

*Status: Point in time view as at 03/04/2011.*

**Changes to legislation:** *There are currently no known outstanding effects for the Employment Act (Northern Ireland) 2011, Cross Heading: Dispute resolution procedures. (See end of Document for details)*



## 2011 CHAPTER 13

### *Dispute resolution procedures*

#### **Repeal of statutory grievance procedures**

**1.—(1)** In the Employment (Northern Ireland) Order 2003 (NI 15) the following provisions (which relate to the statutory grievance procedures) are repealed—

- (a) Articles 19 and 20;
- (b) Part 2 of Schedule 1.

(2) Schedule 1 (which contains amendments consequential on subsection (1)) has effect.

#### **Commencement Information**

- II** [S. 1](#) wholly in operation at 3.4.2011, see [s. 17\(1\)](#) and [S.R. 2011/159](#), [art. 2](#) (subject to transitional provisions and savings in [art. 3](#), [Sch.](#))

#### **Statutory dispute resolution procedures: effect on contracts of employment**

**2** Article 16 of the Employment (Northern Ireland) Order 2003 (which provides for every contract of employment to have effect to require the employer and employee to comply with statutory dispute resolution procedures) is repealed.

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#### Commencement Information

- I2** S. 2 wholly in operation at 3.4.2011, see s. 17(1) and S.R. 2011/159, art. 2 (subject to transitional provisions and savings in art. 3, Sch.)

### Statutory dispute resolution procedures: consequential adjustment of time limits

**3** Articles 21 and 22 of the Employment (Northern Ireland) Order 2003 (which make provision about time limits for beginning proceedings where a statutory dispute resolution procedure applies) are repealed.

#### Commencement Information

- I3** S. 3 wholly in operation at 3.4.2011, see s. 17(1) and S.R. 2011/159, art. 2 (subject to transitional provisions and savings in art. 3, Sch.)

### Non-compliance with statutory Codes of Practice

**4.—(1)** The Industrial Relations (Northern Ireland) Order 1992 (NI 5) is amended as follows.

(2) After Article 90 insert—

#### “Effect of failure to comply with Code: adjustment of awards

**90AA.—(1)** This Article applies to proceedings before—

- (a) an industrial tribunal relating to a claim by an employee under any of the jurisdictions listed in Schedule 4A;
- (b) the Fair Employment Tribunal relating to a claim by an employee under Article 38 of the Fair Employment (Northern Ireland) Order 1998;

and references in this Article to “the tribunal” are to be read accordingly.

(2) If, in the case of proceedings to which this Article applies, it appears to the tribunal that—

- (a) the claim to which the proceedings relate concerns a matter—
  - (i) to which a relevant Code of Practice applies, and
  - (ii) to which a statutory dispute resolution procedure does not apply;
- (b) the employer has failed to comply with that Code in relation to that matter, and
- (c) that failure was unreasonable,

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the tribunal may, if it considers it just and equitable in all the circumstances to do so, increase any award it makes to the employee by no more than 50%.

(3) If, in the case of proceedings to which this Article applies, it appears to the tribunal that—

- (a) the claim to which the proceedings relate concerns a matter—
  - (i) to which a relevant Code of Practice applies, and
  - (ii) to which a statutory dispute resolution procedure does not apply;
- (b) the employee has failed to comply with that Code in relation to that matter, and
- (c) that failure was unreasonable,

the tribunal may, if it considers it just and equitable in all the circumstances to do so, reduce any award it makes to the employee by no more than 50%.

(4) In this Article—

“relevant Code of Practice” means a Code of Practice issued under Article 90 which relates exclusively or primarily to procedure for the resolution of disputes;

“statutory dispute resolution procedure” means a procedure set out in Part 1 of Schedule 1 to the Employment (Northern Ireland) Order 2003.

(5) Where an award falls to be adjusted under this Article and under Article 27 or 28 of the Employment (Northern Ireland) Order 2003, the adjustment under this Article shall be made before the adjustment under that Article.

(6) The Department may by order amend Schedule 4A for the purpose of—

- (a) adding a jurisdiction to the list in that Schedule, or
- (b) removing a jurisdiction from that list.

(7) No order shall be made under paragraph (6) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”

(3) In Article 107(2) after “90(14)” insert “, 90AA(6) ”.

(4) After Schedule 4 insert as Schedule 4A the Schedule set out in Schedule 2 to this Act.

#### **Commencement Information**

- I4** S. 4 wholly in operation at 3.4.2011, see s. 17(1) and S.R. 2011/159, art. 2 (subject to transitional provisions and savings in art. 3, Sch.)

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