

EXPLANATORY MEMORANDUM TO

The Code of Practice (Disciplinary and Grievance Procedures) (Appointed Day) Order (Northern Ireland) 2011

S.R. 2011 No. 160

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 90(7) and (17) and 107(3) of the Industrial Relations (Northern Ireland) Order 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Code of Practice (Disciplinary and Grievance Procedures) (Appointed Day) Order (Northern Ireland) 2011 appoints 3rd April 2011 as the date for the coming into effect of the Labour Relations Agency (LRA) Code of Practice on Disciplinary and Grievance Procedures, and also sets out relevant transitional provisions. The Code itself was laid in draft at the Assembly on 18th February 2011.
- 2.2. Article 1 cites the name of the Order.
- 2.3. Article 2 appoints 3rd April 2011 as the day upon which a revised Code of Practice on Disciplinary and Grievance Procedures, which was issued in draft by the Labour Relations Agency on 15th March 2011, shall come into effect.
- 2.4. Article 3 sets in place transitional provisions whereby, in certain circumstances, the previous Code of Practice will continue to have effect..

3. Background

- 3.1. The Employment Act (Northern Ireland) 2011 makes changes to the statutory arrangements concerning the resolution of disputes arising in the workplace. The Act repeals the statutory procedural requirements for resolving workplace disputes insofar as they apply to grievances, providing instead for the Labour Relations Agency to issue a Code of Practice relating exclusively or primarily to procedure for the resolution of disputes. Arrangements in respect of disciplinary processes remain substantively unchanged.
- 3.2. The purpose of the Order is to determine the date upon which the revised Code of Practice will come into effect.

4. Consultation

- 4.1. No formal consultation has been undertaken in respect of the Order as it is consequential upon changes to primary legislation which have themselves been the subject of a full public consultation process.

5. Equality Impact

- 5.1. An Equality Impact Assessment was carried out in relation to the changes brought about by the Employment Act (Northern Ireland) 2011 upon which this Order is consequential. It identified modest positive differential impacts for all of the section 75 groups, given that the changes to dispute resolution procedures will open up opportunities for resolving workplace disputes in a more constructive and efficient manner. That assessment is valid for the purposes of this Order.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment was carried out in relation to the changes brought about by the Employment Act (Northern Ireland) 2011 upon which this Order is consequential. It identified that businesses are likely to realise savings of around £1.5 million per annum as a direct result of the repeal of the statutory grievance procedures across all employment rights jurisdictions. This Order is a necessary device to ensure that the revised Code of Practice, which is central to the delivery of best practice arrangements for the resolution of workplace disputes, is brought into effect.

7. Financial Implications

- 7.1. Repeal of the statutory grievance procedures across all employment rights jurisdictions and their replacement with best practice arrangements contained within the revised Code of Practice will result in savings of around £25,000 per annum to the Office of Industrial Tribunals and the Fair Employment Tribunal as a result of the reduced complexity of claims and pre-acceptance procedures (source: Regulatory Impact Assessment referred to above). The Order facilitates the introduction of the Code.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The provisions of the Order are not considered to be in breach of Section 24.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Order applies only to Northern Ireland and is consequential upon the changes brought about by the Employment Act (Northern Ireland) 2011. A Statutory Instrument was introduced in Great Britain to bring into effect a revised Code of Practice issued by ACAS; however this does not directly correspond to that issued by the Labour Relations Agency as the law governing workplace dispute resolution in Great Britain now differs somewhat from that in Northern Ireland.

11. Additional Information

- 11.1. Not applicable.