
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 386

Working Time Regulations (Northern Ireland) 1998

Part IV

Miscellaneous

Unfair dismissal

32.—(1) After Article 132 of the 1996 Order there shall be inserted the following Article—

“Working time cases

132A. An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee—

- (a) refused (or proposed to refuse) to comply with a requirement which the employer imposed (or proposed to impose) in contravention of the Working Time Regulations (Northern Ireland) 1998,
- (b) refused (or proposed to refuse) to forgo a right conferred on him by those Regulations,
- (c) failed to sign a workforce agreement for the purposes of those Regulations, or to enter into, or agree to vary or extend, any other agreement with his employer which is provided for in those Regulations, or
- (d) being—
 - (i) a representative of members of the workforce for the purposes of Schedule 1 to those Regulations, or
 - (ii) a candidate in an election in which any person elected will, on being elected, be such a representative,performed (or proposed to perform) any functions or activities as such a representative or candidate.”.

(2) In Article 135 of the 1996 Order (right of employees not to be unfairly dismissed for asserting statutory rights) in paragraph (4)—

- (a) at the end of sub-paragraph (b), the word “and” shall be omitted, and
- (b) after sub-paragraph (c), there shall be inserted the words—

“and

(d) the rights conferred by the Working Time Regulations (Northern Ireland) 1998.”.

(3) In Article 137 of the 1996 Order (redundancy as unfair dismissal), after paragraph (3) there shall be inserted the following paragraph—

“(3A) This paragraph applies if the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was one of those specified in Article 132A.”.

(4) In Articles 140(3) and 141(2) of the 1996 Order (cases where qualifying period of employment not required and disapplication of upper age limit), after sub-paragraph (c) there shall be inserted–

“(cc) Article 132A applies.”.

(5) In Articles 143(2) and 144(2) of the 1996 Order, (cases where employee can complain of unfair dismissal notwithstanding industrial action at time of dismissal) after sub-paragraph (b) there shall be inserted–

“(bb) Article 132A(d) applies.”.

(6) In Articles 151(4)(b), 152(3), 154(1), 156(3), 163(1)(b) and 164(1) of the 1996 Order, after “132(1)(a) and (b),” there shall be inserted “132A(d).”.

(7) In Article 244(2) of the 1996 Order (cases where disclosure of information is restricted on ground of national security etc.)–

(a) in sub-paragraph (g)(i), after “132” there shall be inserted “132A(d)”, and

(b) in sub-paragraph (g)(ii), after “of that Article” there shall be inserted “or by reason of the application of paragraph (3A) of that Article in so far as it applies where the reason (or, if more than one, the principal reason) for which an employee was selected for dismissal was that specified in Article 132A(d)”.

(8) In Article 12(5)(a) of the Industrial Tribunals (Northern Ireland) Order 1996(1) (cases where the Secretary of State’s certificate is not conclusive evidence that action was taken to safeguard national security), after “132 (health and safety)” there shall be inserted “, 132A(d) (working time).”