

*Status: Point in time view as at 03/04/2011.*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, Section 14. (See end of Document for details)*



## 2011 CHAPTER 13

### *Procedure: Fair Employment Tribunal*

#### **Recovery of sums payable under compromises involving the Agency**

**14** In the Fair Employment and Treatment (Northern Ireland) Order 1998 (NI 21), after Article 88 insert—

#### **“Conciliation: recovery of sums payable under compromises**

**88A.**—(1) Paragraphs (3) to (6) apply if—

- (a) the Agency—
  - (i) has taken action under Article 88 in a case, and
  - (ii) issues a certificate in writing stating that a compromise has been reached in the case, and
- (b) all of the terms of the compromise are set out—
  - (i) in a single relevant document, or
  - (ii) in a combination of two or more relevant documents.

(2) A document is a “relevant document” for the purposes of paragraph (1) if—

- (a) it is the certificate, or
- (b) it is a document that is referred to in the certificate or that is referred to in a document that is within this sub-paragraph.

(3) Any sum payable by a person under the terms of the compromise (a “compromise sum”) shall, subject to paragraphs (4) to (7), be recoverable as if the sum were payable under an order of the Tribunal.

(4) A compromise sum is not recoverable under paragraph (3) if—

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- (a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and
  - (b) that declaration is made.
- (5) If county court rules so provide, a compromise sum is not recoverable under paragraph (3) during the period—
- (a) beginning with the issue of the certificate, and
  - (b) ending at such time as may be specified in, or determined under, county court rules.
- (6) If the terms of the compromise provide for the person to whom a compromise sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under paragraph (3) only if a county court so orders.
- (7) Once an application has been made for a declaration under paragraph (4) in relation to a sum, no further reliance may be placed on paragraph (3) for the recovery of the sum while the application is pending.
- (8) An application for a declaration under paragraph (4) may be made to the Tribunal or a county court.
- (9) Regulations under Article 84 may (in particular) make provision as to the time within which an application to the Tribunal for a declaration under paragraph (4) is to be made.
- (10) County court rules may make provision as to—
- (a) the time within which an application to a county court for a declaration under paragraph (4) is to be made;
  - (b) when an application (whether made to a county court or the Tribunal) for a declaration under paragraph (4) is pending for the purposes of paragraph (7).
- (11) Nothing in this Article shall be taken to prejudice any rights or remedies that a person has apart from this Article.
- (12) In this Article “compromise” (except in the phrase “compromise sum”) means a settlement, or compromise, to avoid proceedings or bring proceedings to an end.”.

#### **Commencement Information**

- II** S. 14 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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