

*These notes refer to the Employment Act (Northern Ireland)  
2016 (c.15) which received Royal Assent on 22nd April 2016*

# Employment Act (Northern Ireland) 2016

---

## **EXPLANATORY NOTES**

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Department for Employment and Learning (“the Department”), which has lead responsibility for employment law and employment relations in Northern Ireland, has taken forward a review of employment law guided by better regulation principles, which has sought to identify opportunities to reduce regulatory and administrative burdens on businesses, whilst protecting the rights of individual employees.
4. The review focused in particular on three key themes: early resolution of workplace disputes; efficient and effective employment tribunals; and better regulation measures.
5. As part of its work under the first theme, during 2012 and 2013, the Department engaged with stakeholders to establish whether potential industrial tribunal (IT) and Fair Employment Tribunal (FET) claims should be routed to the Labour Relations Agency (LRA) in the first instance, with a view to encouraging parties to explore options for resolving their workplace disputes without the need to go through a formal legal process. The Department also sought feedback on a proposed service to provide parties with a more informed understanding of the potential outcome of a tribunal claim, with a view to informing their choices about how to proceed when a dispute arises.
6. This engagement was taken forward in parallel with work, under the second theme, to develop a draft of substantially revised rules and procedures for industrial tribunals and the Fair Employment Tribunal.
7. Consultation explored a range of issues under the third theme. Consultees were asked to consider the merits of extending the current qualification period for unfair dismissal. In Great Britain the qualification period was extended on 6th April 2012 from one to two years, on the basis that it would increase business confidence, encourage companies to recruit more staff, and potentially reduce the number of tribunal claims. There was significant argument and counter-argument from stakeholders around whether this arrangement should also be introduced in Northern Ireland.
8. Under the third theme, stakeholders were asked for their views on whether it would be appropriate to amend the legislation specifying consultation periods which apply in collective redundancy situations. A change in Great Britain,

reducing the relevant period from 90 to 45 days, for consultations involving over 100 employees, meant that the Northern Ireland period (90 days) differed from both that operating in Great Britain (45 days) and that applicable in the Republic of Ireland (30 days).

9. Consultees were also asked about the potential for a new process of ‘protected conversations’ which, if implemented, would allow an employer to have a conversation with an employee about sensitive issues such as performance, where no employment dispute exists, on the basis that these conversations would not be admissible in an unfair dismissal tribunal hearing.
10. Views were also sought on a review of the legislation governing public interest disclosure.