
STATUTORY INSTRUMENTS

2003 No. 2902

The Employment (Northern Ireland) Order 2003

PART II

INDUSTRIAL TRIBUNAL REFORM

Conciliation

3.—(1) In Article 9 of the Industrial Tribunals Order (industrial tribunal procedure regulations), in paragraph (3)(f) (power to prescribe the procedure to be followed in proceedings before an industrial tribunal), before sub-paragraph (ii) there shall be inserted—

“(ia) for postponing fixing a time and place for a hearing, or postponing a time fixed for a hearing, for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn, and”.

(2) In Article 20 of that Order (conciliation), after paragraph (2) there shall be inserted—

“(2A) Where industrial tribunal procedure regulations include provision postponing the fixing of a time and place for a hearing for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn, paragraph (2) shall have effect from the end of the postponement to confer a power on the Agency, instead of imposing a duty.”

(3) In Article 21 of that Order (conciliation procedure), paragraph (c) (which requires industrial tribunal procedure regulations, in relation to conciliation cases, to include provision postponing the hearing to give an opportunity for conciliation) shall cease to have effect.

(4) In that Article, the existing provision (as amended by paragraph (3)) shall become paragraph (1) and at the end there shall be inserted—

“(2) If industrial tribunal procedure regulations include provision postponing the fixing of a time and place for a hearing for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn, they shall also include provision for the parties to proceedings to which the provision for postponement applies to be notified that the services of the Agency may no longer be available to them after the end of the postponement.”.

Power to delegate prescription of forms, etc.

4. In Article 9 of the Industrial Tribunals Order (industrial tribunal procedure regulations), after paragraph (3) there shall be inserted—

“(3ZA) Industrial tribunal procedure regulations may—

(a) authorise the Department to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of instituting, or entering an appearance to, proceedings before industrial tribunals;

- (b) authorise the Department to prescribe requirements in relation to documents to be supplied with any such form, and
- (c) make provision about the publication of anything prescribed under authority conferred by virtue of this paragraph.”.

Determination without a hearing

5. In Article 9 of the Industrial Tribunals Order (industrial tribunal procedure regulations) for paragraph (3A) there shall be substituted—

“(3A) Industrial tribunal procedure regulations may authorise the determination of proceedings without any hearing in such circumstances as the regulations may prescribe.”

Practice directions

6. After Article 9 of the Industrial Tribunals Order there shall be inserted—

“Practice directions

9A.—(1) Industrial tribunal procedure regulations may include provision—

- (a) enabling the President to make directions about the procedure of industrial tribunals, including directions about the exercise by tribunals of powers under such regulations;
- (b) for securing compliance with such directions; and
- (c) about the publication of such directions.

(2) Industrial tribunal procedure regulations may, instead of providing for any matter, refer to provision made or to be made about that matter by directions made by the President.

(3) In this Article, “the President” means the President of the Industrial Tribunals and the Fair Employment Tribunal.”

Pre-hearing reviews

7.—(1) Article 11 of the Industrial Tribunals Order (pre-hearing reviews) shall be amended as follows.

(2) In paragraph (1) (power to make provision for pre-hearing reviews), for sub-paragraph (a) there shall be substituted—

“(a) for authorising an industrial tribunal to carry out a review of any proceedings before it at any time before a hearing held for the purpose of determining them (a “pre-hearing review”),”.

(3) After paragraph (2) there shall be inserted—

“(2A) Regulations under paragraph (1)(b), so far as relating to striking out, may not provide for striking out on a ground which does not apply outside a pre-hearing review.”

Costs, expenses and allowances

8.—(1) In Article 15 of the Industrial Tribunals Order (costs and expenses), for paragraph (1) there shall be substituted—

“(1) Industrial tribunal procedure regulations may include provision—

- (a) for the award of costs or expenses;
- (b) for the award of any allowances payable under Article 7(2)(c) or (3).

(1A) Regulations under paragraph (1) may include provision authorising an industrial tribunal to have regard to a person's ability to pay when considering the making of an award against him under such regulations.

(1B) Industrial tribunal procedure regulations may include provision for authorising an industrial tribunal—

- (a) to disallow all or part of the costs or expenses of a representative of a party to proceedings before it by reason of that representative's conduct of the proceedings;
- (b) to order a representative of a party to proceedings before it to meet all or part of the costs or expenses incurred by a party by reason of the representative's conduct of the proceedings;
- (c) to order a representative of a party to proceedings before it to meet all or part of any allowances payable by the Department under Article 7(2)(c) or (3) by reason of the representative's conduct of the proceedings.

(1C) Industrial tribunal procedure regulations may also include provision for taxing or otherwise settling the costs or expenses referred to in paragraph (1)(a) or (1B)(b) (and, in particular for enabling such costs to be taxed in the county court).”

(2) After that Article there shall be inserted—

“Payments in respect of preparation time

15A.—(1) Industrial tribunal procedure regulations may include provision for authorising an industrial tribunal to order a party to proceedings before it to make a payment to any other party in respect of time spent in preparing that other party's case.

(2) Regulations under paragraph (1) may include provision authorising an industrial tribunal to have regard to a person's ability to pay when considering the making of an order against him under such regulations.

(3) If industrial tribunal procedure regulations include—

- (a) provision of the kind mentioned in paragraph (1); and
- (b) provision of the kind mentioned in Article 15(1)(a),

they shall also include provision to prevent an industrial tribunal exercising its powers under both kinds of provision in favour of the same person in the same proceedings.”