

EXPLANATORY MEMORANDUM TO

The Code of Practice (Time Off for Trade Union Duties and Activities) (Appointed Day) Order (Northern Ireland) 2012

S.R. 2012 No. 138

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 90(5) of the Industrial Relations (Northern Ireland) Order 1992 ("the 1992 Order") and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Code of Practice (Time Off for Trade Union Duties and Activities) (Appointed Day) Order (Northern Ireland) 2012 appoints 19th April 2012 as the date for the coming into effect of the Labour Relations Agency (LRA) Code of Practice on Time Off for Trade Union Duties and Activities, and also sets out relevant saving provisions. The Code itself was approved by resolution of the Assembly on 6th March 2012.
- 2.2. Article 1 cites the name of the Order.
- 2.3. Article 2 appoints 19th April 2012 as the day upon which a revised Code of Practice on Time Off for Trade Union Duties and Activities shall come into effect.
- 2.4. Article 3 revokes the Code of Practice (Time Off for Trade Union Duties and Activities) (Appointed Day) Order (Northern Ireland) 2004 ("the 2004 Order"), but specifies that the Code of Practice brought into effect by the 2004 Order continues in effect in relation to any relevant act done before 19th April 2012.

3. Background

- 3.1. The LRA has a legal duty under Article 90 of the 1992 Order to provide practical guidance on the circumstances in which a trade union official or member should be facilitated time off by an employer. This duty is fulfilled through the publication of the Agency's Code of Practice on Time Off for Trade Union Duties and Activities.
- 3.2. Under paragraph (16) of Article 90 of the 1992 Order, the Code of Practice can be admitted in evidence in any proceedings before an industrial tribunal or the Industrial Court and, if any provision of it appears to the tribunal or Court to be relevant to any question arising in the proceedings, it shall be taken into account in determining that question.

4. Consultation

- 4.1. A draft of the new Code of Practice was subject to a public consultation undertaken by the LRA, which closed on 6th August 2010. The LRA modified the draft Code on the basis of the consultation responses and submitted it to the Department for approval.

5. Equality Impact

- 5.1. The LRA conducted an equality screening exercise and determined that an impact assessment was not required. Section 75 related considerations were addressed when the Code was developed and drafted, with any potential adverse impacts being taken into account and provided for within the Code.

6. Regulatory Impact

- 6.1. Any impact is considered negligible and no adverse effect on the private and voluntary sectors is foreseen.

7. Financial Implications

- 7.1. As above, any financial implications are considered negligible and no adverse effect is foreseen.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The provisions of the Order are not considered to be in breach of Section 24.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Order applies only to Northern Ireland. A Statutory Instrument has already been introduced in Great Britain to bring into effect a revised Code of Practice issued by ACAS. The ACAS Code broadly corresponds to that issued by the LRA as the law governing time off for trade union duties and activities in Great Britain is generally equivalent to that in Northern Ireland.

11. Additional Information

- 11.1. Not applicable.