

SCHEDULE

The Labour Relations Agency Arbitration Scheme

PART XXI

Challenging the award

Appeals on questions of EC law and the Human Rights Act 1998

112.—(1) Section 69 of the Arbitration Act 1996 shall apply to arbitrations conducted in accordance with the Scheme, modified as shown in sub-paragraphs (2) to (10).

(2) A party to arbitral proceedings may (upon notice to the other party, to the arbitrator and to the LRA) appeal to the High Court or the county court on a question—

- (a) of EC law, or
- (b) concerning the application of the Human Rights Act 1998.

(3) An appeal shall not be brought under this section except—

- (a) with the agreement of all the other parties to the proceedings, or
- (b) with the leave of the court.

The right to appeal is also subject to the restrictions in section 70(2) and (3), as modified for the purposes of the Scheme.

(4) Leave to appeal shall be given only if the court is satisfied—

- (a) that the determination of the question will substantially affect the rights of one or more of the parties,
- (b) that, on the basis of the findings of fact in the award in so far as the question for appeal raises a point of EC law, the point is capable of serious argument, and in so far as the question for appeal does not raise a point of EC law —
 - (i) the decision of the tribunal on the question is obviously wrong, or
 - (ii) the question is one of general public importance and the decision of the tribunal is at least open to serious doubt, and
- (c) that, despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in all the circumstances for the court to determine the question.

(5) An application for leave to appeal under this section shall identify the question of law to be determined and state the grounds on which it is alleged that leave to appeal should be granted.

(6) The court shall determine an application for leave to appeal under this section without a hearing unless it appears to the court that a hearing is required.

(7) The leave of the court is required for any appeal from a decision of the court under this section to grant or refuse leave to appeal.

(8) On an appeal under this section the court may by order—

- (a) confirm the award,
- (b) vary the award,
- (c) remit the award to the tribunal, in whole or in part, for reconsideration in the light of the court's determination, or
- (d) set aside the award in whole or in part.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(9) The decision of the court on an appeal under this section shall be treated as a judgment of the court for the purposes of a further appeal.

But no such appeal lies without the leave of the court which shall not be given unless the court considers that the question is one of general importance or is one which for some other special reason should be considered by the Court of Appeal.

(10) In this section—

“EC law” means—

- (a) any provision in the domestic legislation of Northern Ireland and giving effect to rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the European Community Treaties, and
- (b) any such rights, powers, liabilities, obligations and restrictions which are not given effect by any such provision; and

“the Scheme” means the arbitration scheme set out in the Schedule to the Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012.