
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XIII

PROCEDURE FOR HANDLING REDUNDANCIES

Supplementary provisions

Construction of references to dismissal as redundant etc.

223.—(1) In this Part references to dismissal as redundant are references to dismissal for a reason not related to the individual concerned or for a number of reasons all of which are not so related.

(2) For the purposes of any proceedings under this Part, where an employee is or is proposed to be dismissed it shall be presumed, -unless the contrary is proved, that he is or is proposed to be dismissed as redundant.

Construction of references to representatives

224.—(1) For the purposes of this Part persons are employee representatives if—

- (a) they have been elected by employees for the specific purpose of being consulted by their employer about dismissals proposed by him, or
- (b) having been elected^[F1] or appointed] by employees (whether before or after dismissals have been proposed by their employer) otherwise than for that specific purpose, it is appropriate (having regard to the purposes for which were elected) for the employer to consult them about dismissals proposed by him,

and (in either case) they when they are elected^[F1] or appointed].

(2) References in this relation to an employer, by the trade union to employer. are employed by the employer at the time Part to representatives of a trade union, in are to officials or other persons authorised carry on collective bargaining with the employer.

^[F1](3) References in this Part to affected employees are to employees who may be affected by the proposed dismissals or who may be affected by measures taken in connection with such dismissals.]

F1 SR 1999/432

Power to vary provisions

225. The Department may by order vary—

- (a) the provisions of Articles 216(1) and (2) and 221(1) (requirements as to consultation and notification), and
- (b) the periods referred to at the end of Article 217(4) (maximum protected period);

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but no such order shall be made which has the effect of reducing to less than 30 days the periods referred to in Articles 216(2) and 221(1) as the periods which must elapse before the first of the dismissals takes effect.

Power to adapt provisions in case of collective agreement

226.—(1) This Article applies where there is in force a collective agreement which establishes—

- (a) arrangements for providing alternative employment for employees to whom the agreement relates if they are dismissed as redundant by an employer to whom it relates, or
- (b) arrangements for the dismissal of employees as redundant.

(2) On the application of all the parties to the agreement the Department may, if it is satisfied having regard to the provisions of the agreement that the arrangements are on the whole at least as favourable to those employees as the foregoing provisions of this Part, by order adapt, modify or exclude any of those provisions both in their application to all or any of those employees and in their application to any other employees of any such employer.

(3) The Department shall not make such an order unless the agreement—

- (a) provides for procedures to be followed (whether by arbitration or otherwise) in cases where an employee to whom the agreement relates claims that any employer or other person to whom it relates has not complied with the provisions of the agreement, and
- (b) provides that those procedures include a right to arbitration or adjudication by an independent referee or body in cases where (by reason of an equality of votes or otherwise) a decision cannot otherwise be reached,

or indicates that any such employee may present a complaint to an industrial tribunal that any such employer or other person has not complied with those provisions.

(4) An order under this Article may confer on an industrial tribunal to which a complaint is presented as mentioned in paragraph (3) such powers and duties as the Department considers appropriate.

(5) An order under this Article may be varied or revoked by a subsequent order thereunder either in pursuance of an application made by all or any of the parties to the agreement in question or without any such application.

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