

2004 No. 520 (C. 31)

EMPLOYMENT

**Employment (Northern Ireland) Order 2003
(Commencement No. 2) Order (Northern Ireland) 2004**

Made - - - - - 21st December 2004

The Department for Employment and Learning, in exercise of the powers conferred on it by Article 1(2) and (3) of the Employment (Northern Ireland) Order 2003(a), and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and Interpretation

1.—(1) This Order may be cited as the Employment (Northern Ireland) Order 2003 (Commencement No. 2) Order (Northern Ireland) 2004.

(2) In this Order, “the 2003 Order” means the Employment (Northern Ireland) Order 2003.

Commencement

2.—(1) The provisions of the 2003 Order specified in Part I of Schedule 1 shall come into operation on 30th January 2005.

(2) The provision of the 2003 Order specified in Part II of Schedule 1 shall come into operation on 1st February 2005.

(3) The provisions of the 2003 Order specified in Part III of Schedule 1 shall come into operation on 3rd April 2005.

(4) Schedule 6 to the 2003 Order to the extent that it repeals the provisions specified in Part I of Schedule 2 shall come into operation on 30th January 2005.

(5) Schedule 6 to the 2003 Order to the extent that it repeals the provisions specified in Part II of Schedule 2 shall come into operation on 3rd April 2005.

Sealed with the Official Seal of the Department for Employment and Learning on 21st December 2004.

(L.S.)

R. B. Gamble

A senior officer of the Department for Employment and Learning

SCHEDULE 1

Article 2(1)

PART I

PROVISIONS COMING INTO OPERATION ON 30th JANUARY 2005

| <i>Provisions</i> | <i>Subject Matter of Provisions</i> |
|--|---|
| Article 3 | Conciliation |
| Article 4 | Power to delegate prescription of forms, etc. |
| Article 5 | Determination without a hearing |
| Article 6 | Practice directions |
| Article 7(1) and (3) | Pre-hearing reviews |
| Article 8 | Costs, expenses and allowances |
| Article 9 | Power to delegate prescription of forms, etc. |
| Article 10 | Determination without a hearing |
| Article 11 | Conciliation |
| Article 12 | Practice directions |
| Article 14 | Costs and allowances |
| In Schedule 5 – (a) paragraph 3; and (b) paragraph 4(3). | Consequential amendments |

PART II

Article 2(2)

PROVISION COMING INTO OPERATION ON 1st FEBRUARY 2005

| <i>Provision</i> | <i>Subject Matter of Provision</i> |
|------------------|------------------------------------|
| Article 33 | Deputy Certification Officer |

PART III

Article 2(3)

PROVISIONS COMING INTO OPERATION ON 3rd APRIL 2005

| <i>Provisions</i> | <i>Subject Matter of Provisions</i> |
|----------------------|---|
| Article 15(1) | Statutory dispute resolution procedures |
| Article 17(1) to (5) | Non-completion of statutory procedure: adjustment of awards by industrial tribunals |
| Article 18(1) to (5) | Non-completion of statutory procedure: adjustment of awards by Fair Employment Tribunal |
| Article 19(1) to (6) | Complaints about grievances: industrial tribunals |
| Article 20(1) to (5) | Complaints about grievances: Fair Employment Tribunal |
| Article 23 | Procedural fairness in unfair dismissal |
| Article 24 | Particulars of procedures relating to discipline or dismissal |
| Article 25 | Removal of exemption for small employers |
| Article 26 | Use of alternative documents to give particulars |

| <i>Provisions</i> | <i>Subject Matter of Provisions</i> |
|--|---|
| Article 27 | Failure to give statement of employment particulars, etc.: industrial tribunals |
| Article 28 | Failure to give statement of employment particulars, etc.: Fair Employment Tribunal |
| Article 29 | Unfair dismissal: adjustments under Articles 17 and 27 |
| Schedule 1 | Statutory dispute resolution procedures |
| Schedule 2 | Tribunal jurisdictions to which Article 17 applies |
| Schedule 3 | Tribunal jurisdictions to which Article 19 applies |
| Schedule 4 | Tribunal jurisdictions to which Article 27 applies |
| In Schedule 5 – (c) Paragraph 2(1), (2), (4) and (6) to (9); and (d) Paragraph 4(1) and (2). | Consequential amendments |

SCHEDULE 2

Article 2(4)

PART I

REPEALS COMING INTO OPERATION ON 30th JANUARY 2005

| <i>Number</i> | <i>Short title</i> | <i>Extent of repeal</i> |
|---------------------|---|--|
| 1996/1921 (N.I. 18) | The Industrial Tribunals (Northern Ireland) Order 1996 | In Article 21, paragraph (c) and the word “and” immediately before it. |
| 1998/3162 (N.I. 21) | The Fair Employment and Treatment (Northern Ireland) Order 1998 | Article 84(2) (g), (i) and (j) |

PART II

Article 2(5)

REPEALS COMING INTO OPERATION ON 3rd APRIL 2005

| <i>Number</i> | <i>Short title</i> | <i>Extent of repeal</i> |
|---------------------|--|--|
| 1996/1919 (N.I. 16) | The Employment Rights (Northern Ireland) Order 1996 | Article 35(3) and (4) Article 152(4) Article 162A |
| 1998/1265 (N.I. 8) | The Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998 | Article 14 In Schedule 1, paragraphs 8, 10 to 12 and 14 |
| 1999/2790 (N.I. 9) | The Employment Relations (Northern Ireland) Order 1999 | Article 13(6) |

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order brings into operation the provisions of the Employment (Northern Ireland) Order 2003 (S.I. 2003/2902 (N.I. 15)) (“the 2003 Order”) specified in Schedules 1 and 2. The provisions specified in Part I of Schedule 1 come into operation on 30th January 2005. The provision specified in Part II of Schedule 1 comes into operation on 1st February 2005 and those specified in Part III of Schedule 1 come into operation on 3rd April 2005. The repeals specified in Part I of Schedule 2 come into operation on 30th January 2005 and those specified in Part II of Schedule 2 come into operation on 3rd April 2005.

The provisions in Articles 3 to 8 of the 2003 Order amend the Industrial Tribunals (Northern Ireland) Order 1996 (S.I. 1996/1921 (N.I. 18)) in relation to the powers to make industrial tribunal procedure regulations. Those amendments relate to costs and expenses, payments in respect of preparation time, conciliation, prescription of forms, determinations without a hearing, practice directions and pre-hearing reviews.

The provisions in Articles 9 to 12 and 14 of the 2003 Order amend the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21)) in relation to the powers to make Fair Employment Tribunal procedure regulations. Those amendments relate to costs, payments in respect of preparation time, conciliation, prescription of forms, determinations without a hearing and practice directions.

The provisions in Articles 15, 17 and 19 of and Schedules 1 to 3 to the 2003 Order relate to the statutory dispute resolution procedures introduced by the Order.

The provisions in Articles 18 and 20 of the 2003 Order correspond to the provisions within Articles 17 and 19 of that Order in relation to the Fair Employment Tribunal.

Article 23 amends Part XI of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)) (“the 1996 Order”) so that an employee is treated as unfairly dismissed if the dismissal and disciplinary statutory procedure applies but is not completed for a reason attributable to the employer.

Articles 24 and 25 of the 2003 Order amend Article 35 of the 1996 Order which deals with notes about disciplinary rules and procedures.

Article 26 inserts new Articles 39A and 39B into the 1996 Order. These new Articles deal with the use of alternative documents to give the employee a statement of his employment particulars.

Article 27 of and Schedule 4 to the 2003 Order deal with an employee’s claim that his employer has failed to give him a statement of particulars of employment. Article 28 of the 2003 Order corresponds to this provision in relation to the Fair Employment Tribunal.

Article 29 of the 2003 Order makes provision for the adjustment of awards of compensation under Articles 17 and 27 of that Order by inserting a new Article 158A into the 1996 Order.

Article 33 of the 2003 Order amends Article 69 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)) to allow the Certification Officer to appoint assistant certification officers and delegate functions to these officers.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order.)

The following provisions of the Employment (Northern Ireland) Order 2003 have been brought into operation by commencement order made before the date of this Order:

| <i>Provisions</i> | <i>Date of Commencement</i> | <i>S.R. Number</i> |
|---|-----------------------------|-------------------------|
| Article 13 and Schedule 6 (partially) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 15(2) and (3) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 16(3) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 17(6) and (7) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 18(6) and (7) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 19(7) to (10) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 20(6) to (9) | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 21 | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 22 | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| In Schedule 5 paragraphs 2(3) and (5), 5 and 6 | 31st March 2004 | S.R. 2004 No.150 (C. 7) |
| Article 30 | 30th April 2004 | S.R. 2004 No.150 (C. 7) |
| Article 31 | 1st May 2004 | S.R. 2004 No.150 (C. 7) |
| In Schedule 5 paragraphs 1(1) and (2) and 2(10) | 1st May 2004 | S.R. 2004 No.150 (C. 7) |

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Published by The Stationery Office Limited

ISBN 0-337-95807-6



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