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UNDER
SFC
13 NOV 1989

- Mr D Chesterton (NIO(B))
- Mr R Spence (Cent Sec)
- Dr McQuisten (DHSS)
- Mr P Holmes (DENI)
- Mrs L Devlin (DANI)
- Mr W Ford (DOE)
- Miss J Frame (DFP)
- Mr M Warnock (IDB)
- Mr J Fisher (NIO(L))
- Mr Minnis
- Mr Wolstencroft

FAIR EMPLOYMENT (NI) ACT 1989

This is to confirm that a meeting has been arranged on the above subject for Tuesday, 5 December at 9.30 am in Conference Room A, Netherleigh.

Mr Wolstencroft 2/20/11

Could you attend pl. (The date now clashes with the CRC interview)
We have only an indirect interest in the issues being debated, but it's important for us to be seen to be involved!

MS
20/11

Lynn Dillon

LYNN DILLON
SPS/Mr Gosdy

13 November 1989





cc Secretary
Mr Burns
Mr Crozier
Mr Gibson
Mr Morrison
Mr Kirk
Mr Minnis
Mr Wolstencroft
Miss Cooper

2) Mr Walker

- Mr D Chesterton (NIO(B))
- ① Mr R Spence (Cent Sec) *6/11*
- Mr R Mills (DHSS)
- Mr P Holmes (DENI)
- Mr K Brady (DANI)
- Mr W Ford (DOE)
- Mr J Dowdall (DFF)
- Mr D Watkins (IDB)

UNDER/ SEC 90/11
- 6 NOV 1989
CENT SEC

FAIR EMPLOYMENT (NI) ACT 1989

11

The new Fair Employment (NI) Act 1989 takes effect on 1 January 1990. Amongst its many other powers, it contains provisions for both contract compliance and grant denial. In the context of the responsibilities which will be placed on Government and other bodies within the public sector, these will be particularly important provisions and will be of great interest to both the new Fair Employment Commission and outside commentators. I am conscious that we will need to give some careful thought to the way in which we handle these issues and I would like to arrange a discussion to consider how we approach contract compliance and grant denial, what procedures need to be instituted, and the possibility of an early public statement on the matter.

The new Act will introduce a regime in which a defaulting employer can be issued with a notice by the Fair Employment Commission stating that he is unqualified for the purposes of the 1989 Act. Public authorities are prohibited from entering into a contract with such an unqualified employer and they are required to take all reasonable steps to ensure that no sub-



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contract work is undertaken by any such employer. The Fair Employment Commission can audit the compliance of public authorities with this regime; it can seek a High Court injunction to stop the placing of a contract with such an employer if the public authority has offended and the Commission considers it is likely to do so again, or if it appears to the Commission that a public authority proposes to place such a contract. Moreover, Northern Ireland Departments have the power to withhold any discretionary financial assistance by way of grant or otherwise from an unqualified employer where the moneys concerned are payable out of the Consolidated Fund of Northern Ireland or may be appropriated by Measure of the Northern Ireland Assembly. During passage of the Act, Government promised that exceptions to this approach would be very limited and that the power to withhold financial assistance by way of grants or otherwise would be fully exercised.

The Fair Employment Commission is under a duty to take all such steps as it considers reasonable to inform public authorities (including Government Departments) that an employer is unqualified, or that he has ceased to be unqualified. To date the Commission has not established a formal mechanism for carrying out this duty, but the Chairman has indicated that the most likely procedure will be for the Commission to write out to all specified public authorities (including Government Departments) formally notifying them that a particular employer is unqualified. However, a key point is that an employer could be in default and in danger of being declared unqualified by the Commission, at an early stage in the life of the new Act. It follows that NI Departments and NIO will need to have appropriate procedures in place to cope effectively with the new contract compliance and grant denial regime from 1 January next and will need to take appropriate action to draw the attention of their associated public bodies to the requirements of the new legislation. (Consultations are currently proceeding on the nature of the list of bodies to be defined as public authorities for the purposes of the legislation, but the present draft list is attached.)



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It would be important to establish as far as is practicable a common procedure for dealing with these matters in the operation of both Government and public authority contracting arrangements and in the arrangements within Government for the payment of financial assistance. It would also be necessary to ensure that all staff were fully aware of the legal requirements in the Act to ensure that no inadvertent or careless action is taken which would result in a contract being concluded with, or financial assistance being given to, an unqualified employer.

I would therefore propose to arrange a meeting with copy recipients to discuss these issues. My Secretary will be in touch with yours to see if an appropriate date and time can be arranged. If you are unable to attend personally I would be grateful if you could nominate a deputy to attend in your place. I have addressed this letter to those whom I assume (perhaps incorrectly) to have a lead interest in fair employment in their respective departments. If that is not the case I should be grateful if copy recipients would forward my letter to the most appropriate contact in their Department.

D C Gowdy

D C GOWDY

3 November 1989



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SCHEDULE II

Public Authorities for the purposes of sections 38-42 of the 1989 Act.

Agricultural Research Institute of Northern Ireland
Arts Council of Northern Ireland
Belfast Harbour Commission
Citybus Limited
Coleraine Harbour Commission
Comptroller and Auditor General for Northern Ireland
District Councils
Education and Library Boards
Enterprise Ulster
Equal Opportunities Commission for Northern Ireland
Fire Authority for Northern Ireland
Fisheries Conservancy Board for Northern Ireland
Flexibus Limited
Foyle Fisheries Commission
General Consumer Council for Northern Ireland
The Heads of all Northern Ireland Departments
Health & Social Services Boards
Independent Commission for Police Complaints
for Northern Ireland
Industrial Training Boards
Labour Relations Agency
Laganside Corporation

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Independent Commission for Police Complaints
for Northern Ireland
Industrial Training Boards
Labour Relations Agency
Laganside Corporation

Livestock Marketing Commission for Northern Ireland
Local Enterprise Development Unit
Local Government Staff Commission for Northern Ireland
Londonderry Port and Harbour Commission
Mental Health Commission for Northern Ireland
Milk Marketing Board for Northern Ireland
National Board for Nursing, Midwifery and
Health Visiting for Northern Ireland
Northern Ireland Airports Limited
Northern Ireland Central Services Agency
for the Health and Social Services
Northern Ireland Commissioner for Complaints
Northern Ireland Council for Post-
Graduate Medical Education
Northern Ireland Economic Development
Office
Northern Ireland Electricity
Northern Ireland Fishery Harbour
Authority
Northern Ireland Health and Social
Services Training Council
Northern Ireland Housing Executive
Northern Ireland Local Government
Officers' Superannuation Committee
Northern Ireland Parliamentary Commissioner for
Administration
Northern Ireland Railways Company Limited
Northern Ireland Schools Examination
Council

Northern Ireland Tourist Board
Northern Ireland Training Authority
Northern Ireland Transport Holding
Company
Figs Marketing Board (Northern Ireland)
Police Authority for Northern Ireland
Post Office
Probation Board for Northern Ireland
Rathgael and Whiteabbey Schools
Management Board
Sports Council for Northern Ireland
Staff Commission for Education
and Library Boards
Stranmillis College of Education, Belfast
Trustees of the Ulster Folk and
Transport Museum
Trustees of the Ulster Museum
Ulster Sheltered Employment Limited
Ulsterbus Limited
Warrenpoint Harbour Authority

Commissioners of Customs and Excise
Minister of Agriculture, Fisheries and Food
Secretary of State for Defence
Secretary of State for Education and Science
Secretary of State for Employment
Secretary of State for Energy
Secretary of State for the Environment
Secretary of State for Health
Secretary of State for the Home Department
Secretary of State for National Savings
Secretary of State for Northern Ireland
Secretary of State for Social Security
Secretary of State for Trade and Industry
Secretary of State for Transport