant

AND

of
Respondent

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

(*here state terms of undertaking*).

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

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

Dated this day of 19 .

Solicitor for Applicant

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

FORM NO. 2 Rule 3

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

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

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

BETWEEN

the Fair Employment Agency for Northern Ireland
Applicant

AND

of
Respondent

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

(*here set out directions*)

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

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

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

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

Dated this day of 19 .

Solicitor for Applicant

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