

# EMPLOYMENT RELATIONS ACT 2004

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## EXPLANATORY NOTES

### SUPPLEMENTARY PROVISIONS

#### *Corresponding Provision for Northern Ireland*

384. *Section 58* - During suspension of the Northern Ireland Assembly, Orders in Council may be used to make provisions equivalent to the provisions in primary legislation applicable in Great Britain. Such Orders in Council are normally subject to the affirmative resolution procedure. Section 58 provides for an Order in Council whose purposes correspond to those of this Act to be subject instead to the negative resolution procedure. This will make it easier for changes to Northern Ireland legislation to be timed to coincide with the changes to GB legislation. *Section 58* does not extend to *sections 43 to 46* of the Act which make provision for changes to the national minimum wage enforcement regime, since the National Minimum Wage Act 1998 itself applies to Northern Ireland and so these amendments apply as a result of *section 59(6)* of the Act. Public consultation has taken place in Northern Ireland on the review of the Employment Relations NI Order 1999, which mirrored the Employment Relations Act 1999.

#### *Schedule 1 (minor and consequential amendments)*

385. Almost all the provisions in *Schedule 1* to the Act are either consequential upon the sections of the Act or contain minor amendments that improve the drafting of a provision, remove a superfluous definition, or remove or change an incorrect cross reference or insert a correct one. The paragraphs mentioned below contain more significant changes.
386. *Paragraph 6* inserts new subsections into section 82 of the 1992 Act which improve the procedures for enforcing an order by the Certification Officer requiring a trade union to remedy a breach of its political fund rules.
387. *Paragraphs 32 and 33* amend sections 108 and 109 of the Employment Rights Act 1996 to secure that an employee dismissed for a reason prescribed under section 99 of that Act (family reasons prescribed by regulations) is not subject to the qualifying period of one year's continuous employment for or the upper age limit on claiming unfair dismissal.
388. *Paragraph 43* adds the rights contained in new sections 145A and 145B of the 1992 Act (inducements relating to union membership, union activities and collective bargaining) to the jurisdictions to which the standard and modified grievance procedures contained in Schedule 2 to the Employment Act 2002 apply.