

## SCHEDULE

### The Labour Relations Agency Arbitration Scheme

## PART XVI

### Questions of EC Law and the Human Rights Act 1998

#### **Appointment of legal adviser**

85. The arbitrator shall have the power, on the application of any party or of his or her own volition, to require the appointment of a legal adviser to assist with respect to any issue of EC law or the Human Rights Act 1998 that, in the arbitrator's view and subject to paragraph 10 (Arbitrator's Terms of Reference), might be involved and be relevant to the resolution of the dispute.

86. The legal adviser will be appointed by the LRA, to report to the arbitrator and the parties, and shall be subject to the duty of disclosure set out in paragraphs 35 and 36.

87. The arbitrator shall allow the legal adviser to attend the proceedings, and may order an adjournment to facilitate this.

88. The parties shall be given a reasonable opportunity to comment to the arbitrator on any information, opinion or advice offered by the legal adviser, following which the arbitrator shall take such information, opinion or advice into account in determining the dispute.

#### **Court determination of preliminary points**

89.—(1) Section 45 of the Arbitration Act 1996(1) shall apply to arbitrations conducted in accordance with the Scheme, modified as shown in sub-paragraphs (2) to (7).

(2) The High Court or the county court may on the application of a party to arbitral proceedings (upon notice to the other parties) determine any question—

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

arising in the course of the proceedings which the court is satisfied substantially affects the rights of one or more of the parties.

(3) An application under this section shall not be considered unless—

- (a) it is made with the agreement of all the other parties to the proceedings, or
- (b) it is made with the permission of the tribunal and the court is satisfied that the application was made without delay.

(4) The application shall identify the question of law to be determined and, unless made with the agreement of all the other parties to the proceedings, shall state the grounds on which it is said that the question should be decided by the court.

(5) Unless the court gives leave, no appeal lies from a decision of the court whether the conditions specified in subsection (2) are met.

(6) The decision of the court on the question of law shall be treated as a judgment of the court for the purposes of an appeal.

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(1) 1996 c. 23

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

But no 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.

(7) In this section, “EC law” means—

- (a) any provision in the domestic legislation of Northern Ireland 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.