
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Industrial Relations (Northern Ireland) Order 1992.

(2) This Order shall come into operation on such day or days as the Head of the Department of Economic Development may by order appoint.

(3) Without prejudice to Article 107(3), an order under paragraph (2) may contain such transitional and supplementary provisions as appear to the Head of the Department of Economic Development to be necessary or expedient.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(1) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“act” and “action” each includes omission and references to doing an act or taking action shall be construed accordingly;

“the Agency” means the Labour Relations Agency;

“the appointed day”, in any provision, means the day appointed under Article 1(2) for the coming into operation of that provision;

“the Certification Officer” means the Certification Officer for Northern Ireland;

“collective agreement” means any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers or employers' associations and relating to one or more of the matters mentioned in paragraph (4);

“collective bargaining” means negotiations relating to or connected with one or more of the matters mentioned in paragraph (4);

“the Commissioner” means the Northern Ireland Commissioner for the Rights of Trade Union Members;

“the Companies Order” means the Companies (Northern Ireland) Order 1986(2);

“conduct” includes statements and acts;

“contract of employment” means a contract of service or of apprenticeship, whether it is express or implied and (if it is express) whether it is oral or in writing;

(1) 1954 c. 33 (N.I.)

(2) 1986 NI 6

“contravention”, in relation to any order of a court or other requirement, includes a failure to comply;

“the Department” means the Department of Economic Development;

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment, otherwise than in police service;

“employer”(subject to paragraph (3))—

- (a) where the reference is to an employer in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed; and
- (b) in any other case, means a person regarded in that person’s capacity as one for whom one or more workers work, or have worked or normally work or seek to work;

“employers' association” has the meaning assigned to it by Article 4(1) and (2);

“general secretary” , in relation to a trade union or employers' association, means the official of the union or association who holds the office of general secretary or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of general secretary;

“independent trade union” means a trade union which—

- (a) is not under the domination or control of an employer or a group of employers or of one or more employers' associations; and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control;

and, in relation to a trade union, “independence” and “independent” shall be construed accordingly;

“individual proprietor” means an individual who is the owner of an undertaking;

“the Industrial Court” means the Industrial Court constituted under Article 91;

“the No. 1 Order” means the Industrial Relations (Northern Ireland) Order 1976(3);

“officer” , in relation to a trade union or an employers' association, includes any member of the governing body of that union or association and any trustee of any fund applicable for the purposes of that union or association;

“official” , in relation to a trade union, means any person who is an officer of the union or of a branch or section of the union or who (not being such an officer) is a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, including any person so elected or appointed who is an employee of the same employer as the members, or one or more of the members, whom he is to represent;

“police service” means service—

- (a) as a member of the Royal Ulster Constabulary;
- (b) as a member of the Royal Ulster Constabulary Reserve;
- (c) in any other capacity by virtue of which a person has the powers or privileges of a constable;

“president” , in relation to a trade union or employers' association, means the official of the union or association who holds the office of president or, where there is no such office, who holds the office which is equivalent, or the nearest equivalent, to that of president;

“principal executive committee” , in relation to a trade union or employers' association, means the principal committee of the union or association exercising executive functions, by whatever name it is known;

“regulations” means regulations made by the Department;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(4);

“strike” means any concerted stoppage of work;

“trade dispute”—

(a) in Part XI, has the meaning assigned to it by Article 96;

(b) in the other provisions of this Order, has the meaning assigned to it by paragraphs (4) to (7);

“trade union” has the meaning assigned to it by Article 3(1);

“worker” (subject to paragraph (3)) means an individual regarded in whichever (if any) of the following capacities is applicable to him, that is to say, as a person who works or normally works or seeks to work—

(a) under a contract of employment; or

(b) under any other contract (whether express or implied, and, if express, whether oral or in writing) whereby he undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his; or

(c) in employment under or for the purposes of a Northern Ireland department or a department of the Government of the United Kingdom (otherwise than as a member of the naval, military or air forces of the Crown) in so far as any such employment does not fall within sub-paragraph (a) or (b),

otherwise than in police service.

(3) Without prejudice to the generality of the definitions in paragraph (2), in this Order—

(a) “worker” includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, in accordance with arrangements made by a Health and Social Services Board under Article 56, 61, 62 or 63 of the Health and Personal Social Services (Northern Ireland) Order 1972(5);

(b) “employer” includes any Health and Social Services Board in accordance with whose arrangements a person provides or has provided or normally provides or seeks to provide any such service as aforesaid.

(4) In this Order (except Part XI) “trade dispute” means a dispute between workers and their employer which relates wholly or mainly to one or more of the following, that is to say—

(a) terms and conditions of employment, or the physical conditions in which any workers are required to work;

(b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;

(c) allocation of work or the duties of employment as between workers or groups of workers;

(d) matters of discipline;

(e) the membership or non-membership of a trade union on the part of a worker;

(f) facilities for officials of trade unions;

(4) 1954 c. 33 (N.I.)

(5) 1972 NI 14

(g) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.

(5) A dispute between a Minister of the Crown or Department of the Government of Northern Ireland and any workers shall, notwithstanding that the Minister or the Department is not the employer of those workers, be treated for the purposes of this Order (except Part XI) as a dispute between those workers and their employer if the dispute relates—

- (a) to matters which have been referred for consideration by a joint body on which, by virtue of any provision made by or under any statutory provision, that Minister or that Department is represented; or
- (b) to matters which cannot be settled without that Minister or that Department exercising a power conferred by or under any statutory provision.

(6) In paragraphs (4) and (5)—

“employment” includes any relationship whereby one person personally does work or performs services for another;

“worker”, in relation to a dispute with an employer, means—

- (a) a worker employed by that employer; or
- (b) a person who has ceased to be employed by that employer where—
 - (i) his employment was terminated in connection with the dispute; or
 - (ii) the termination of his employment was one of the circumstances giving rise to the dispute.

(7) There is a trade dispute for the purposes of this Order (except Part XI) even though it relates to matters occurring outside the United Kingdom, so long as the person or persons whose actions in the United Kingdom are said to be in contemplation or furtherance of a trade dispute relating to matters occurring outside the United Kingdom are likely to be affected in respect of one or more of the matters specified in paragraph (4) by the outcome of that dispute.

(8) An act, threat or demand done or made by one person or organisation against another which, if resisted, would have led to a trade dispute with that other, shall, notwithstanding that because that other submits to the act or threat or accedes to the demand no dispute arises, be treated for the purposes of this Order as being done or made in contemplation of a trade dispute with that other.

(9) For the purposes of this Order, a ballot or a contested election is held on the day or, in the case of a ballot or election in which votes may be cast on more than one day, the last day for the casting of votes in the ballot or election, being, in the case of a ballot or election in which votes are cast by the return of voting papers to a particular person, the last day for the return of those papers to that person; and an uncontested election is deemed to be held on the day on which it would have been held if it had been contested; and references in this Order to the date of a ballot or election are references to the day on which the ballot or election is held.

(10) For the purposes of this Order any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and in this Order “associated employer” shall be construed accordingly.

(11) For the purposes of this Order it is immaterial whether the law which (apart from this Order) governs any person’s employment is the law of the United Kingdom, or of a part of the United Kingdom, or not.