

1990 No. 87

INDUSTRIAL TRIBUNALS

**Industrial Tribunals (Interest) Order
(Northern Ireland) 1990***Made* 8th March 1990*Coming into operation* 1st April 1990

The Department of Economic Development(a), in exercise of the powers conferred on it by Articles 61(3), (5) and (6) and 80(3) of the Industrial Relations (Northern Ireland) Order 1976(b) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel, hereby makes the following Order:

Citation, commencement and transitional provisions

1.—(1) This Order may be cited as the Industrial Tribunals (Interest) Order (Northern Ireland) 1990 and shall come into operation on 1st April 1990.

(2) Where a relevant decision day or a day to be treated as if it were a relevant decision day would, but for this paragraph, fall on a day before 1st April 1990, the relevant decision day or day to be treated as if it were that day shall be 1st April 1990.

Interpretation

2.—(1) In this Order—

“appellate court” means the High Court, the Court of Appeal or the House of Lords as the case may be;

“the calculation day” in relation to a relevant decision means the day immediately after the expiry of the period of 42 days, such period beginning on (and including) the relevant decision day;

“interest” means simple interest which accrues from day to day;

“relevant decision” in relation to a tribunal means any award or other determination of the tribunal by virtue of which one party to proceedings before the tribunal is required to pay an amount, excluding any sum representing costs or expenses, to another party to those proceedings;

“Rules of Procedure” means rules having effect in relation to proceedings before a tribunal by virtue of any Regulations or Order made pursuant to a statutory provision;

(a) Formerly the Department of Manpower Services: see S.I. 1982/846 (N.I. 11) Article 3

(b) S.I. 1976/1043 (N.I. 16): Article 61(3) to (6) was added by paragraph 4(12) of Schedule 3 to S.I. 1987/936 (N.I. 9)

“the stipulated rate of interest” has the meaning assigned to it in Article 4; “tribunal” means an industrial tribunal established in pursuance of the Industrial Tribunals Regulations (Northern Ireland) 1965(a).

(2) For the purposes of this Order an amount is required to be paid by one party to proceedings to another such party if, and only if, the sum of money required to be so paid is—

- (a) specified in an award or other determination of a tribunal or, as the case may be, in an order or decision of an appellate court; or
- (b) otherwise ascertainable solely by reference to the terms of such an award or determination or, as the case may be, solely by reference to the terms of such an order or decision,

but where a tribunal or, as the case may be, appellate court has made a declaration as to entitlement under a contract nothing in this Order shall be taken to provide for interest to be payable on any payment under that contract in respect of which no obligation to make the payment has arisen under that contract before the declaration was made.

(3) In this Order “decision day” means the day signified by the date recording the sending of the document which is sent to the parties recording an award or other determination of a tribunal and “relevant decision day”, subject to Articles 5, 6 and 7, means the day so signified in relation to a relevant decision.

(4) In this Order “party” includes the Department of Economic Development where it has elected to appear as if it were a party in accordance with a rule of procedure entitling it so to elect.

Computation of interest

3.—(1) Subject to paragraphs (2) and (3) and to Article 10, where the whole or any part of an amount payable by virtue of a relevant decision of a tribunal remains unpaid on the calculation day, that sum of money (in this Article referred to as the “unpaid sum”) shall carry interest at the stipulated rate of interest from the calculation day (including that day).

(2) Where, after the calculation day, a party pays to another party some but not all of the unpaid sum then, beginning with the day on which the payment is made interest shall continue to accrue only on that part of the sum of money which then still remains unpaid.

(3) For the purposes of the computation of interest under this Order, there shall be disregarded—

- (a) any part of an amount payable, which, pursuant to the Industrial Relations (Recoupment of Unemployment Benefit and Income Support) Regulations (Northern Ireland) 1977(b), has been claimed by the Department of Health and Social Services in a recoupment notice; and

(a) S.R. & O. (N.I.) 1965 No. 112 as amended by S.R. & O. (N.I.) 1966 No. 261 and S.R. & O. (N.I.) 1967 No. 109

(b) S.R. 1977 No. 123; the relevant amending Regulations are S.R. 1980 No. 426, S.R. 1988 No. 147 and S.R. 1989 No. 464

- (b) any part of an amount payable which the party required to pay the amount is required, by virtue of any provision contained in or having effect under any statutory provision, to deduct and pay over to the Inland Revenue in respect of income tax or contributions under Part I of the Social Security (Northern Ireland) Act 1975(a).

Rate of interest

4. The stipulated rate of interest in relation to any relevant decision shall be the rate in force on the relevant decision day in relation to interest on amounts awarded by decree in the county court.

Reviews

5. Where a tribunal reviews a relevant decision pursuant to the Rules of Procedure and the effect of the review, or of any re-hearing which takes place as a result of the review, is that the amount payable by virtue of that decision is confirmed or varied the relevant decision day shall be that of the decision which is the subject of the review.

Decisions on remission to a tribunal

6. Where an appellate court remits a matter to a tribunal for re-assessment of the amount which would have been payable by virtue of a previous relevant decision or by virtue of an order of another appellate court, the relevant decision day shall be that of that previous relevant decision or the day on which the other appellate court promulgated its order, as the case may be.

Appeals from relevant decisions

7. Where, on an appeal from a relevant decision or on a further appeal arising from a relevant decision, an appellate court makes an order which confirms or varies the amount which would have been payable by virtue of that relevant decision if there had been no appeal, the relevant decision day shall be that of the relevant decision.

Other appeals

8.—(1) This Article applies in relation to any order made by an appellate court on an appeal from a determination of any issue by a tribunal which is not a relevant decision, or on any further appeal arising from such a determination, where the effect of the order is that for the first time in relation to that issue one party to the proceedings is required to pay an amount, other than a sum representing costs or expenses, to another party to the proceedings.

(2) Where this Article applies in relation to an order, Articles 3 and 4 shall apply to the amount payable by virtue of the order as if it was an amount payable by virtue of a relevant decision and as if the day on which the appellate court promulgated the order was the relevant decision day.

(a) 1975 c. 15; to which there are amendments not relevant to the operation of this Order

9. Where, on an appeal from an order in relation to which Article 8 applies or on a further appeal arising from such an order, an appellate court makes an order which confirms or varies the amount which would have been payable by virtue of the order in relation to which Article 8 applies if there had been no appeal, the day to be treated as the relevant decision day shall be the day on which the order in relation to which Article 8 applies was promulgated.

Variations of the sum of money on appeal etc.

10. Where an amount payable by virtue of a relevant decision is varied under one of the procedures referred to in Articles 5, 6 and 7, or a sum of money treated as being so payable by virtue of Article 8 is varied under one of the procedures referred to in Articles 6 and 9, the reference in Article 3(1) to an amount payable by virtue of a relevant decision shall be treated as if it were a reference to that amount.

Notices

11.—(1) Where a decision of a tribunal is a relevant decision and a copy of a document recording that decision is sent to all parties entitled to receive that decision, it shall be the duty of the Secretary of the Office of Industrial Tribunals and the Fair Employment Tribunal to cause a notice containing the matters detailed in paragraph (2) to accompany that document.

(2) The notice referred to in paragraph (1) shall specify the decision day, the stipulated rate of interest and the calculation day in respect of the decision concerned.

(3) The failure to discharge the duty under paragraph (1) correctly or at all shall have no effect on the liability of one party to pay to another party any sum of money which is payable by virtue of this Order.

Sealed with the Official Seal of the Department of Economic Development on 8th March 1990.

(L.S.)

R. J. Minnis

Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 8th March 1990.

(L.S.)

J. H. Caldwell

Assistant Secretary

(This note is not part of the Order.)

This Order, which comes into operation on 1st April 1990, provides that sums of money payable as a result of a decision of an industrial tribunal shall carry interest at the rate in force in relation to interest on amounts awarded by decree in the county court when all or some part of a sum payable remains unpaid 42 days after the decision of the tribunal. Separate provisions relating to appeals and reviews have the effect, in general, that interest still accrues on money remaining unpaid 42 days after the tribunal's decision but accrues on the amount as varied if the appeal or review results in a variation. Transitional arrangements provide that for the purposes of the Order, decisions of the kind to which the Order refers, made before 1st April 1990 are deemed to have been made on that day.

The Order provides that where part of a sum of money payable is either subject to recoupment pursuant to the Industrial Relations (Recoupment of Unemployment Benefit and Income Support) Regulations (Northern Ireland) 1977 or required to be paid in respect of income tax or national insurance contributions that part is to be disregarded in computing interest.

The Order places a duty on the Secretary of the Office of Industrial Tribunals and the Fair Employment Tribunal to inform the parties to proceedings of the effect of this Order when an industrial tribunal makes a decision to which this Order attaches.

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.