STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART XI

MACHINERY FOR PROMOTING
IMPROVEMENT OF INDUSTRIAL RELATIONS

The Labour Relations Agency

Codes of Practice

90.—(1) The Agency may issue Codes of Practice containing such practical guidance as the Agency thinks fit for the purpose of promoting the improvement of industrial relations.

(2) Without prejudice to the generality of paragraph (1), the Agency shall, in one or more Codes of Practice, provide practical guidance on the following matters—

(a) the disclosure of information, in accordance with Articles 39 and 40, by employers to trade union representatives for the purpose of collective bargaining;

(b) the time off to be permitted by an employer—

(i) to a trade union official in accordance with Article 37 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(**1**), including guidance on the circumstances in which a trade union official is to be permitted to take time off under that Article in respect of duties connected with industrial action; and

(ii) to a trade union member in accordance with Article 38 of that Order, including guidance on the question whether, and the circumstances in which, a trade union member is to be permitted to take time off under that Article for trade union activities connected with industrial action.

(3) When the Agency proposes to issue a Code of Practice, it shall prepare and publish a draft of that Code, shall consider any representations made to it about the draft and may modify the draft accordingly.

(4) If the Agency determines to proceed with the draft, it shall transmit the draft to the Department which shall—

(a) if it approves of the draft, lay it before the Assembly; and

(b) if it does not approve of the draft, publish details of its reasons for withholding approval.

(5) In the case of a draft Code of Practice containing practical guidance on the matters referred to in paragraph (2)(a) or (b), if the draft is approved by resolution of the Assembly the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(**1**) 1976 NI 28

(6) In the case of a draft Code of Practice not containing such practical guidance, if, within the statutory period beginning with the day on which a copy of the draft is laid before the Assembly, the Assembly so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before the Assembly of a new draft.

(7) If no such resolution is passed as is referred to in paragraph (6), the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(8) If the Agency is of the opinion that the provisions of a Code of Practice to be issued under the preceding provisions of this Article will supersede the whole or part of a Code previously issued by it under this Article or by the Department under Article 95, it shall in the new Code state that on the day on which the new Code comes into effect in pursuance of an order under paragraph (5) or (7) the old Code or a specified part of it shall cease to have effect (subject to any transitional provisions or savings made by the order).

(9) The Agency may from time to time revise the whole or any part of a Code of Practice issued under this Article and issue that revised Code, and, subject to paragraph (10), paragraphs (3) to (7) shall apply (with appropriate modifications) to such a revised Code as they apply to the first issue of a Code.

(10) A Code of Practice issued under this Article may be revised by the Agency in accordance with paragraphs (11) to (13) for the purpose of bringing it into conformity with statutory provisions coming into operation after the Code was issued by the making of consequential amendments and the omission of obsolete passages.

(11) Where the Agency proposes to revise a Code under paragraph (10), it shall transmit a draft of the revised Code to the Department which shall—

    (a) if it approves of the draft, lay it before the Assembly; and

    (b) if it does not approve of the draft, publish details of its reasons for withholding approval.

(12) If, within the statutory period beginning with the day on which a copy of the draft is laid before the Assembly, the Assembly so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before the Assembly of a new draft.

(13) If no such resolution is passed as is referred to in paragraph (12), the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(14) A Code of Practice issued under this Article may be revoked by an order made by the Department; but no such order shall be made—

    (a) except at the request of the Agency; and

    (b) unless a draft of the order has been laid before and approved by resolution of the Assembly.

(15) If the Agency requests the Department to revoke a Code of Practice issued under this Article and the Department decides not to do so, the Department shall publish details of its reasons for withholding approval.

(16) A failure on the part of any person to observe any provision of a Code of Practice issued under this Article shall not of itself render him liable to any proceedings; but in any proceedings before an industrial tribunal or the Industrial Court—

    (a) any such Code shall be admissible in evidence; and

    (b) any provision of the Code which appears to the tribunal or Industrial Court to be relevant to any question arising in the proceedings shall be taken into account in determining that question.

(17) Without prejudice to Article 107(3), an order under paragraph (5), (7), (13) or (14) may contain such transitional provisions or savings as appear to the Department to be necessary or

expedient in connection with the Code of Practice thereby brought into operation or (as the case may be) revoked.