

Employment Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 14: Recovery of sums payable under compromises involving the Agency

52. *Section 14*, which replicates section 10 in respect of fair employment cases, inserts a new Article 88A into the Fair Employment and Treatment Order. The inserted provision concerns sums payable under settlements conciliated with LRA assistance, under Article 88 of that Order, where there is agreement to avoid Fair Employment Tribunal proceedings or to bring such proceedings to an end. It specifies that sums payable under such settlements are to be treated as though payable under an order of the Fair Employment Tribunal, except where the terms of the conciliated settlement require the person to whom the sum is payable to do anything other than discontinue or not start proceedings. Where the settlement does require some other action, recovery of the sum requires a county court order.
53. The inserted Article also provides that the sum is not recoverable if the person by whom the sum is payable successfully applies to the Fair Employment Tribunal or county court for a declaration that it would not be recoverable under the general law of contract. No action may be taken to recover the sum while such an application is pending.
54. Provision is made whereby county court rules can specify a time period during which a sum is not recoverable. Finally, the inserted provision sets out regulation-making powers in relation to time limits for applying for a declaration and when such an application is to be treated as pending.