
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 173

Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 1996

Citation, commencement and revocations

1.—(1) These Regulations may be cited as the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 1996 and the Rules of Procedure contained in Schedules 1, 2, 3, 4 and 5 may be referred to, respectively, as—

- (a) the Industrial Tribunals Rules of Procedure 1996;
- (b) the Industrial Tribunals Complementary Rules of Procedure 1996;
- (c) the Industrial Tribunals (Levy Appeals) Rules of Procedure 1996;
- (d) the Industrial Tribunals (Improvement and Prohibition Notices Appeals) Rules of Procedure 1996; and
- (e) the Industrial Tribunals (Non-Discrimination Notices Appeals) Rules of Procedure 1996.

(2) These Regulations shall come into operation on 1st June 1996.

(3) The following Regulations are hereby revoked—

- (a) the Industrial Tribunals Regulations (Northern Ireland) 1965(1);
- (b) the Industrial Tribunals (Amendment) Regulations (Northern Ireland) 1966(2);
- (c) the Industrial Tribunals (Amendment) Regulations (Northern Ireland) 1967(3);
- (d) the Industrial Tribunals (Improvement and Prohibition Notice Appeals) Regulations (Northern Ireland) 1979(4);
- (e) the Industrial Tribunals (Non-Discrimination Notice Appeals) Regulations (Northern Ireland) 1980(5);
- (f) the Industrial Tribunals (Rules of Procedure) Regulations (Northern Ireland) 1981(6);
- (g) the Industrial Tribunals (Rules of Procedure) (Equal Value Amendment) Regulations (Northern Ireland) 1984(7); and
- (h) the Industrial Tribunals (Miscellaneous Amendments) Regulations (Northern Ireland) 1989(8).

Interpretation

2.—(1) In these Regulations—

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- (1) S.R. & O. (N.I.) 1965 No. 112
 - (2) (a) S.R. & O. (N.I.) 1966 No. 261
 - (3) S.R. & O. (N.I.) 1967 No. 109
 - (4) S.R. 1979 No. 324
 - (5) S.R. 1980 No. 135
 - (6) S.R. 1981 No. 188
 - (7) S.R. 1984 No. 40
 - (8) S.R. 1989 No. 446

“the Act of 1970” means the Equal Pay Act (Northern Ireland) 1970⁽⁹⁾;

“applicant” means a person who presents an originating application or notice of appeal to the Secretary for a decision of a tribunal and includes—

- (a) the Department;
- (b) a claimant or complainant; and
- (c) in relation to an interlocutory application under a rule, a person who seeks any relief, and subject to paragraph (3) “appellant” shall be construed accordingly;

“the clerk” means the person appointed as clerk to the tribunal by the Secretary to act in that capacity at one or more hearings;

“the Commission” means the Equal Opportunities Commission for Northern Ireland established under Article 54 of the Order of 1976;

“decision” in relation to a tribunal includes a declaration, an order (other than an interlocutory order), a recommendation or an award of the tribunal;

“equal value claim” means a claim by an applicant which rests upon entitlement to the benefit of an equality clause by virtue of the operation of section 1(2)(c) of the Act of 1970⁽¹⁰⁾;

“hearing” means a sitting of a tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on any question;

“the Office of the Tribunals” means the Office of the Industrial Tribunals and the Fair Employment Tribunal;

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

“the Order of 1976” means the Sex Discrimination (Northern Ireland) Order 1976⁽¹¹⁾;

“the Order of 1978” means the Health and Safety at Work (Northern Ireland) Order 1978⁽¹²⁾;

“the Order of 1984” means the Industrial Training (Northern Ireland) Order 1984⁽¹³⁾;

“the panel of chairmen” means the panel appointed under regulation 4(1)(a);

“the President” means the President of the Industrial Tribunals and the Fair Employment Tribunal or the person nominated by the Lord Chancellor under section 3(6) of the Fair Employment (Northern Ireland) Act 1989⁽¹⁴⁾ to discharge the functions of the President;

“Register” means the Register of applications, appeals and decisions maintained in pursuance of regulation 7;

“rule” means a rule of procedure contained in the Schedules;

“the Secretary” means the person appointed to act as the Secretary of the Office of Tribunals; and

“tribunal” means an industrial tribunal; and

“Vice-President” means the Vice-President of the Industrial Tribunals and the Fair Employment Tribunal or the person nominated by the Lord Chancellor under section 3(6) of the Fair Employment (Northern Ireland) Act 1989 to discharge the functions of Vice-President.

(2) In these Regulations, in so far as they relate to the rules in Schedules 1 and 2—

“the Agency” means the Labour Relations Agency;

⁽⁹⁾ 1970 c. 32 (N.I.) as amended by S.R. 1984 No. 16

⁽¹⁰⁾ As inserted by S.R. 1984 No. 16 Article 2(1)

⁽¹¹⁾ S.I. 1976/1042 (N.I. 15)

⁽¹²⁾ S.I. 1978/1043 (N.I. 9)

⁽¹³⁾ S.I. 1984/1159 (N.I. 9)

⁽¹⁴⁾ 1989 c. 32

“expert” means a member of the panel of independent experts within the meaning of section 2A(4) of the Act of 1970⁽¹⁵⁾;

“the Order of 1988” means the Sex Discrimination (Northern Ireland) Order 1988⁽¹⁶⁾;

“report” means a report required by a tribunal to be prepared by an expert, pursuant to section 2A(1)(b) of the Act of 1970; and

“respondent” means a party to the proceedings before a tribunal other than the applicant.

(3) In these Regulations, in so far as they relate to the rules in Schedule 3—

“appellant” means a person who sends a notice of appeal to the Board;

“the Board” means in relation to an appeal the Construction Industry Training Board; and

“levy” means a levy imposed under the Order of 1984.

(4) In these Regulations, in so far as they relate to the rules in Schedule 4—

“decision” in relation to a tribunal includes a direction under rule 4 and any order which is not an interlocutory order;

“improvement notice” means a notice under Article 23 of the Order of 1978;

“inspector” means a person appointed under Article 21(1) of the Order of 1978;

“prohibition notice” means a notice under Article 24 of the Order of 1978; and

“respondent” means the inspector who issued the improvement notice or prohibition notice which is the subject of the appeal.

(5) In these Regulations, in so far as they relate to the rules in Schedule 5—

“decision” in relation to a tribunal includes a direction under Article 68(3) of the Order of 1976 and any other order which is not an interlocutory order; and

“non-discrimination notice” means a notice under Article 67 of the Order of 1976.

Industrial tribunals

3.—(1) There shall continue to be tribunals established for the purposes of exercising the jurisdiction conferred on them by or under the Order of 1984 or any other statutory provision.

(2) The President or Vice-President shall determine at what time and in what place the tribunals shall sit.

Panels of chairmen and members of tribunals

4.—(1) There shall be—

(a) a panel of chairmen being barristers or solicitors of not less than seven years' standing appointed by the Department; and

(b) two panels of members, being—

(i) persons appointed by the Department after consultation with such organisations or associations of organisations representative of employers as it sees fit; and

(ii) persons appointed by the Department after consultation with such organisations or associations of organisations representative of employees as it sees fit.

(2) Members of the panels constituted under these Regulations shall hold and vacate office under the terms of the instrument under which they are appointed but may resign their office by notice

⁽¹⁵⁾ Section 2A was inserted by S.R. 1984 No. 16 Article 3(1)

⁽¹⁶⁾ S.I. 1988/1303 (N.I. 13)

in writing to the Department; and any such member who ceases to hold office shall be eligible for reappointment.

Composition of tribunals

5.—(1) For each hearing of any matter before a tribunal the President or Vice-President shall, subject to paragraph (5), select a chairman from the panel of chairmen appointed under regulation 4(1)(a) and the President and Vice-President may select themselves.

(2) In any proceedings which are to be determined by a tribunal comprising a chairman, selected in accordance with paragraph (1), and two other members, those other members shall be selected by the President or Vice-President, as to one member from the panel appointed under regulation 4(1)(b)(i) and the other member from the panel appointed under regulation 4(1)(b)(ii).

(3) In any proceedings which are to be determined by a tribunal whose composition is described in paragraph (2), those proceedings may, with the consent of the parties, be heard and determined in the absence of any one member, other than the chairman, and in that event the tribunal shall be properly constituted.

(4) The President or Vice-President may at any time select from the appropriate panel another person in substitution for the chairman or other member of the tribunal previously selected to hear proceedings before a tribunal.

(5) Paragraph (1) does not apply where the Secretary of State has issued a direction in accordance with Article 58A(7) of the No. 1 Order(17) (direction on the grounds of national security) that proceedings be heard and determined by the President alone.

Proceedings of tribunals

6.—(1) Subject to the following paragraphs, the rules in Schedule 1 shall apply in relation to all proceedings before a tribunal except where separate rules of procedure made under any other statutory provision are applicable.

(2) In proceedings to which the rules in Schedule 1 apply and which involve an equal value claim, the rules in Schedule 2 (including rule 8A) shall apply respectively in place of rules 4, 9, 10, 12, 13 and 19 in Schedule 1.

(3) The rules contained in Schedules 1 and 2 shall apply in proceedings to which they relate where—

- (a) the respondent or one of the respondents resides or carries on business in Northern Ireland; or
- (b) had the remedy been by way of action in the county court, the cause of action would have arisen wholly or in part in Northern Ireland; or
- (c) the proceedings are to determine a question which has been referred to the tribunal by a court in Northern Ireland.

(4) The rules in Schedule 3 shall apply in relation to an appeal by a person assessed to a levy imposed under a levy order made under Article 23 of the Order of 1984(18);

(5) The rules in Schedule 4 shall apply in relation to an appeal against an improvement notice or prohibition notice under Article 26 of the Order of 1978(19); and

(6) The rules in Schedule 5 shall apply in relation to an appeal against a non-discrimination notice under Article 68 of the Order of 1976(20).

(17) Article 58A(7) was inserted by S.I. 1993/2668 (N.I. 11) Article 14

(18) S.I. 1984/1159 (N.I. 9)

(19) S.I. 1978/1039 (N.I. 9)

(20) S.I. 1976/1042 (N.I. 15)

Register

7. The Secretary shall maintain a Register of applications, appeals and decisions which shall be open to the inspection of any person without charge at all reasonable hours.

Proof of decisions of tribunals

8. The production in any proceedings in any court of a document purporting to be certified by the Secretary to be a true copy of an entry of a decision in the Register shall, unless the contrary is proved, be sufficient evidence of the document and the facts stated therein.

Transitional provisions relating to Rules of Procedure

9.—(1) The rules in Schedules 1, 2, 3, 4 and 5 (in this Regulation referred to as “the new rules”) shall apply in all proceedings to which they relate, irrespective of when those proceedings were commenced, as from 1st June 1996, and the Rules of Procedure in—

- (a) the Schedule to the Industrial Tribunals Regulations (Northern Ireland) 1965(21);
- (b) the Schedule to the Industrial Tribunals (Improvement and Prohibition Notices Appeals) Regulations (Northern Ireland) 1979(22);
- (c) the Schedule to the Industrial Tribunals (Non-Discrimination Notices Appeals) Regulations (Northern Ireland) 1980(23);
- (d) the Industrial Tribunals (Rules of Procedure) Regulations (Northern Ireland) 1981(24);
- (e) the Industrial Tribunals (Rules of Procedure) (Equal Value Amendment) Regulations (Northern Ireland) 1981(25),

(in this Regulation together referred to as “the old rules”) shall cease to have effect in relation to proceedings on that date.

(2) Without prejudice to the generality of section 29 of the Interpretation Act (Northern Ireland) 1954(26) anything done validly under or pursuant to the old rules before 1st June 1996 shall be treated as having been done validly for the purposes of these Regulations and the new rules, whether or not what was done could have been done under or pursuant to these Regulations and the new rules.

(3) Notwithstanding paragraph (1), in any proceedings in which a pre-hearing assessment under rule 6 of the Industrial Tribunal (Rules of Procedure) Regulations (Northern Ireland) 1981 has taken place or commenced before 1st June 1996, that rule shall continue to have effect in relation to those proceedings and no pre-hearing review may be conducted under the new rules.

(4) Where the date of a pre-hearing assessment is first fixed before 1st June 1996 but that assessment has not taken place or commenced before 1st June 1996 the hearing shall be conducted as a pre-hearing review under the new rules.

(21) S.R. & O. (N.I.) 1965 No. 112 as amended by S.R. & O. (N.I.) 1966 No. 261, S.R. & O. (N.I.) 1967 No. 109 and S.R. 1989 No. 441

(22) S.R. 1979 No. 324 as amended by S.R. 1989 No. 446

(23) S.R. 1980 No. 135 as amended by S.R. 1989 No. 446

(24) S.R. 1981 No. 188 as amended by S.R. 1989 No. 446

(25) S.R. 1984 No. 135 as amended by S.R. 1989 No. 446

(26) 1954 c. 33 (N.I.)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Sealed with the Official Seal of the Department of Economic Development on .

L.S.

24th April 1996

W. D. A. Haire
Assistant Secretary