STATUTORY INSTRUMENTS

2004 No. 3078

The Employment Relations (Northern Ireland) Order 2004

PART III

LAW RELATING TO INDUSTRIAL ACTION

Dismissal after end of protected period

11.—(1) In Article 144A(6) of the Employment Rights Order (dismissal after end of protected period), after sub-paragraph (d) insert—

"(e) where there was agreement to use either of the services mentioned in sub-paragraphs (c) and (d), the matters specified in Article 144B." .

(2) After Article 144A of the Employment Rights Order insert—

"**Conciliation and mediation: supplementary provisions**

144B.—(1) The matters referred to in paragraph (6)(e) of Article 144A are those specified in paragraphs (2) to (5); and references in this Article to "the service provider" are to any person who provided a service mentioned in paragraph (6)(c) or (d) of that Article.

(2) The first matter is: whether, at meetings arranged by the service provider, the employer or, as the case may be, a union was represented by an appropriate person.

(3) The second matter is: whether the employer or a union, so far as requested to do so, co-operated in the making of arrangements for meetings to be held with the service provider.

(4) The third matter is: whether the employer or a union fulfilled any commitment given by it during the provision of the service to take particular action.

(5) The fourth matter is: whether, at meetings arranged by the service provider between the parties making use of the service, the representatives of the employer or a union answered any reasonable question put to them concerning the matter subject to conciliation or mediation.

(6) For the purposes of paragraph (2) an "appropriate person" is—

(a) in relation to the employer—

(i) a person with the authority to settle the matter subject to conciliation or mediation on behalf of the employer, or

(ii) a person authorised by a person of that type to make recommendations to him with regard to the settlement of that matter, and

(b) in relation to a union, a person who is responsible for handling on the union's behalf the matter subject to conciliation or mediation.

(7) For the purposes of paragraph (4) regard may be had to any timetable which was agreed for the taking of the action in question or, if no timetable was agreed, to how long it was before the action was taken.

(8) In any proceedings in which regard must be had to the matters referred to in Article 144A(6)(e)—

(a) notes taken by or on behalf of the service provider shall not be admissible in evidence;

(b) the service provider must refuse to give evidence as to anything communicated to him in connection with the performance of his functions as a conciliator or mediator if, in his opinion, to give the evidence would involve his making a damaging disclosure; and

(c) the service provider may refuse to give evidence as to whether, for the purposes of paragraph (5), a particular question was or was not a reasonable one.

(9) For the purposes of paragraph (8)(b) a "damaging disclosure" is—

(a) a disclosure of information which is commercially sensitive, or

(b) a disclosure of information that has not previously been disclosed which relates to a position taken by a party using the conciliation or mediation service on the settlement of the matter subject to conciliation or mediation,

to which the person who communicated the information to the service provider has not consented." .

Changes to legislation:
There are currently no known outstanding effects for the The Employment Relations (Northern Ireland) Order 2004, Section 11.