

*These notes refer to the Employment Act (Northern Ireland)  
2016 (c.15) which received Royal Assent on 22nd April 2016*

# Employment Act (Northern Ireland) 2016

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## **EXPLANATORY NOTES**

### **OVERVIEW**

The Act:

- provides that, in most cases, a prospective claimant must first have submitted the details of their claim to the Labour Relations Agency before they can lodge the claim at an industrial tribunal or the Fair Employment Tribunal;
- requires the operation of the service to be reviewed;
- extends confidentiality provisions to ensure that the full range of LRA dispute resolution services is appropriately protected;
- contains enabling provisions that allow for a neutral assessment service to be established in accordance with regulations and requirements for the operation of the service to be reviewed;
- converts the Department's power to amend the qualifying period, for the right to claim unfair dismissal, from confirmatory to draft affirmative procedure;
- provides for more accurate rounding when annual changes, in line with inflation, are applied to the maximum amount of an unfair dismissal award and other employment rights related payments; and empowers the Department to modify these sums if a draft order is approved by the Assembly;
- alters the effect of the good faith test; the issue of good faith will now be considered by a tribunal in relation to remedy, rather than liability;
- introduces a test to close the loophole in public interest disclosure legislation;
- introduces a power to allow the Department to make regulations requiring regulators and other bodies prescribed for the purposes of Article 67F of the Employment Rights (Northern Ireland) Order 1996 ("ERO 1996") (as recipients of whistleblowing disclosures) to report annually on disclosures of information made by workers;
- includes public interest disclosure protections for student nurses and student midwives;
- introduces a power to amend, by subordinate legislation, the definition of worker in public interest disclosure legislation;

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- legislates for employers to be vicariously liable if an employee who makes a protected disclosure subsequently experiences detriment from colleagues;
- amends enabling powers to allow for procedural changes to be made to regulations concerning ITs and the FET;
- requires the Department to provide impartial 'best interests' careers guidance to appropriate groups, and provides power to make relevant regulations;
- empowers the Department, by regulations, to deal with the provision of apprenticeships and traineeships;
- establishes enabling powers to make provision concerning zero hours contracts;
- establishes certain requirements in relation to the reporting of gender pay differentials.