
STATUTORY INSTRUMENTS

1992 No. 807

The Industrial Relations (Northern Ireland) Order 1992

PART XI

**MACHINERY FOR PROMOTING
IMPROVEMENT OF INDUSTRIAL RELATIONS**

The Labour Relations Agency

Constitution of the Labour Relations Agency

82.—(1) There shall continue to be a body called the Labour Relations Agency (in this Order referred to as “the Agency”).

(2) The constitution of the Agency shall be as provided in that behalf in Part I of Schedule 4, and the supplementary provisions contained in Part II of that Schedule shall have effect with respect to the Agency.

General function of the Agency

83.—(1) It shall be the duty of the Agency to promote the improvement of industrial relations, and in particular to encourage the extension of collective bargaining and the development and, where necessary, the reform of collective bargaining machinery.

(2) Without prejudice to the generality of paragraph (1), the Agency shall exercise such functions as are conferred on it by or under the following provisions of this Order and by any other statutory provision.

Functions of the Agency in relation to trade disputes

84.—(1) Where the Agency apprehends that a trade dispute may occur it may take all steps which it considers appropriate for avoiding such trade dispute.

(2) Where a trade dispute exists the Agency may—

- (a) inquire into the causes and circumstances of the trade dispute;
- (b) form a view on the matter in dispute;
- (c) express, either publicly or to the parties to the dispute, the view it has formed on the matter in dispute;
- (d) assist the parties to the trade dispute to achieve a settlement of the dispute by conciliation or otherwise;
- (e) at any time, with the agreement of the parties, refer the matter for settlement to the arbitration of—
 - (i) one or more persons appointed by the Agency; or
 - (ii) the Industrial Court;

- (f) at any time, with the agreement of the parties, refer the matter to one or more persons appointed by the Agency to inquire into the matter and report to the Agency thereon;
- (g) if it is satisfied that no appropriate agreed procedures for negotiation or the settlement of disputes exist between the parties, at any time, with the agreement of the parties, refer the dispute to a committee appointed in accordance with paragraph (3) whose function shall be to—
 - (i) inquire into the causes and circumstances of the dispute; and
 - (ii) seek the agreement of the parties to the dispute as to how it may be settled.
- (3) The committee referred to in paragraph (2)(g) shall consist of—
 - (a) a chairman appointed by the Agency; and
 - (b) such equal number of representatives of each party to the trade dispute as the Agency may determine.
- (4) In exercising its functions under paragraph (2)(d), the Agency shall have regard to the desirability of encouraging the parties to a dispute to use any appropriate agreed procedures for negotiation or the settlement of disputes.
- (5) In exercising its functions under paragraph (2)(e), the Agency shall consider the likelihood of the dispute being settled by conciliation and, where there exist appropriate agreed procedures for negotiation or the settlement of disputes, shall not refer a matter for settlement to arbitration under that sub-paragraph unless those procedures have been used and have failed to result in a settlement or unless, in the opinion of the Agency, there is a special reason which justifies arbitration under that sub-paragraph as an alternative to those procedures.
- (6) For the purpose of exercising its powers under paragraph (2)(e)(i) the Agency may maintain a register of persons who, having regard to their knowledge and experience, would, in the opinion of the Agency, be suitable for appointment by the Agency as arbitrators.
- (7) Nothing in paragraph (2) prejudices the operation of any other statutory provision conferring on a person or body a power to refer any matter connected with a trade dispute to arbitration or for inquiry or the right of the parties to the dispute to establish at any time appropriate procedures for negotiation or the settlement of disputes.
- (8) The Agency may pay to persons appointed under paragraph (2)(e)(i) or (f) or (3)(a) such fees and such allowances for expenses as the Agency, with the approval of the Department and the Department of Finance and Personnel, may determine.
- (9) The Arbitration Act (Northern Ireland) 1937(1) shall not apply to any arbitration under this Article.

Notification of procedural agreements

85.—(1) The Agency may request an employer to submit to it copies, or particulars, of procedural agreements to which he is a party and may receive and record such procedural agreements or particulars thereof.

(2) The Agency, after examining any procedural agreement or the particulars of any procedural agreement submitted to it under paragraph (1) may make such inquiries and seek such further information concerning that procedural agreement as the Agency thinks fit.

(3) In this Article “procedural agreement” means so much of a collective agreement as provides for procedures for the conduct of relations between workers or their representatives and employers and includes (without prejudice to the generality of the foregoing) so much of such an agreement as relates to—

- (a) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, terms and conditions of employment;
- (b) machinery for consultation with regard to, or for the settlement by negotiation or arbitration of, other questions arising between an employer or group of employers and one or more workers or trade unions;
- (c) negotiating rights;
- (d) facilities for officials of trade unions or other organisations of workers;
- (e) procedures relating to dismissal;
- (f) procedures relating to matters of discipline other than dismissal;
- (g) procedures relating to grievances of individual workers;
- (h) disclosure of information;
- (i) redundancy;
- (j) health and safety at work; and
- (k) promotion.

Review of collective bargaining arrangements

86.—(1) The Agency may review existing arrangements for the conduct of collective bargaining and may make recommendations to trade unions, employers and employers' associations concerning the introduction of arrangements for the conduct of collective bargaining or the improvement of existing arrangements.

(2) The Agency may review progress towards the institution of suitable arrangements for the conduct of collective bargaining and may send reports concerning such progress to appropriate trade unions, employers and employers' associations.

Industrial relations training

87.—(1) The Agency may—

- (a) review arrangements for industrial relations training in Northern Ireland;
- (b) advise employers, trade unions and the Department on training needs;
- (c) make recommendations to employers, trade unions, the Department and other interested bodies as to how training needs may best be met and in so doing may devise and propose training programmes;
- (d) co-ordinate by agreement, the activities of employers, employers' associations, trade unions and other interested bodies in the provision of industrial relations training in order to secure the most advantageous use of training resources for the fulfilment of identified training needs;
- (e) review progress in the fulfilment of identified training needs; and
- (f) obtain information about, and encourage the utilisation of developments in, training methods and techniques in respect of industrial relations training.

(2) The Department may make a grant of such amount as the Department, with the approval of the Department of Finance and Personnel, may determine towards defraying the expenses incurred by any undertaking or organisation in connection with industrial relations training.

(3) In this Article “industrial relations training” means training in any matter pertaining to the conduct of industrial relations.

Industrial relations research

88.—(1) Where the Agency thinks fit, or at the request of the Department, an employer, an employers' association or a trade union, the Agency may conduct research into any question relating to industrial relations generally or to industrial relations in any particular industry or in any particular undertaking or part of an undertaking.

(2) The findings of any research under paragraph (1) together with any advice given by the Agency in connection with those findings, may be published by the Agency if—

- (a) it appears to the Agency that publication is desirable for the improvement of industrial relations, either generally or in relation to the specific question into which research was made; and
- (b) after sending a draft of the findings to, and taking into account the views of, all the parties appearing to the Agency to be concerned, the Agency thinks fit.

(3) The Department may make a grant of such amount as the Department, with the approval of the Department of Finance and Personnel, may determine towards defraying the expenses incurred by any undertaking or organisation in connection with—

- (a) the conduct of research into any question relating to industrial relations generally or to industrial relations in any particular industry or in any particular undertaking or part of an undertaking; and
- (b) the giving of advice based on such research.

Industrial relations advice

89.—(1) Where the Agency thinks fit, it may give advice on any matter pertaining to the conduct of industrial relations or employment policies to any employer, employers' association, worker, trade union or other body.

(2) Where the Agency thinks fit, it may provide to employers, employers' associations, workers, trade unions and other interested bodies information relating to good industrial relations practice or employment policies.

(3) The Agency may publish—

- (a) general advice on any matter pertaining to the conduct of industrial relations or employment policies; and
- (b) general information relating to industrial relations or to employment policies.

(4) Where the Agency thinks fit, it may—

- (a) give advice to any employer, employers' association, worker, trade union or other body or person;
- (b) publish general advice; and
- (c) publish general information,

with respect to the rights, duties, liabilities and responsibilities under the law of employers, employers' associations, workers and trade unions.

(5) References in this Article to employment policies are to such policies only in so far as they relate to or are connected with industrial relations.

Codes of Practice

90.—(1) The Agency may issue Codes of Practice containing such practical guidance as the Agency thinks fit for the purpose of promoting the improvement of industrial relations.

(2) Without prejudice to the generality of paragraph (1), the Agency shall, in one or more Codes of Practice, provide practical guidance on the following matters—

- (a) the disclosure of information, in accordance with Articles 39 and 40, by employers to trade union representatives for the purpose of collective bargaining;
- (b) the time off to be permitted by an employer—
 - (i) to a trade union official in accordance with Article 37 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(2), including guidance on the circumstances in which a trade union official is to be permitted to take time off under that Article in respect of duties connected with industrial action; and
 - (ii) to a trade union member in accordance with Article 38 of that Order, including guidance on the question whether, and the circumstances in which, a trade union member is to be permitted to take time off under that Article for trade union activities connected with industrial action.

(3) When the Agency proposes to issue a Code of Practice, it shall prepare and publish a draft of that Code, shall consider any representations made to it about the draft and may modify the draft accordingly.

(4) If the Agency determines to proceed with the draft, it shall transmit the draft to the Department which shall—

- (a) if it approves of the draft, lay it before the Assembly; and
- (b) if it does not approve of the draft, publish details of its reasons for withholding approval.

(5) In the case of a draft Code of Practice containing practical guidance on the matters referred to in paragraph (2)(a) or (b), if the draft is approved by resolution of the Assembly the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(6) In the case of a draft Code of Practice not containing such practical guidance, if, within the statutory period beginning with the day on which a copy of the draft is laid before the Assembly, the Assembly so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before the Assembly of a new draft.

(7) If no such resolution is passed as is referred to in paragraph (6), the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(8) If the Agency is of the opinion that the provisions of a Code of Practice to be issued under the preceding provisions of this Article will supersede the whole or part of a Code previously issued by it under this Article or by the Department under Article 95, it shall in the new Code state that on the day on which the new Code comes into effect in pursuance of an order under paragraph (5) or (7) the old Code or a specified part of it shall cease to have effect (subject to any transitional provisions or savings made by the order).

(9) The Agency may from time to time revise the whole or any part of a Code of Practice issued under this Article and issue that revised Code, and, subject to paragraph (10), paragraphs (3) to (7) shall apply (with appropriate modifications) to such a revised Code as they apply to the first issue of a Code.

(10) A Code of Practice issued under this Article may be revised by the Agency in accordance with paragraphs (11) to (13) for the purpose of bringing it into conformity with statutory provisions coming into operation after the Code was issued by the making of consequential amendments and the omission of obsolete passages.

(11) Where the Agency proposes to revise a Code under paragraph (10), it shall transmit a draft of the revised Code to the Department which shall—

- (a) if it approves of the draft, lay it before the Assembly; and
- (b) if it does not approve of the draft, publish details of its reasons for withholding approval.

(12) If, within the statutory period beginning with the day on which a copy of the draft is laid before the Assembly, the Assembly so resolves, no further proceedings shall be taken thereon, but without prejudice to the laying before the Assembly of a new draft.

(13) If no such resolution is passed as is referred to in paragraph (12), the Agency shall issue the Code in the form of the draft and the Code shall come into effect on such day as the Department may by order appoint.

(14) A Code of Practice issued under this Article may be revoked by an order made by the Department; but no such order shall be made—

- (a) except at the request of the Agency; and
- (b) unless a draft of the order has been laid before and approved by resolution of the Assembly.

(15) If the Agency requests the Department to revoke a Code of Practice issued under this Article and the Department decides not to do so, the Department shall publish details of its reasons for withholding approval.

(16) A failure on the part of any person to observe any provision of a Code of Practice issued under this Article shall not of itself render him liable to any proceedings; but in any proceedings before an industrial tribunal or the Industrial Court—

- (a) any such Code shall be admissible in evidence; and
- (b) any provision of the Code which appears to the tribunal or Industrial Court to be relevant to any question arising in the proceedings shall be taken into account in determining that question.

(17) Without prejudice to Article 107(3), an order under paragraph (5), (7), (13) or (14) may contain such transitional provisions or savings as appear to the Department to be necessary or expedient in connection with the Code of Practice thereby brought into operation or (as the case may be) revoked.