

THE EMPLOYMENT (NORTHERN IRELAND) ORDER 2003

S.I. 2003 No. 2902 (N.I. 15)

EXPLANATORY MEMORANDUM

MAIN ELEMENTS OF THE ORDER

8. Part I of the Order makes provision for the commencement of the Order and includes interpretation and definitions. Part II makes provisions for reform of the industrial tribunals, and Part III provides for analogous changes to be made to the Fair Employment Tribunal. Part IV contains provision for dispute resolution: Articles 15-23 deal with statutory procedures, and Articles 24-28 are concerned with employment particulars. Part V contains miscellaneous provisions. Article 30 provides for a questionnaire procedure where a person considers that he or she may have an equal pay claim. Article 31 provides a statutory right to time off for trade union learning representatives. Article 32 makes provision regarding dismissal procedures agreements. Article 33 enables the Certification Officer for Northern Ireland to appoint one or more assistants to whom duties may be delegated. Part VI makes supplementary provisions. Schedule 1 outlines new minimum statutory dispute resolution procedures. Schedules 2, 3 and 4 list industrial tribunal jurisdictions covered under Articles 17, 19 and 27 respectively. Schedule 5 lists consequential amendments and Schedule 6 contains repeals to existing legislation.
9. Specifically, the Order will introduce:
 - measures to encourage the resolution of disputes in the workplace, or by conciliation, to reduce the pressure on industrial tribunals and the Fair Employment Tribunal;
 - minimum statutory disciplinary and grievance procedures in every workplace;
 - measures to improve compliance with the requirement that all employers provide their employees with a statement of their employment terms within two months of starting work;
 - scope for tribunals, when making awards, to have regard to whether or not employers or employees, without reasonable cause, have failed to follow minimum procedures. This is aimed at encouraging parties to raise grievances firstly under the statutory procedure, rather than immediately seeking redress by means of a tribunal. In recognition of the time taken to follow statutory procedures, the time allowed for lodgement of a tribunal application will be extended;
 - a short, voluntary fixed period of conciliation to promote early settlement of disputes and to help avoid the inconvenience and costs of settlements on the tribunal steps. It will be possible to extend the conciliation period where a settlement seems likely;
 - mandatory use of prescribed forms both to institute tribunal proceedings and to enter a notice of appearance. This measure is designed to encourage clear statements of a case at an early stage before going to tribunal;
 - determination without a hearing where both parties agree, to facilitate the rapid processing of simple cases;
 - a power for the President of tribunals to issue practice directions, to increase consistency in tribunal determinations;

*This Explanatory Memorandum refers to the The Employment
(Northern Ireland) Order 2003No. 2902 (N.I. 15)*

- changes to the costs regime to allow tribunals to include, in the calculation of awards against unreasonable behaviour, a contribution towards the time the applicant or respondent has spent in preparing the case;
- a power for tribunals to award costs against representatives who charge for their services;
- a power for tribunals to strike out weak claims at a pre-hearing;
- an automatic unfair dismissal ruling where an employer has failed to follow minimum disciplinary procedures in making the dismissal;
- the ability for tribunals to disregard employers' procedural errors beyond the statutory minimum if adherence to the full procedure would have made no difference to the outcome of the case;
- equal pay questionnaires where an equal value claim is made in the workplace;
- analogous rights to paid time off for trade union learning representatives for training and for carrying out their duties as are enjoyed by shop stewards and other union representatives at workplaces where a union is recognised for collective bargaining purposes;
- time off for employees to make use of their union learning representative's services; and
- a power for the Certification Officer for Northern Ireland to appoint one or more assistants to whom functions may be delegated.