2011 CHAPTER 13

Procedure: industrial tribunals

Determination of industrial tribunal proceedings without hearing

5. In the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18), in Article 9 (industrial tribunal procedure regulations), after paragraph (3A) insert—

"(3AA) Industrial tribunal procedure regulations under paragraph (3A) may only authorise the determination of proceedings without any hearing in circumstances where—

(a) all the parties to the proceedings consent in writing to the determination without a hearing, or

(b) the person (or, where more than one, each of the persons) against whom the proceedings are brought—

(i) has presented no response in the proceedings, or

(ii) does not contest the case.

(3AB) For the purposes of paragraph (3AA)(b), a person does not present a response in the proceedings if he presents a response but, in accordance with provision made by the regulations, it is not accepted.".

Restriction of publicity

6.—(1) Article 13 of the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18) is amended as follows.

(2) In the heading to the Article omit the words "in cases involving sexual misconduct".

(3) For paragraph (1) substitute—

"(1) Industrial tribunal procedure regulations may include provision for cases to which this paragraph applies enabling an industrial tribunal, on the application of any party to proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the tribunal.

(1A) Paragraph (1) applies to cases—

(a) involving allegations of sexual misconduct;

(b) where the disclosure of identifying matter would be likely to cause—

(i) an individual (whether a party to the proceedings or not) to be subjected to harassment;

(ii) such an individual, or any property of such an individual, to be placed at risk of injury or damage; or

(c) where, in the opinion of the tribunal, the interests of justice otherwise require.

(1B) Industrial tribunal procedure regulations may include provision, for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation.".

(4) In paragraph (4) in the definition of "identifying matter" for "him as a person affected by, or as the person making, the allegation" substitute "a party to the proceedings in question or such other persons (if any) as may be named in the restricted reporting order".

Enforcement of sums payable

7. In Article 17(1) of the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18) for the words from "shall, if a county court so orders," to the end substitute "shall be enforceable as if it were payable under an order of the county court.".

Conciliation before bringing of proceedings

8.—(1) In the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18), Article 20 (conciliation) is amended as follows.

(2) In paragraph (3) for the words from "shall act" to the end substitute "may endeavour to promote a settlement between the parties without proceedings being instituted.".

(3) For paragraph (5) substitute—

"(5) Where the Agency acts pursuant to paragraph (3) in a case where the person claiming as specified in sub-paragraph (a) of that paragraph

has ceased to be employed by the employer and the proceedings which he claims could be brought by him are proceedings under Article 145 of the Employment Rights Order, the Agency may in particular—

(a) seek to promote the reinstatement or re-engagement of that person by the employer, or by a successor of the employer or by an associated employer, on terms appearing to the Agency to be equitable, or

(b) where the person does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to that person.".

Conciliation after bringing of proceedings

9.—(1) In the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18), in Article 20 (conciliation), paragraph (2A) is repealed.

(2) In that Order, in Article 21 (conciliation procedure), paragraph (2) is repealed.

Recovery of sums payable under compromises involving the Agency

10. In the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18) after Article 21 insert—

"**Conciliation: recovery of sums payable under compromises**

21A.—(1) Paragraphs (3) to (6) apply if—

(a) the Agency—

(i) has taken action under Article 20 in a case, and

(ii) issues a certificate in writing stating that a compromise has been reached in the case, and

(b) all of the terms of the compromise are set out—

(i) in a single relevant document, or

(ii) in a combination of two or more relevant documents.

(2) A document is a "relevant document" for the purposes of paragraph (1) if—

(a) it is the certificate, or

(b) it is a document that is referred to in the certificate or that is referred to in a document that is within this sub-paragraph.

(3) Any sum payable by a person under the terms of the compromise (a "compromise sum") shall, subject to paragraphs (4) to (7), be recoverable as if the sum were payable under an order of the county court.

(4) A compromise sum is not recoverable under paragraph (3) if—

(a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and

(b) that declaration is made.

(5) If county court rules so provide, a compromise sum is not recoverable under paragraph (3) during the period—

(a) beginning with the issue of the certificate, and

(b) ending at such time as may be specified in, or determined under, county court rules.

(6) If the terms of the compromise provide for the person to whom a compromise sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under paragraph (3) only if a county court so orders.

(7) Once an application has been made for a declaration under paragraph (4) in relation to a sum, no further reliance may be placed on paragraph (3) for the recovery of the sum while the application is pending.

(8) An application for a declaration under paragraph (4) may be made to an industrial tribunal or a county court.

(9) Industrial tribunal procedure regulations may (in particular) make provision as to the time within which an application to an industrial tribunal for a declaration under paragraph (4) is to be made.

(10) County court rules may make provision as to—

(a) the time within which an application to a county court for a declaration under paragraph (4) is to be made;

(b) when an application (whether made to a county court or an industrial tribunal) for a declaration under paragraph (4) is pending for the purposes of paragraph (7).

(11) Nothing in this Article shall be taken to prejudice any rights or remedies that a person has apart from this Article.

(12) In this Article "compromise" (except in the phrase "compromise sum") means a settlement, or compromise, to avoid proceedings or bring proceedings to an end.".