
STATUTORY INSTRUMENTS

1998 No. 3162

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART IX

THE FAIR EMPLOYMENT TRIBUNAL

Other methods of dispute resolution

Conciliation

88.—(1) Where a complaint is presented to the Tribunal under Article 38, the Tribunal shall send a copy of the complaint to the Agency and it shall be the duty of the Agency—

- (a) if it is requested to do so by both the complainant and the respondent; or
- (b) if, in the absence of any such request, the Agency considers that it could act under this paragraph with a reasonable prospect of success,

to endeavour to promote a settlement of the complaint without its being determined by the Tribunal.

(1A) ^{F1}

(2) Where, before a complaint has been presented to the Tribunal, a request is made to the Agency to make its services available in the matter by a person who, if the complaint were so presented, would be the complainant or respondent, [^{F2}the Agency may endeavour to promote a settlement between the parties without proceedings being instituted.]

(3) In proceeding under paragraph (1) or (2), the Agency shall where appropriate have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.

(4) Anything communicated to the Agency in connection with the performance of its functions under this Article shall not be admissible in evidence in any proceedings before the Tribunal except with the consent of the person who communicated it to the Agency.

<p>F1 Art. 88(1A) repealed (3.4.2011) by Employment Act (Northern Ireland) 2011 (c. 13), ss. 13, 16, 17(1), Sch. 4; S.R. 2011/159, art. 2</p> <p>F2 Words in art. 88(2) substituted (3.4.2011) by Employment Act (Northern Ireland) 2011 (c. 13), ss. 12, 17(1); S.R. 2011/159, art. 2</p>

[^{F3}Conciliation: recovery of sums payable under compromises

88A.—(1) Paragraphs (3) to (6) apply if—

- (a) the Agency—
 - (i) has taken action under Article 88 in a case, and

Status: Point in time view as at 03/04/2011.

Changes to legislation: There are currently no known outstanding effects for the The Fair Employment and Treatment (Northern Ireland) Order 1998, Cross Heading: Other methods of dispute resolution. (See end of Document for details)

- (ii) issues a certificate in writing stating that a compromise has been reached in the case, and
- (b) all of the terms of the compromise are set out—
- (i) in a single relevant document, or
 - (ii) in a combination of two or more relevant documents.
- (2) A document is a “relevant document” for the purposes of paragraph (1) if—
- (a) it is the certificate, or
 - (b) it is a document that is referred to in the certificate or that is referred to in a document that is within this sub-paragraph.
- (3) Any sum payable by a person under the terms of the compromise (a “compromise sum”) shall, subject to paragraphs (4) to (7), be recoverable as if the sum were payable under an order of the Tribunal.
- (4) A compromise sum is not recoverable under paragraph (3) if—
- (a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and
 - (b) that declaration is made.
- (5) If county court rules so provide, a compromise sum is not recoverable under paragraph (3) during the period—
- (a) beginning with the issue of the certificate, and
 - (b) ending at such time as may be specified in, or determined under, county court rules.
- (6) If the terms of the compromise provide for the person to whom a compromise sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under paragraph (3) only if a county court so orders.
- (7) Once an application has been made for a declaration under paragraph (4) in relation to a sum, no further reliance may be placed on paragraph (3) for the recovery of the sum while the application is pending.
- (8) An application for a declaration under paragraph (4) may be made to the Tribunal or a county court.
- (9) Regulations under Article 84 may (in particular) make provision as to the time within which an application to the Tribunal for a declaration under paragraph (4) is to be made.
- (10) County court rules may make provision as to—
- (a) the time within which an application to a county court for a declaration under paragraph (4) is to be made;
 - (b) when an application (whether made to a county court or the Tribunal) for a declaration under paragraph (4) is pending for the purposes of paragraph (7).
- (11) Nothing in this Article shall be taken to prejudice any rights or remedies that a person has apart from this Article.
- (12) In this Article “compromise” (except in the phrase “compromise sum”) means a settlement, or compromise, to avoid proceedings or bring proceedings to an end.]

F3 [Art. 88A](#) inserted (3.4.2011) by [Employment Act \(Northern Ireland\) 2011 \(c. 13\)](#), [ss. 14, 17\(1\)](#); [S.R. 2011/159](#), [art. 2](#)

Labour Relations Agency arbitration scheme

89.—(1) The Agency may prepare a scheme providing for arbitration in the case of disputes involving proceedings, or claims which could be the subject of proceedings, before the Tribunal.

(2) When the Agency has prepared such a scheme it shall submit a draft of the scheme to the Department which, if it approves the scheme, shall make an order—

- (a) setting out the scheme; and
- (b) making provision for it to come into effect.

(3) The Agency may from time to time prepare a revised version of such a scheme and, when it has done so, shall submit a draft of the revised scheme to the Department which, if it approves the scheme, shall make an order—

- (a) setting out the revised scheme; and
- (b) making provision for it to come into effect.

(4) The Agency may take any steps appropriate for promoting awareness of a scheme prepared under this Article.

(5) Where the parties to any dispute within paragraph (1) agree in writing to submit the dispute to arbitration in accordance with a scheme having effect by virtue of an order under this Article, the Agency shall refer the dispute to the arbitration of a person appointed by the Agency for the purpose (not being an officer or employee of the Agency).

(6) Nothing in the Arbitration Act 1996 shall apply to an arbitration conducted in accordance with a scheme having effect by virtue of an order under this Article except to the extent that the order provides for any provision of Part I of that Act so to apply; and the order may provide for any such provision so to apply subject to modifications.

Status:

Point in time view as at 03/04/2011.

Changes to legislation:

There are currently no known outstanding effects for the The Fair Employment and Treatment (Northern Ireland) Order 1998, Cross Heading: Other methods of dispute resolution.