
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XI

UNFAIR DISMISSAL

CHAPTER I

RIGHT NOT TO BE UNFAIRLY DISMISSED

Exclusion of right

Dismissal procedures agreements

142.—(1) Where a dismissal procedures agreement is designated by an order under paragraph (3) which is for the time being in force—

- (a) the provisions of that agreement relating to dismissal shall have effect in substitution for any rights under Article 126, and
- (b) accordingly, Article 126 does not apply to the dismissal of an employee from any employment if it is employment to which, and he is an employee to whom, those provisions of the agreement apply.

[^{F1}(2) But if the agreement includes provision that it does not apply to dismissals of particular descriptions, paragraph (1) does not apply in relation to a dismissal of any such description.]

(3) An order designating a dismissal procedures agreement may be made by the Department, on an application being made to it jointly by all the parties to the agreement, if it is satisfied that—

- (a) every trade union which is a party to the agreement is an independent trade union,
- (b) the agreement provides for procedures to be followed in cases where an employee claims that he has been, or is in the course of being, unfairly dismissed,
- (c) those procedures are available without discrimination to all employees falling within any description to which the agreement applies,
- (d) the remedies provided by the agreement in respect of unfair dismissal are on the whole as beneficial as (but not necessarily identical with) those provided in respect of unfair dismissal by this Part,

[^{F1}(e) the agreement includes provision either for arbitration in every case or for—

- (i) arbitration where (by reason of equality of votes or for any other reason) a decision under the agreement cannot otherwise be reached, and
- (ii) a right to submit to arbitration any question of law arising out of such a decision, and]
- (f) the provisions of the agreement are such that it can be determined with reasonable certainty whether or not a particular employee is one to whom the agreement applies.

Status: Point in time view as at 01/01/2006.

Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Section 142 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F2}(4) If at any time when an order under paragraph (3) is in force in relation to a dismissal procedures agreement the Department is satisfied, whether on an application made to it by any of the parties to the agreement or otherwise, either—

- (a) that it is the desire of all the parties to the agreement that the order should be revoked, or
- (b) that the agreement no longer satisfies all the conditions specified in paragraph (3),

the Department shall revoke the order by an order under this paragraph.

(5) The transitional provisions which may be made in an order under paragraph (4) include, in particular, provisions directing—

- (a) that an employee—
 - (i) shall not be excluded from his right under Article 126 where the effective date of termination falls within a transitional period which ends with the date on which the order takes effect and which is specified in the order, and
 - (ii) shall have an extended time for presenting a complaint under Article 145 in respect of a dismissal where the effective date of termination falls within that period, and
- (b) that, where the effective date of termination falls within such a transitional period, an industrial tribunal shall, in determining any complaint of unfair dismissal presented by an employee to whom the dismissal procedures agreement applies, have regard to such considerations as are specified in the order (in addition to those specified in this Part and Article 12(4) and (5) of the Industrial Tribunals (Northern Ireland) Order 1996).

[^{F1}(6) Where an award is made under a designed dismissal procedures agreement it may be enforced, by leave of a county court, in the same manner as a judgement of the court to the same effect and, where leave is given, judgement may be entered in terms of the award.]

F1 1998 NI 8

F2 prosp. insertion by 2003 NI 15

Status:

Point in time view as at 01/01/2006.

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