

the last known addresses of the parties as they appear on the records of the department.

History: Cr. Register September, 1972, No. 201, eff. 10-1-72.

Ind 88.07 Answer. (1) **CONTENT.** An answer shall be a written statement which admits such allegations in the complaint as are true, denies such allegations as are controverted by the respondent or as to which the respondent has insufficient information or knowledge to form a belief, and asserts any matter constituting a defense.

(2) **FILING.** The answer shall be filed with the department within 10 days from the date of service of the notice of hearing and complaint. A copy of the answer shall be transmitted to the complainant by the department.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.08 Hearings. (1) **PROCEDURE.** Where the department on its own motion deems a hearing appropriate or required by law, and it is impracticable for the full commission to hear or read all the evidence, the department shall designate an examiner to conduct such hearing. Hearings shall be conducted in conformity with these rules and with the provisions of chapter 227, Wis. Stats.

(2) **APPEARANCE OF PARTIES.** Either party may appear at the hearing, may be allowed to call, examine and cross-examine witnesses, and may introduce papers, documents or other evidence, in person or by counsel.

(3) **ACCELERATION OF HEARING.** The parties may consent by written stipulation to a hearing within less than 10 days after the service of the complaint and notice of hearing.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.085 Findings and order. (1) **RECOMMENDED FINDINGS AND ORDER, WRITTEN EXCEPTIONS, ORAL ARGUMENT.** The hearing examiner shall prepare a summary of the evidence which, together with recommendations as to the findings of fact, conclusions of law and proposed order shall be issued and served upon each party. Each party shall be allowed a period of 20 calendar days from the date of issuance thereof to file written exceptions to such summary and proposed findings. Where requested, a reasonable opportunity shall be afforded for oral arguments.

(2) **DEPARTMENT FINDINGS AND ORDER.** The department findings may be made upon the basis of the hearing examiner's summary and any written exceptions thereto which are duly filed. If the department finds that the respondent has not engaged in discrimination as alleged in the complaint, it shall serve a certified copy of its findings on the parties together with an order dismissing the complaint. If the department finds that the respondent has engaged in discrimination in violation of the act, the department shall make written findings and recommend such action by the respondent as will effectuate the purposes of the act, and shall serve a certified copy of the findings and recommendations on the parties together with an order requiring the respondent to comply with the recommendations. Whenever the department's findings and order are contrary to the recommendations of the hearing examiner, its decision shall include a state-

ment of the facts and ultimate conclusions relied upon in rejecting the recommendations of the hearing examiner.

(3) **SERVICE OF DECISION.** Every decision when made, signed and filed shall be served forthwith, by personal delivery or mailing, of a certified copy to each party to the proceedings or to his attorney of record.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.09 Subpoenas and motions. (1) **SUBPOENAS AND SUBPOENAS DUCES TECUM.** The department or its duly authorized agent may issue subpoenas and subpoenas duces tecum on its own motion or upon proper application by any party, whenever necessary to compel the attendance of witnesses or the introduction of books, records, correspondence, documents, or other evidence which relate to the proceeding. Service shall be in the manner prescribed by law for the service of subpoenas.

(2) **FAILURE TO OBEY SUBPOENAS.** On the failure of any person to obey a subpoena or subpoena duces tecum issued by the department, the matter may be referred to the attorney general's office for enforcement pursuant to section 885.12, Wis. Stats.

(3) **MOTIONS.** Motions and objections made during a hearing shall be stated orally and shall, with the ruling of the examiner, be included in the report of the hearing. All other motions shall be in writing stating briefly the relief requested and the grounds therefor. An original and 3 copies of the motion and any answer thereto shall be filed with the department. All motions shall be decided without further testimony or argument unless requested by the department.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.10 Judicial review. Findings and orders of the department under the act are subject to judicial review under chapter 227, Wis. Stats. The department will notify the parties of their right to judicial review.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.13 Posting provision of act. Every employer, employment agency, and labor organization subject to the act, shall post and keep posted in conspicuous places upon its premises a poster prepared and made available by the department relating to the public policy contained in the act.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.20 History: Cr. Register, April, 1972, No. 196, eff. 6-1-72; emerg. am. eff. 5-12-72; emerg. r. eff. 8-15-72; r. Register, September, 1972, No. 201, eff. 10-1-72.

Ind 88.50 Pre-employment inquiries and employment records. An employer subject to the act may make such pre-employment inquiries and keep such employment records as will enable said employer to determine statistically the age, race, color, handicap, sex, creed, and national origin or ancestry of applicants and employees. Pre-employment inquiries and employment records which tend directly or indi-

Register, July, 1973, No. 211
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rectly to disclose such information do not constitute unlawful discrimination per se.¹

Note: The department, when investigating complaints under sections 111.31-111.37, Wis. Stat., will pay particular attention to the use of such pre-employment inquiries and employment records by the party against whom the complaint has been made.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; r. and recr., Register, July, 1973, No. 211, eff. 8-1-73.

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