

Home > Acts > 1977 > Employment Equality Act, 1977

Employment Equality Act, 1977



Number 16 of 1977

EMPLOYMENT EQUALITY ACT, 1977

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Discrimination for the purposes of this Act.
3. Discrimination by employers prohibited.
4. Equality clause.
5. Discrimination in relation to membership of certain bodies prohibited.
6. Discrimination in relation to vocational training prohibited.
7. Discrimination by employment agencies prohibited.
8. Discriminatory advertising prohibited.
9. Procuring or attempting to procure discrimination prohibited.
10. Discrimination in collective agreements, etc..
11. Provisions relating to midwives and public health nurses.
12. Employments excluded from application of Act.
13. Saver for certain cases relating to non-performance of duties, etc.
14. Save for, and repeal or amendment of, certain statutory provisions.
15. Saver for certain training courses, etc.
16. Saver for special treatment in connection with pregnancy, etc.
17. Exclusion of posts where sex is occupational qualification.
18. Equality officers.
19. Reference of disputes to Court.
20. Reference to Court by Minister.
21. Investigation of disputes by Court.
22. Decision of Court under section 21.
23. Amount of compensation under section 22 or additional fine under section 25 or 26.
24. Failure to implement determination of Court.
25. Dismissal because of action under section 2.
26. Provisions supplemental to section 25.
27. Reference to Court of disputes relating to dismissal under section 3 (4).
28. Right of employee, etc., to certain information.

29. Amendment of section 1 of Act of 1974.
30. Amendment of section 9 of Act of 1974.
31. Amendment of section 10 of Act of 1974.
32. Defence to certain prosecutions under Office Premises Act, 1958.
33. Power of High Court to grant injunction.
34. Establishment of Employment Equality Agency.
35. General functions of the Agency.
36. Transfer to Agency of certain functions of Minister.
37. Research and informational activities.
38. Review of legislation.
39. Agency's power to conduct investigations.
40. Terms of reference for investigations.
41. Agency's power to obtain information and documents and to summon witnesses.
42. Offence relating to investigations, etc.
43. Recommendations and reports by Agency.
44. Non-discrimination notice.
45. Appeal against non-discrimination notice.
46. Register of non-discrimination notices.
47. Power of Agency to seek injunctions.
48. Assistance by Agency in certain references to Court or equality officer.
49. Accounts and audits.
50. Annual report, etc.
51. Grants to the Agency.
52. Power of the Agency to borrow.
53. Regulations.
54. Expenses.
55. Commencement.
56. Short title and construction.

SCHEDULE



Number 16 of 1977

EMPLOYMENT EQUALITY ACT, 1977

AN ACT TO MAKE UNLAWFUL IN RELATION TO EMPLOYMENT CERTAIN KINDS OF DISCRIMINATION ON GROUNDS OF SEX OR MARITAL STATUS, TO ESTABLISH A BODY TO BE KNOWN AS THE EMPLOYMENT EQUALITY AGENCY, TO AMEND THE ANTI-DISCRIMINATION (PAY) ACT, 1974 AND TO PROVIDE FOR OTHER MATTERS RELATED TO THE AFORESAID MATTERS. [1st June, 1977]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“the Act of 1946” means the Industrial Relations Act, 1946 ;

“the Act of 1974” means the Anti-Discrimination (Pay) Act, 1974 ;

“act” includes a deliberate omission;

“advertisement” includes 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;

“the Agency” means the Employment Equality Agency established by section 34;

“close relative” means a wife, husband, parent, child, grandparent, grandchild, brother or sister;

“the Court” means the Labour Court;

“dismissal” shall be taken to include the termination by an employee of his contract of employment with his employer (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 him to do so, and “dismissed” shall be construed accordingly;

“employee” means a person who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract of employment with an employer, whether the contract is (or was) for manual labour, clerical work or otherwise, is (or was) expressed or implied, oral or in writing, and whether it is (or was) a contract of service or apprenticeship or otherwise, and includes a civil servant of the State or of the Government and an officer or servant of a local authority within the meaning of the Local Government Act, 1941 , an officer or servant of a harbour authority, health board, vocational education committee or committee of agriculture, and cognate words or expressions shall be construed accordingly;

“employer”, in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed under a contract of employment, and for the purposes of this definition a civil servant of the State or of the Government shall be deemed to be employed by the State or the Government (as the case may be) and an officer or servant of a local authority within the meaning of the Local Government Act, 1941 , or of a harbour authority, health board, vocational educational committee or committee of agriculture shall be deemed to be employed by the local authority, harbour authority, health board, vocational educational committee or committee of agriculture (as the case may be);

“employment agency” 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;

“functions” includes powers and duties;

“investigation” means an investigation under section 39;

“the Minister” means the Minister for Labour;

“non-discrimination notice” means a notice under section 44;

“profession” includes any vocation or occupation;

“trade union” has the same meaning as it has in the Trade Union Acts, 1871 to 1975.

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

(3) In this Act a reference to a subsection is to the subsection of the section in which the reference occurs unless it is indicated that reference to some other section is intended.

Discrimination for the purposes of this Act. **2.**—For the purposes of this Act, discrimination shall be taken to occur in any of the following cases—

- (a) where by reason of his sex a person is treated less favourably than a person of the other sex,
- (b) where because of his marital status a person is treated less favourably than another person of the same sex,
- (c) where because of his sex or marital status a person is obliged to comply with a requirement, relating to employment or membership of a body referred to in section 5, which is not an essential requirement for such employment or membership and in respect of which the proportion of persons of the other sex or (as the case may be) of a different marital status but of the same sex able to comply is substantially higher,
- (d) where a person is penalised for having in good faith—
 - (i) made a reference under section 19 or under section 7 of the Act of 1974,
 - (ii) opposed by lawful means an act which is unlawful under this Act or the Act of 1974,
 - (iii) given evidence in any proceedings under this Act or the Act of 1974, or
 - (iv) given notice of an intention to do anything referred to in subparagraphs (i) to (iii),

and cognate words shall be construed accordingly.

Discrimination by

employers prohibited.

3.—(1) A person who is an employer or who obtains under a contract with another person the services of employees of that other person shall not discriminate against an employee or a prospective employee or an employee of that other person in relation to access to employment, conditions of employment (other than remuneration or any condition relating to an occupational pension scheme), training or experience for or in relation to employment, promotion or re-grading in employment or classification of posts in employment.

(2) An employer shall not, in relation to his employees or to employment by him, have rules or instructions which would discriminate against an employee or class of employee, and shall not otherwise apply or operate a practice which results or would be likely to result in an act which is a contravention of any provision of this Act when taken in conjunction with section 2 (c).

(3) Without prejudice to the generality of subsection (1), a person shall be taken to discriminate against an employee or prospective employee in relation to access to employment if—

- (a) in any arrangements he makes for the purpose of deciding to whom he should offer employment, or

(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 materially different,

he contravenes subsection (1).

(4) Without prejudice to the generality of subsection (1), a person shall be taken to discriminate against an employee or prospective employee in relation to conditions of employment if he does not offer or afford to a person or class of persons the same terms of employment (other than remuneration or any term relating to an occupational pension scheme), the same working conditions and the same treatment in relation to overtime, shift work, short time, transfers, lay-offs, redundancies, dismissals (other than a dismissal referred to in section 25) and disciplinary measures as he 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.

(5) Without prejudice to the generality of subsection (1), a person shall be taken to discriminate against an employee in relation to training or experience for or in relation to employment if he 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 he offers or affords to other employees where the circumstances in which that employee and those other employees are employed are not materially different.

(6) Without prejudice to the generality of subsection (1), a person shall be taken to contravene that subsection if he discriminates against an employee in the way he offers or affords that employee access to opportunities for promotion in circumstances in which another eligible and qualified person is offered or afforded such access or if in those circumstances he refuses or deliberately omits to offer or afford that employee access to opportunities for promotion.

(7) Without prejudice to the generality of subsection (1), a person shall be taken to discriminate against an employee or prospective employee where he classifies posts by reference to sex and the classification is not a case referred to in section 17 (2).

Equality clause.

4.—(1) If the terms of a contract under which a person is employed do not include (whether directly or by reference to a collective agreement within the meaning of the Act of 1974 or otherwise) an equality clause, they shall be deemed to include one.

(2) An equality clause is a provision which relates to terms of a contract (other than a term relating to remuneration or an occupational pension scheme) under which a person is employed and has the effect that where the person is employed in circumstances where the work done by that person is not materially different from that being done by a person of the other sex (in this section referred to as "the other person") in the same employment—

(a) if (apart from the equality clause) any term of the contract is or becomes less favourable to the person than a term of a similar kind in the contract under which the other person is employed, that term of the person's contract shall be treated as so modified as not to be less favourable, and

(b) if (apart from the equality clause) at any time the person's contract does not include a term corresponding to a term benefiting the other person included in the contract under which the other person is employed, the person's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between a person's contract of employment and the contract of employment of the other person if the employer proves that the variation is genuinely a consequence of a material difference (other than the difference of sex) between the two cases.

(4) Where a person offers a person employment on certain terms, and if on his acceptance of the offer any of those terms would fall to be modified or any additional term would fall to be included by virtue of this section, the offer shall be taken to contravene sections 3 (1) and 3 (4).

Discrimination in relation to membership of certain bodies prohibited.

5.—A body which is an organisation of workers, an organisation of employers or a professional or trade organisation or which controls entry to a profession or the carrying on of a profession shall not discriminate against a person in relation to membership of such body (or any benefits provided by it) or in relation to entry or the carrying on of the profession.

Discrimination in relation to vocational training prohibited.

6.—(1) Any person or educational or training body offering a course of vocational training shall not, in respect of any such course offered to persons over the 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 facility, or

(c) in the manner in which any such course or facility is provided.

(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 activity.

Discrimination by
employment agencies
prohibited.

7.—(1) An employment agency shall not discriminate—

(a) in the terms on which it offers to provide any of its services,

(b) by refusing or omitting to provide any of its services,

(c) in the manner in which it provides any of its services.

(2) References in subsection (1) to a service of an employment agency include guidance on careers and any service related to employment.

(3) Subsection (1) does not apply where the service concerns only employment which an employer could lawfully refuse to offer to the person concerned.

(4) 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 (3), its action would not be unlawful, and

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

(5) An employer who, with a view to obtaining the services of an employment agency, knowingly makes a statement such as is referred to in subsection (4) (a) and which in a material respect is false or misleading shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

Discriminatory
advertising prohibited.

8.—(1) A person shall not publish or display, or cause to be published or displayed, an advertisement which relates to employment and indicates an intention to discriminate, or might reasonably be understood as indicating such an intention.

(2) For the purpose 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 connotes a particular sex, or which, although not necessarily connoting a particular sex, is descriptive of or refers to a post or occupation of a kind previously held or carried on by members of one sex only, the advertisement shall be taken to indicate an intention to discriminate unless the advertisement contains a contrary indication.

(3) A person who makes a statement which he knows to be false with a view to securing publication or display in contravention of subsection (1) shall upon such publication or display being made be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

Procuring or attempting to procure discrimination prohibited. **9.**—A person shall not procure or attempt to procure another person to do in relation to employment anything which constitutes discrimination.

Discrimination in collective agreements, etc. **10.**—(1) (a) Where an agreement or order to which this subsection applies contains a provision constituting discrimination, the provision shall be null and void.

(b) This subsection applies to—

(i) a collective agreement,

(ii) an employment regulation order within the meaning of Part IV of the Act of 1946, and

(iii) a registered employment agreement within the meaning of Part III of the Act of 1946 registered in the Register of Employment Agreements.

(2) Where a contract of employment contains a term (whether expressed or implied) constituting discrimination, that term shall be null and void.

Provisions relating to midwives and public health nurses. **11.**—(1) The Midwives Act, 1944 (No. 10 of 1944), is hereby amended by the substitution for the definition of “midwife” in section 2 of the following:

“the word ‘midwife’ means a woman or man registered in the roll of midwives and, accordingly, every word importing the feminine gender shall be construed as if it also imported the masculine gender;”.

(2) Notwithstanding any other provision of this Act, it shall not be a contravention of this Act for a person to give access to training or employment as a midwife or as a public health nurse to persons of a particular sex.

Employments excluded from application of Act. **12.**—(1) This Act does not apply to employment—

(a) in the Defence Forces,

(b) in the *Gárda Síochána*,

(c) in the prison service, or

(d) in a private residence or by a close relative.

(2) (a) Notwithstanding subsection (1), the Minister may by order declare that this Act shall apply to such class or classes of employment referred to in that subsection as may be specified in the order, and from the commencement of the order this Act shall apply to that class or those classes.

(b) Where the Minister proposes to make an order under this subsection, a draft of the proposed order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each House.

(3) Sections 19, 20 (b), 21 and 28 shall not apply to the selection, by the Local Appointments Commissioners or the Civil Service Commissioners, of a person for appointment to an office or position.

Saver for certain cases relating to non-performance of duties, etc. **13.**—Nothing in this Act shall require an employer—

(a) to employ in a position a person who will not undertake the duties attached to that position or who will not accept the conditions under which those duties are performed, or

(b) to retain in his employment a person not undertaking the duties attached to the position held by that person.

Saver for, and repeal or amendment of, certain statutory provisions. **14.**—(1) Notwithstanding any provision of this Act, nothing done by an employer in compliance with any requirement of or under an Act to which this section applies shall constitute discrimination in contravention of this Act.

(2) (a) The Minister may by order repeal or amend any Act to which this section applies or any provision of such an Act.

(b) Before making an order under this subsection the Minister shall consult such trade unions, employers' organisations and organisations of trade unions or of employers' organisations as he considers appropriate.

(c) Where the Minister proposes to make an order under this subsection, a draft of the proposed order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each House.

(3) This section applies to—

(a) the Conditions of Employment Act, 1936 ,

(b) the Shops (Conditions of Employment) Act, 1938 ,

(c) the Factories Act, 1955 ,

(d) the Mines and Quarries Act, 1965 .

Saver for certain training courses, etc. **15.**—Nothing in this Act shall make it unlawful for any person to arrange for or provide training for persons of a particular sex in a type, form or category of work in which either no, or an insignificant number of, persons of that sex had been engaged in the period of twelve months ending at the commencement of the training, or to encourage persons of that sex to take advantage of opportunities for doing such work.

Saver for special treatment in connection with pregnancy, etc. **16.**—Nothing in this Act shall make it unlawful for an employer to arrange for or provide special treatment to women in connection with pregnancy or childbirth.

Exclusion of posts where sex is occupational qualification. **17.**—(1) This Act does not apply to any act connected with or related to the employment of a person where the sex of the person is an occupational qualification for a post in relation to which the act occurs.

(2) For the purposes of this section, the sex of a person shall be taken to be an occupational qualification for a post in the following cases—

- (a) where, on grounds of physiology (excluding physical strength or stamina) or on grounds of authenticity for the purpose of a form of entertainment, the nature of the post requires a member of a particular sex because otherwise the nature of the post would be materially different if carried out by a member of the other sex,
- (b) where the duties of a post involve personal services and it is necessary to have persons of both sexes engaged in such duties,
- (c) where an establishment or institution is confined (either wholly or partly) to persons of one sex requiring special care, supervision or treatment and the employment of persons of that sex is related to either the character of the establishment or institution or the type of care, supervision or treatment provided in it,
- (d) where either the nature of or the duties attached to a post justify on grounds of privacy or decency the employment of persons of a particular sex,
- (e) where because of the nature of the employment it is necessary to provide sleeping and sanitary accommodation for employees on a communal basis and it would be unreasonable to expect the provision of separate such accommodation or impracticable for an employer so to provide,

(f) where it is necessary that the post should be held by a member of a particular sex because it is likely to involve the performance of duties outside the State in a place where the laws or customs are such that the duties can only be performed by a member of that sex.

Equality officers. **18.**—From the commencement of this section an equal pay officer shall be known (and is in this Act referred to) as an equality officer and, accordingly, all references in the Act of 1974 to an equal pay officer shall be construed as references to an equality officer.

Reference of disputes to Court. **19.**—(1) Subject to sections 26, 27 (1) and 27 (2), a dispute as to whether or not a person has discriminated may be referred by any person concerned to the Court.

(2) Where a dispute is referred under this section to the Court, it shall endeavour to settle the dispute through an industrial relations officer of the Court or refer the dispute to an equality officer for investigation and recommendation, or make such a reference where the industrial relations officer fails to effect a settlement.

(3) Where a dispute is referred under this section to an equality officer he shall investigate the dispute and issue a recommendation thereon.

(4) A recommendation under this section shall be conveyed—

(a) in the case of a dispute referred under this section, to the Court and the parties to the dispute, or

(b) in the case of a reference under section 20, to the Court, the Minister and to such person or persons as appear to the equality officer to be concerned.

(5) Save only where a reasonable cause can be shown, a reference under this section shall be lodged not later than six months from the date of the first occurrence of the act alleged to constitute the discrimination.

(6) Subject to subsection (7) the powers conferred on an equality officer by section 6 (4) of the Act of 1974 in relation to an employer may be exercised in relation to a person other than an employer.

(7) Nothing in this Act shall be construed as requiring any person to furnish any reference (or a copy thereof) from an employer or any report (or a copy thereof), whether of a confidential nature or otherwise, relating to the character or the suitability for employment of any other person, or to disclose the contents of such a reference or report.

Reference to Court by Minister. **20.**—Where it appears to the Minister—

- (a) that discrimination is being generally practised against persons or that a practice referred to in section 3 (2) is being applied or operated,
- (b) that discrimination has occurred in relation to a particular person who has not made a reference under section 19 in relation to the discrimination and that it is not reasonable to expect such a reference by him.
- (c) that a person has procured or attempted to procure another person to do anything in relation to employment which constitutes discrimination, or
- (d) that a publication or display in contravention of section 8 has been made,

the matter may be referred to the Court by the Minister and shall be dealt with as if it were a reference under section 19 of a dispute.

Investigation of
disputes by Court.

21.—(1) A person or (in the case of a reference under section 20) the Minister may appeal to the Court against a recommendation under section 19 or may appeal to the Court for a determination that the recommendation has not been implemented.

(2) The Court shall hear and determine an appeal under this section and shall convey its determination—

- (a) in the case of a reference under section 19, to the parties, or
 - (b) in the case of a reference under section 20, to the Minister and such person or persons as appear to the Court to be concerned.
- (3) (a) A hearing under this section shall be held in private, but the Court shall, if requested to do so by a party to the dispute or a person referred to in section 20, hold the hearing in public.
- (b) Where a hearing under this section is being held in public the Court may, if it is satisfied that any part of the hearing concerns a matter that should, in the interests of any party to the dispute, or of a person referred to in section 20 be treated as confidential, hold that part of the hearing in private.
- (c) Sections 14 and 21 of the Act of 1946 shall apply to an appeal under this section.
- (d) An appeal under this section shall be lodged in the Court not later than 42 days after the date of the relevant recommendation under section 19 and the notice shall specify the grounds of the appeal.

(4) A party to a dispute determined by the Court under subsection (2) or, in the case of such a determination in a matter referred under section 20, the Minister or a person concerned may appeal to the High Court on a point of law.

Decision of Court under section 21. **22.**—A determination of the Court under section 21 shall do one or more of the following—

- (a) hold that there was or (as the case may be) was not discrimination,
- (b) recommend to a person or persons concerned a specified course of action,
- (c) award compensation in accordance with this Act,
- (d) in a case referred to the Court under section 20 (c) or 20 (d) hold that the person concerned has or (as the case may be) has not procured or attempted to procure another person to do in relation to employment anything which constitutes discrimination or that a publication or display in contravention of section 8 was or (as the case may be) was not made and, if the Court thinks fit, recommend a specified course of action to the person concerned.

Amount of compensation under section 22 or additional fine under section 25 or date of the discrimination or would have received but for the discrimination.

23.—(1) Compensation under section 22 shall be of such amount as the Court thinks reasonable having regard to all the circumstances of the case but shall not in any case exceed 104 weeks' remuneration at the rate the person concerned was receiving at the date of the discrimination or would have received but for the discrimination.

26.

(2) The amount of an additional fine imposed under section 25 or 26 shall not in any case exceed 104 weeks' remuneration at the rate the person concerned was receiving at the date of the discrimination or would have received but for the discrimination.

Failure to implement determination of Court. Minister complains to the Court that a determination under section 22 (b) to 22 (d) has not been implemented, the following provisions shall have effect:

24.—(1) Where a person concerned or (in the case of a reference under section 20) the

- (i) the Court shall consider the complaint and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (ii) if after such consideration the Court is satisfied that the complaint is well founded, the Court may by order direct the person failing to implement the determination to do such things as will in the opinion of the Court result in the determination being implemented by that person.

(2) If, where an order is made by the Court under subsection (1), the direction contained in the order is not carried out within two months from the date of the making of the order (or, where there is an appeal under section 21 (4), within two months of the date of the order of the High Court on the appeal), the person to whom the direction is addressed shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 and, in the case of a continuing offence, a further fine not exceeding £10 for every day during which the offence is continued.

- (3) (a) On a conviction for an offence under this section the court may, in addition to imposing a fine, if it thinks fit and the person (in this subsection referred to as the plaintiff) in whose favour the determination was made either present or represented consents, award to the plaintiff a sum not exceeding such amount as in the opinion of the court the plaintiff would have received from the person against whom the determination was made by way of damages in respect of remuneration in relation to the matter the subject of the determination, but not in any case exceeding 104 weeks' remuneration.
- (b) Damages awarded under paragraph (a) shall be paid to the plaintiff.
- (c) The payment by a convicted person of a sum awarded under paragraph (a) shall be a good defence to any civil action brought by the plaintiff in respect of remuneration mentioned in that paragraph.
- (d) Without prejudice to any right of appeal by any other person, the plaintiff shall have a right of appeal limited to the amount of damages, either (as the case may be) to the High Court or to the judge of the Circuit Court in whose circuit the district (or any part thereof) of the Justice of the District Court by whom the award was made is situated, and the decision on such an appeal shall be final.

Dismissal because of action under section 2. **25.**—(1) Where an employee is dismissed from his employment solely or mainly because he did in good faith anything specified in section 2 (d) (i) to 2 (d) (iv), his employer shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 or on conviction on indictment to a fine not exceeding £1,000.

(2) In a prosecution for an offence under this section the onus shall be on the employer to satisfy the court that the reason referred to in subsection (1) was not the sole or principal reason for the dismissal.

- (3) (a) On a conviction for an offence under this section, the court may, if it thinks fit and the employee concerned is present or represented and consents—
- (i) order the re-instatement by the employer of the employee in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,
- (ii) order the re-engagement by the employer of the employee either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him on such terms and conditions as are reasonable having regard to all the circumstances, or

- (iii) impose on the convicted person, in addition to a fine imposed under subsection (1), a fine not exceeding the amount which in the opinion of the court the employee would have received from the employer concerned by way of remuneration if the dismissal had not occurred.
- (b) The amount of a fine imposed under paragraph (a) shall be paid to the employee concerned.
- (c) 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 fine, either (as the case may be) to the High Court or to the judge of the Circuit Court in whose circuit the district (or any part thereof) of the Justice of the District Court by whom the fine was imposed is situated, and the decision on such an appeal shall be final.
- (d) The payment by a convicted person of a fine imposed under paragraph (a) shall be a good defence to any civil action brought by the employee concerned in respect of the remuneration mentioned in that paragraph.

Provisions

25. **26.—**(1) Where a person, in respect of whose dismissal a prosecution for an offence supplemental to section 25 has not been brought, complains to the Court that he has been dismissed from his employment solely or mainly because he did in good faith a thing specified in section 2 (d) (i) to 2 (d) (iv), the following provisions shall apply:

- (a) the Court shall investigate the complaint, and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (b) an investigation under this subsection shall be held in private, but the Court shall, if requested to do so by either person concerned, hold the investigation in public;
- (c) where an investigation under this subsection is being held in public the Court may, if it is satisfied that any part of the investigation concerns a matter that should, in the interests of any person concerned, be treated as confidential, hold that part of the investigation in private;
- (d) if after such investigation the Court is satisfied that the complaint is well founded, the Court may—
 - (i) order the re-instatement by the employer concerned of the dismissed person in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,

- (ii) order the re-engagement by the employer concerned of the dismissed person either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him on such terms and conditions as are reasonable having regard to all the circumstances, or
 - (iii) by order direct the employer concerned to pay to the dismissed person such compensation as the Court considers reasonable in the circumstances, but not in any case more than 104 weeks' remuneration;
- (e) an employer or dismissed person in respect of whom an order under this subsection has been made may appeal to the High Court on a point of law.

(2) Subject to subsection (5), if an order made by the Court under subsection (1) is not carried out within two months of the date of the making of the order (or, where there is an appeal under subsection (5) against the order, within two months of the date of the order of the Circuit Court on the appeal or, where there is an appeal under subsection (1) (e), within two months of the date of the order of the High Court on the appeal), the person to whom the direction is given shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 and, in the case of a continuing offence, to a further fine not exceeding £10 for every day during which the offence is continued.

(3) (a) On a conviction for an offence under this section, the court may, if it thinks fit and the dismissed person is present or represented and consents—

- (i) order the re-instatement by the employer of the dismissed person in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,
- (ii) order the re-engagement by the employer of the dismissed person either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him on such terms and conditions as are reasonable having regard to all the circumstances, or
- (iii) impose on the convicted person, in addition to a fine imposed under subsection (2), a fine not exceeding the amount which in the opinion of the court the dismissed person would have received from the employer concerned by way of remuneration if the dismissal had not occurred.

(b) The amount of a fine imposed under paragraph (a) shall be paid to the employee concerned.

(c) 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 fine, either (as the case may be) to the High Court or to the judge of the Circuit Court in whose circuit the district (or any part thereof) of the Justice of the District Court by whom the fine was imposed is situated, and the decision on such an appeal shall be final.

(d) The payment by a convicted person of a fine imposed under paragraph (a) shall be a good defence to any civil action brought by the employee concerned in respect of the remuneration mentioned in that paragraph.

(4) Save only where a reasonable cause can be shown, a complaint under this section shall be lodged not later than six months from the date of dismissal.

(5) A person to whom a direction is given in an order under subsection (1) may, notwithstanding section 17 of the Act of 1946, appeal against the order to the judge of the Circuit Court in whose circuit the person carries on business.

Reference to Court of
disputes relating to
dismissal under section
3 (4).

27.—(1) A dispute as to whether or not there has been a contravention of section 3 (4) in relation to the dismissal of a person may be referred to the Court by that person.

(2) Where a dispute is referred under this section to the Court, section 26 shall apply to the dispute as if it were a complaint under that section.

(3) A person who accepts in respect of a particular dismissal redress awarded under section 9 or 10 of the Act of 1974 or under section 7 of the Unfair Dismissals Act, 1977 , shall not be entitled to accept redress awarded under this Act in respect of that dismissal, and a person who accepts in respect of a particular dismissal redress awarded under this Act shall not be entitled to accept redress awarded under section 9 or 10 of the Act of 1974 or under section 7 of the Unfair Dismissals Act, 1977 , in respect of that dismissal.

Right of employee, etc.,
to certain information.

28.—(1) Where a person (in this section referred to as the employee) proposes to refer under section 19 a dispute to the Court, he may ascertain from the other person concerned the reason for the act believed by the employee to have constituted discrimination and that other person shall state the reason in writing to the employee.

(2) The Minister may by regulations prescribe forms to be used for the purposes of this section and specify time-limits for stating reasons under subsection (1).

Amendment of section 1 of Act of 1974. **29.**—Section 1 of the Act of 1974 is hereby amended by the insertion of the following after the definition of “the Court”:

“‘dismissal’ shall be taken to include the termination by an employee of her contract of employment with her employer (whether prior notice of the 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 her to do so, and ‘dismissed’ shall be construed accordingly;”.

Amendment of section 9 of Act of 1974. **30.**—Section 9 (3) of the Act of 1974 is hereby amended by the substitution of the following paragraph for paragraph (a):

“(a) On a conviction for an offence under this section, the court may, if it thinks fit and the dismissed woman is present or represented and consents—

- (i) order the re-instatement by the employer of the dismissed woman in the position which she held immediately before her dismissal on the terms and conditions on which she was employed immediately before her dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,
- (ii) order the re-engagement by the employer of the dismissed woman either in the position which she held immediately before her dismissal or in a different position which would be reasonably suitable for her on such terms and conditions as are reasonable having regard to all the circumstances, or
- (iii) impose on the convicted person, in addition to a fine imposed under subsection (1), a fine not exceeding the amount which in the opinion of the court the dismissed woman would have received from the employer concerned by way of remuneration if the dismissal had not occurred, but not in any case more than 104 weeks' remuneration.”.

Amendment of section 10 of Act of 1974. **31.**—(1) The following are hereby substituted for sections 10 (1) (d), 10 (3) (a) and 10 (4), respectively, of the Act of 1974:

“(1) (d) if after such investigation the Court is satisfied that the complaint is well founded, the Court may—

- (i) order the re-instatement by the employer of the dismissed woman in the position which she held immediately before her dismissal on the terms and conditions on which she was employed immediately before her dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,
 - (ii) order the re-engagement by the employer of the dismissed woman either in the position which she held immediately before her dismissal or in a different position which would be reasonably suitable for her on such terms and conditions as are reasonable having regard to all the circumstances, or
 - (iii) by order direct the employer to pay to the dismissed woman such compensation as the Court considers reasonable in the circumstances, but not in any case more than 104 weeks' remuneration.
- (3) (a) On a conviction for an offence under this section, the court may, if it thinks fit and the dismissed person is present or represented and consents—
- (i) order the re-instatement by the employer of the dismissed woman in the position which she held immediately before her dismissal on the terms and conditions on which she was employed immediately before her dismissal, together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal,
 - (ii) order the re-engagement by the employer of the dismissed woman either in the position which she held immediately before her dismissal or in a different position which would be reasonably suitable for her on such terms and conditions as are reasonable having regard to all the circumstances, or
 - (iii) impose on the convicted person, in addition to a fine imposed under subsection (2), a fine not exceeding the amount which in the opinion of the court the dismissed woman would have received from the employer concerned by way of remuneration if the dismissal had not occurred, but not in any case more than 104 weeks' remuneration.
- (4) Save only where a reasonable cause can be shown, a complaint under this section shall be lodged not later than six months from the date of dismissal.”.

Defence to certain prosecutions under Office Premises Act, 1958. **32.**—(1) It shall be a good defence in a prosecution for an offence consisting of a contravention of regulations under section 13 of the Office Premises Act, 1958 , for the defendant to show to the satisfaction of the court that it was not reasonable to expect compliance with the regulations having regard to all the circumstances of the case and, in particular, to the passing of this Act.

(2) This section shall cease to have effect five years after the making of the first order under section 55 or, where only one such order is made, five years after the making of that order.

Power of High Court to grant injunction. **33.**—(1) In a case to which this section applies it shall be lawful for the High Court to grant an injunction on the motion of the Minister to prevent discrimination, by a person specified in the order of the High Court, of a type so specified.

(2) This section applies to a case where the Minister satisfies the High Court that, following a determination of the Court in a matter referred to it under section 20 (other than section 20 (b)) there is a likelihood of further discrimination, procuring or attempting to procure publication or display (as the case may be), by a person in relation to whom the determination was made, of the type the subject of that determination.

Establishment of Employment Equality Agency. **34.**—(1) The Government may by order appoint a day to be the establishment day for the purposes of sections 34 to 52.

(2) On the establishment day there shall be established a body to be known as the Employment Equality Agency (in this Act referred to as “the Agency”) to perform the functions assigned to it by this Act.

(3) The Schedule to this Act shall apply to the Agency.

General functions of the Agency. **35.**—The Agency shall have, in addition to any functions assigned to it by any other provision of this Act, the following general functions—

(a) to work towards the elimination of discrimination in relation to employment,

(b) to promote equality of opportunity between men and women in relation to employment,

(c) to keep under review the working of the Act of 1974 and this Act and, whenever it thinks it necessary, to make proposals to the Minister for amending either or both of those Acts.

Transfer to Agency of certain functions of Minister. **36.**—(1) On the establishment day the functions conferred on the Minister by sections 20, 21 (1) and 33 and by section 7 (2) of the Act of 1974 shall, by virtue of this section, stand transferred to the Agency.

(2) On and from the establishment day the references to the Minister in sections 19 (4) (b), 21 (2) (b), 21 (4) and 24 (1), and in sections 7 (4) and 8 (1) (b) of the Act of 1974, shall be construed as references to the Agency.

Research and informational activities. **37.**—(1) The Agency may undertake or sponsor such research and undertake or sponsor such activities relating to the dissemination of information as it considers necessary and which appears expedient for the purposes of exercising any of its functions.

(2) Without prejudice to the generality of subsection (1), the Agency may draft and publish for the information of employers guidelines or codes of practice relating to discrimination in relation to employment.

(3) The Agency may make charges for any services provided by it under this section.

Review of legislation. **38.**—(1) Where in the opinion of the Agency the working or effect of any Act to which section 14 applies, any provision of such an Act or any statutory instrument made under such an Act is likely to affect or impede the elimination of discrimination in relation to employment or the promotion of equality of opportunity between men and women in relation to employment, the Agency may if it thinks fit, and shall if required by the Minister, carry out a review of such an Act, provision or instrument or of its working or effect.

(2) For the purpose of assisting it in making a review under this section, the Agency shall consult such trade unions, employers' organisations and organisations of trade unions or of employers' organisations as it considers appropriate.

(3) (a) Where the Agency makes a review under this section it may make to the Minister a report of the review, and shall do so where the review was required by the Minister.

(b) A report under this subsection may contain recommendations for amending any statute, statutory instrument or administrative provision so reviewed.

Agency's power to conduct investigations. **39.**—(1) The Agency may, for any purpose connected with the performance of its functions, conduct an investigation and shall do so where required by the Minister.

(2) For the purpose of assisting it in the conduct of a particular investigation the Agency may, with the approval of the Minister, employ one or more than one person having qualifications which in the opinion of the Agency relate to that investigation.

(3) An investigation may be conducted by one or more than one member of the Agency delegated by the Agency for this purpose.

(4) An investigation shall not be conducted in relation to the selection by the Local Appointments Commissioners or the Civil Service Commissioners of a person for appointment to an office or position.

Terms of reference for investigations. **40.**—The Agency shall not conduct an investigation until the following requirements have been complied with:

- (a) terms of reference for the investigation shall be drawn up by the Agency or, if the investigation is one which the Minister has required the Agency to conduct, by the Minister after consultation with the Agency;
- (b) notice of intention to conduct an investigation shall be given by the Agency by a notice published in at least one daily newspaper circulating in the State unless the terms of reference refer to a specified person in which case the notice shall be given in writing to that person.

Agency's power to obtain information and documents and to summon witnesses. **41.**—(1) The Agency may for the purposes of an investigation do all or any of the following things—

- (a) require any person, by notice delivered to him personally or by registered post, to supply to it such information as it specifies in the notice and requires for the purpose of the investigation,
- (b) require any person, by notice delivered to him personally or by registered post, to produce to it or to send to it, any specified document in his power or control,
- (c) summon witnesses, by notices delivered to them personally or by registered post, to attend before it,
- (d) examine the witnesses attending before it.

(2) A notice under subsection (1) shall not be delivered unless the Agency has obtained the consent of the Minister to the delivery, or unless the terms of reference for the investigation specify that the Agency believes that a person named in the terms of reference—

- (a) has discriminated or is discriminating,
- (b) has failed or is failing to comply with an equality clause under section 4,
- (c) has contravened section 8 (1) or section 9,
- (d) has engaged in or is engaging in a practice referred to in section 3 (2), or

(e) has failed or is failing to comply with an equal pay clause (within the meaning of section 7 of the Act of 1974).

(3) A witness before the Agency and a person sending a document to the Agency or supplying information to it shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(4) A notice under subsection (1) shall be signed by at least one member of the Agency.

(5) The Agency may make, to a person who attends before it as a witness, such payments in respect of subsistence and travelling expenses as may be determined by the Minister with the consent of the Minister for the Public Service.

Offence relating to investigations, etc.

42.—(1) If a person—

(a) fails or refuses to supply to the Agency information required by it and specified in a notice under section 41 (1) or to produce or send to the Agency any document in his power or control and required by the Agency in such a notice to be produced by him,

(b) on being duly summoned as a witness before the Agency fails or refuses to attend,

(c) being in attendance as a witness before the Agency refuses to take an oath or to make an affirmation when legally required by the Agency to do so or to answer any question to which the Agency may legally require an answer, or

(d) does anything which would, if the Agency were a court of justice having power to commit for contempt of court, be contempt of such court,

he shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100 or, on conviction on indictment, to a fine not exceeding £1,000, and where the offence is one referred to in paragraphs (a) to (c) of this subsection the court by which he is so convicted may direct him to comply with the paragraph in question.

(2) If a person to whom a notice under section 41 (1) has been delivered alters, suppresses, conceals or destroys a document specified in the notice or makes a false statement when supplying to the Agency information specified in the notice, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

Recommendations and reports by Agency. **43.**—(1) After it has conducted an investigation or in the course of an investigation the Agency may make to any person (including the Minister) recommendations arising out of the investigation for the purpose of promoting one or both of its general functions specified in sections 35 (a) and 35 (b).

(2) As soon as practicable after it has conducted an investigation the Agency shall prepare or cause to be prepared a report of the investigation, and such a report shall contain any findings of the Agency arising out of the investigation.

(3) Where the investigation was one required by the Minister a copy of the relevant report under this section shall be sent to the Minister as soon as practicable after its preparation.

(4) The Agency or (in the case of a report referred to in subsection (3)) the Minister shall, as soon as practicable after subsection (2) and (where appropriate) subsection (3) have been complied with cause a report under this section to be published or otherwise made available to the public and shall give notice to the public of such publication or availability.

(5) Any information obtained by the Agency by virtue of the powers conferred on it by section 41 as to any organisation of workers or any person or as to the business carried on by any person, which is not available otherwise, shall not be included in a report under this section without the consent of the organisation of workers or the person concerned (unless such non-inclusion would be inconsistent with the duties of the Agency and the object of the report), and any person concerned in any proceedings under this Act shall not disclose any such information without such consent.

Non-discrimination notice.

44.—(1) Where in the course of the conduct of an investigation or after an investigation has been conducted the Agency is satisfied that a person—

(a) has discriminated or is discriminating,

(b) has failed or is failing to comply with an equality clause under section 4,

(c) has contravened section 8 (1) or section 9,

(d) has engaged in or is engaging in a practice referred to in section 3 (2), or

(e) has failed or is failing to comply with an equal pay clause (within the meaning of section 7 of the Act of 1974),

it may serve a non-discrimination notice on that person.

(2) (a) Where the Agency proposes to serve a non-discrimination notice it shall before serving it notify in writing the person on whom it is proposed to serve the notice of its proposal.

- (b) A notification under this subsection shall specify the act or omission constituting the discrimination, failure, contravention or practice and shall inform the person concerned that he may make representations to the Agency regarding the proposal within a period specified in the notification.
- (c) A person who has received a notification under this subsection may make representations to the Agency regarding the proposed non-discrimination notice within 28 days of receipt of the notification.
- (d) Where representations are duly made under this subsection they shall be considered by the Agency before serving a non-discrimination notice.

(3) A non-discrimination notice shall—

- (a) specify the act or omission constituting the discrimination, failure, contravention or practice,
- (b) require the person on whom it is served not to commit the discrimination or contravention or (where appropriate) to comply with the equal pay clause (within the meaning of section 7 of the Act of 1974) or the equality clause under section 4,
- (c) specify, in the case of a discrimination, what steps the Agency requires to be taken by the person on whom it is served in order not to commit the discrimination, and
- (d) require the person on whom it is served to inform the Agency, within a period specified in the notice, and any other persons so specified of what steps are taken in order to comply with the notice and to supply, within a period so specified, the Agency with any other information so specified.

(4) A non-discrimination notice may be served by personal delivery or by registered post.

Appeal against non-discrimination notice.

45.—(1) A person on whom a non-discrimination notice has been served may appeal to the Court within 42 days of the date of service against the notice or any requirement of the notice.

(2) Where an appeal under subsection (1) is not made, a non-discrimination notice shall come into operation on the expiry of the 42-day period referred to in that subsection.

(3) Where the Court has heard an appeal under subsection (1), it may either confirm the notice in whole or in part (with or without an amendment of the notice) or allow the appeal.

(4) Where the Court confirms a non-discrimination notice, the notice (as so confirmed in whole or in part) shall come into operation on such date as the Court shall fix.

(5) Where the Court allows an appeal under subsection (1), the non-discrimination notice appealed against shall cease to have effect.

Register of non-discrimination notices. **46.**—The Agency shall keep a register, which shall be open to inspection by any person at all reasonable times, of every non-discrimination notice which has come into operation.

Power of Agency to seek injunctions. **47.**—(1) In a case to which this section applies it shall be lawful for the High Court to grant an injunction, on the motion of the Agency, to prevent discrimination by a person specified in the order of the High Court of a type so specified.

(2) This section applies to a case where, in the period of five years beginning on the date on which a non-discrimination notice came into operation, the Agency satisfies the High Court that there is a likelihood of further discrimination or of a further contravention or failure referred to in section 44 (1) by the person on whom the notice was served.

Assistance by Agency in certain references to Court or equality officer. **48.**—(1) A person who considers that there is or has been discrimination in respect of him by another person, or that there is or has been a failure or neglect by such other person to comply with an equal pay clause (within the meaning of section 7 of the Act of 1974) or with an equality clause under section 4 or to implement a determination or order of the Court under section 21 or 26 or under section 8 or 10 of the Act of 1974, may apply to the Agency for assistance in making a reference to the Court or an equality officer.

(2) Where, having considered an application under subsection (1), the Agency is satisfied that the application raises an important matter of principle, or it appears to the Agency that it is not reasonable to expect the applicant adequately to present without assistance the case the subject of the proposed reference, the Agency may at its discretion provide assistance to the applicant in making the reference.

(3) Assistance under this section shall be in such form as the Agency at its discretion thinks fit.

Accounts and audits. **49.**—(1) The Agency shall, in such form as may be approved by the Minister with the concurrence of the Minister for Finance, keep all proper and usual accounts of all moneys received or expended by it.

(2) Accounts kept in pursuance of this section shall be submitted annually by the Agency to the Comptroller and Auditor General for audit at such times as the Minister, with the concurrence of the Minister for Finance, directs and those accounts, when so audited, shall (together with the report of the Comptroller and Auditor General thereon), be presented to the Minister, who shall cause copies of the audited accounts and the report to be laid before each House of the Oireachtas.

Annual report, etc. **50.**—(1) The Agency shall in each year, at such date as the Minister may direct, make a report to the Minister of its activities during the preceding twelve months ending on that date, and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(2) The Agency shall supply to the Minister any information as he may from time to time require regarding its activities.

Grants to the Agency. **51.**—(1) In each financial year there may be paid to the Agency out of moneys provided by the Oireachtas a grant of such amount as the Minister, with the concurrence of the Minister for Finance, may sanction towards the expenses of the Agency in the performance of its functions.

(2) The Agency may invest money in such manner as the Minister may approve.

Power of the Agency to borrow. **52.**—The Agency may, with the consent of the Minister, given with the concurrence of the Minister for Finance, borrow temporarily by arrangement with bankers such sums as it may require for the purpose of providing for current expenditure.

Regulations. **53.**—(1) The Minister may make regulations for the purpose of giving effect to this Act.

(2) (a) The Minister may by regulations provide that a particular provision (or particular provisions) of this Act specified in the regulations shall not apply to an appointment to which this subsection applies.

(b) This subsection applies to an appointment to an office or position specified in the regulations and made or to be made before the expiry of the period of six months from the commencement of this section consequent on a selection by the Local Appointments Commissioners or the Civil Service Commissioners.

Expenses. **54.**—The 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.

Commencement. **55.**—This Act (other than sections 34 to 52) shall come into operation on such day or days as may be appointed by order or orders of the Minister, either generally or with reference to a particular purpose or provision, and different days may be fixed for different purposes and different provisions of this Act.

Short title and
construction.

56.—(1) This Act may be cited as the Employment Equality Act, 1977.

(2) The Act of 1974 and this Act shall be construed together as one Act.

SCHEDULE

Employment Equality Agency

Section (34) (3)

1. The Agency shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

2. The Agency shall consist of a chairman (in this Schedule referred to as “the chairman”) and ten ordinary members.

3. The chairman may at any time resign his office by letter addressed to the Minister and his resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

4. The Minister may at any time remove the chairman from office.

5. Where the chairman or an ordinary member of the Agency becomes a member of either House of the Oireachtas, he shall, upon his becoming entitled under the Standing Orders of the House to sit therein, cease to be the chairman or such ordinary member.

6. A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein shall be disqualified from being either the chairman or an ordinary member of the Agency.

7. The chairman shall be appointed by the Minister either in a whole-time or a part-time capacity and shall hold office for not more than five years on such terms and conditions as the Minister determines with the consent of the Minister for the Public Service.

8. The chairman shall be paid, out of moneys provided by the Oireachtas, such remuneration and allowances and expenses incurred by him as the Minister, with the consent of the Minister for the Public Service, may determine.

9. Of the ordinary members of the Agency—

(a) two shall be workers' members;

(b) two others shall be employers' members, and

(c) the remaining six, three of whom shall be representative of women's organisations, shall be nominated by the Minister.

10. Each ordinary member of the Agency shall be a part-time member and, subject to this Schedule, shall hold office for five years on such terms and conditions as the Minister determines with the consent of the Minister for the Public Service.

11. The chairman and an ordinary member of the Agency whose term of office expires by effluxion of time shall be eligible for re-appointment.

12. The Minister may at any time remove an ordinary member of the Agency from office.

13. An ordinary member of the Agency may resign his office as such member by letter addressed to the Minister and the resignation shall take effect as on and from the date of the receipt of the letter by the Minister.

14. A member of the Agency shall be disqualified from holding and shall cease to hold office if he is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to suffer imprisonment or penal servitude or ceases to be ordinarily resident in the State.

15. Each ordinary member of the Agency shall be paid, out of moneys provided by the Oireachtas, such expenses as the Minister, with the consent of the Minister for the Public Service, may sanction.

16. The Minister shall appoint one of the ordinary members of the Agency to be vice-chairman of the Agency with the function of acting as chairman in the absence of the chairman.

17. Where a casual vacancy occurs among the workers' members, the employers' members or the women's organisations members of the Agency, the Minister shall forthwith invite the organisation which previously nominated that member to nominate a person for appointment to fill the vacancy and the Minister shall appoint the person nominated to fill the vacancy.

18. (1) The Minister, with the consent of the Minister for the Public Service, may appoint such officers and servants as he thinks necessary to assist the Agency in the performance of its functions.

(2) The officers and servants so appointed shall hold office on such terms, and receive such remuneration, as the Minister for the Public Service determines.

19. (1) The Agency shall hold such and so many meetings as may be necessary for the performance of its functions and may make arrangements for the regulation of its proceedings and business.

(2) Such arrangements may, with the approval of the Minister, provide for the discharge, under the general direction of the Agency, of any of its functions by a committee of the Agency.

20. The Minister may fix or sanction the date, time and place of the first meeting of the Agency.

21. The quorum for a meeting of the Agency shall be five members.

22. At a meeting of the Agency—

(a) the chairman shall, if present, be the chairman of the meeting;

(b) in the absence of the chairman or, if the office of chairman of the Agency is vacant, the vice-chairman of the Agency shall act as chairman,

(c) if, and so long as, the chairman is not present, or if the office of chairman of the Agency is vacant and the vice-chairman is not present or the office of vice-chairman is vacant, the members of the Agency present shall choose one of their number to be chairman of the meeting.

23. The chairman and each ordinary member of the Agency attending a meeting of the Agency shall have one vote.

24. Every question at a meeting of the Agency shall be determined by a majority of the votes cast on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

25. The Agency may act notwithstanding one or more than one vacancy among its members.

26. Subject to this Schedule, the Agency shall regulate its procedure and business.

27. (1) The Agency shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal of the Agency shall be authenticated by the signature of the chairman or some other member of the Agency authorised by it to act in that behalf and by the signature of an officer of the Agency authorised by it to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Agency and any document sealed with the seal shall be received in evidence.

Acts Referred to

<u>Anti-Discrimination (Pay) Act, 1974</u>	1974, No. 15.
<u>Conditions of Employment Act, 1936</u>	1936, No. 2.
<u>Factories Act, 1955</u>	1955, No. 10.
<u>Industrial Relations Act, 1946</u>	1946, No. 26.
<u>Local Government Act, 1941</u>	1941, No. 23.
<u>Midwives Act, 1944</u>	1944, No. 10.
<u>Mines and Quarries Act, 1965</u>	1965, No. 7.
<u>Office Premises Act, 1958</u>	1958, No. 3.
<u>Shops (Conditions of Employment) Act, 1938</u>	1938, No. 4.
<u>Unfair Dismissals Act, 1977</u>	1977, No. 10.