

Code of Practice

1) Miss Lavery 22/6/89
2) Mr Pollard

As well as FET Regs we will have
to prepare and make amending Regs
to the Industrial Tribunal legislation.

PT684/EEB

Mr Minnis

FAIR EMPLOYMENT BILL: IMPLEMENTATION

1. As requested in your minute of 15 June 1989 I attach for your consideration draft paragraphs on subordinate legislation, the Code of Practice and the publicity campaign for the Bill.
2. I have not commented in detail on the suggestions in Mr Fall's minute to Mr Burns because I have not seen the NIO response to it. We could probably produce the required brochure in time (largely by anticipating the Bill's provisions and settling on the final text immediately after Commons consideration of Lords amendments (ie) - 28 July on the latest suggested timescale). This would give about a fortnight to three weeks for printing/distribution to US etc - a tight deadline on past experience.
3. However, I assume both yourself and Mr Gowdy will wish to discuss our strategy in the light of Mr Fall's minute and Mr Burns' response to it. Indeed I think that we do need an early discussion to set benchmarks for the various heads of work to be undertaken.
4. Presumably you are going to produce a draft of the paper to Ministers for final comment before issue. Attached please find sections on the legislation/code of practice/and publicity which I hope you find helpful for your present purposes.
5. In our paper to Ministers I suggest that we should point out the clear difference of opinion between Mr Cooper and Mr Sefton about whether or not the Agency will be in a position to implement the new Act before 1 January 1990. Mr Cooper feels that they will be and clearly does not want to be the political "fall guy" for any failure to implement before then. But there is a world of difference between implementation and effective implementation and the divisions in the Agency are worrying on the latter score.

J E Wolstencroft
J E WOLSTENCROFT

21 June 1989

cc Mr Gowdy
Mr Jelly
Mr Taggart
Mr Lavery
Dr Smyth
Mr Cornick
Mr Carson
Miss Brown

SUBORDINATE LEGISLATION

1. Six pieces of subordinate legislation will have to be made and brought into operation on the commencement of the new Act or very shortly thereafter. These are set out below.

	Clause	Form	Subject Matter
(1)	2(1)	Regulations	Establishment of Tribunal
(2)	5	Regulations	Proceedings of Tribunal
(3)	25	Order	Specification of public authorities
(4)	28	Regulations	Monitoring
(5)	49(1)	Regulations	Questionnaire procedure
(6)	58(2)	Order	Commencement

2. Work on (1), (2) and (5) is almost complete and (3) and (4) are at an advanced drafting stage. Obviously the monitoring regulations cannot be finalised until the references to monitoring in the Bill are settled (a Lords amendment is contemplated in this area) and we are under a commitment to consult with the FEA/FEC on the detail of the monitoring regulations.
3. Work will start on the preparation of the Commencement Order whenever it becomes clear if the Bill is to be introduced sequentially or on one specific date. The working assumption in this minute is that of the Joint Planning Group (ie) that we are aiming at a 1 January 1990 start up date.
4. The regulations on (4) above - monitoring - are subject to negative resolution at Westminster while (1), (2), (3) and (5) above are subject to negative resolution of the Assembly. In all cases the "21 day rule" applies which means that an interval of at least 21 calendar days must elapse between the

laying of a statutory instrument and its coming into operation. However a Commencement Order is not subject to the 21 day rule and comes into operation as soon as it is made.

5. Assuming that the main provisions of the Bill are to come into effect on 1 January 1990, there should be no major difficulty in completing the necessary work on the subordinate legislation listed above within this timescale.

CODE OF PRACTICE

6. The Bill provides for a Code of Practice to be prepared and published by the Fair Employment Commission but as it will take the Commission some time to produce its own Code there is a transitional provision which means that the guide to good manpower policy and practice - issued by the Department under the 1976 Act - shall be the first Code of Practice when the new Act comes into operation. The current Guide must be revised in order to take account of the provisions in the Bill and this process is underway. However, a formal consultation process has to be undertaken and this cannot be started until the Bill's provisions have been finalised, which will not be before the end of July.
7. Initial consultation on the draft revised Guide will take two months, after which there is likely to be a need for a further, more limited, consultation. Printing and distribution will take a minimum of six weeks (as with the previous Guide, copies will have to be sent to all 25,000 employers in Northern Ireland) so it is likely to be very close to Christmas before the Guide is in the hands of employers.
8. The intention would be to bring the revised Guide - which will be issued under the 1976 Act - into effect at the end of December 1989 so that it becomes the first Code of Practice at the beginning of January 1990.

PUBLICITY SURROUNDING LAUNCH OF THE NEW LEGISLATION

9. The Washington Embassy have suggested a number of publicity initiatives centred around Labor Day on 4 September 1989. In particular they have requested a glossy brochure (akin to that produced on publication of the Bill last December) which would set out the main provisions of the new Act and the date(s) on which its provisions would come into operation. This document would be required in the United States by mid to late August.
10. This presents a tight deadline for printing and distribution but it should be possible to meet it provided the final text can be cleared by 31 July 1989. The chief difficulty here is not the drafting of the text with regard to the Bill's provisions but the need - as indicated by the Washington Embassy - to include in the brochure firm dates for the coming into operation of the Bill's provisions. The Joint Planning Group may not consider it prudent or possible to give an unequivocal commitment so far in advance to implementation on, say, 1 January 1990.