
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XIII

PROCEDURE FOR HANDLING REDUNDANCIES

Duty of employer to consult representatives of employees

Complaint and protective award

217.—^[F1](1) Where an employer has failed to comply with a requirement of Article 216 or Article 216A, a complaint may be presented to an industrial tribunal on that ground—

- (a) in the case of a failure relating to the election of employee representatives, by any of the affected employees or by any of the employees who have been dismissed as redundant,
- (b) in the case of any other failure relating to employee representatives, by any of the employee representatives to whom the failure related,
- (c) in the case of failure relating to representatives of a trade union, by the trade union, and
- (d) in any other case, by any of the affected employees or by any of the employees who have been dismissed as redundant.]

^[F1(1A)] If on a complaint under paragraph (1) a question arises as to whether or not any employee representative was an appropriate representative for the purposes of Article 216, it shall be for the employer to show that the employee representative had the authority to represent the affected employees.

(1B) On a complaint under paragraph (1)(a) it shall be for the employer to show that the requirements in Article 216A have been satisfied.]

(2) If the tribunal finds the complaint well-founded it shall make a declaration to that effect and may also make a protective award.

(3) A protective award is an award in respect of one or more descriptions of employees—

- (a) who have been dismissed as redundant, or whom it is proposed to dismiss as redundant, and
- (b) in respect of whose dismissal or proposed dismissal the employer has failed to comply with a requirement of Article 216,

ordering the employer to pay remuneration for the protected period.

(4) The protected period—

- (a) begins with the date on which the first of the dismissals to which the complaint relates takes effect, or the date of the award, whichever is the earlier, and
- (b) is of such length as the tribunal determines to be just and equitable in all the circumstances having regard to the seriousness of the employer's default in complying with any requirement of Article 216;

Status: Point in time view as at 01/01/2006. This version of this provision has been superseded.

Changes to legislation: The Employment Rights (Northern Ireland) Order 1996, Section 217 is up to date with all changes known to be in force on or before 20 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)

but shall not exceed 90 days^{F1}

(5) An industrial tribunal shall not consider a complaint under this Article unless it is presented to the tribunal—

- (a) before the date on which the last of the dismissals to which the complaint relates takes effect, or
- (b) during the period of three months beginning with that date, or
- (c) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented during that period of three months.

(6) If on a complaint under this Article a question arises—

- (a) whether there were special circumstances which rendered it not reasonably practicable for the employer to comply with any requirement of Article 216, or
- (b) whether he took all such steps towards compliance with that requirement as were reasonably practicable in those circumstances,

it is for the employer to show that there were and that he did.

F1 SR 1999/432

Status:

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