
STATUTORY INSTRUMENTS

1993 No. 2668

The Industrial Relations (Northern Ireland) Order 1993

Other employment matters

Agreements not to take proceedings before industrial tribunals

16.—(1) Article 78 of the No. 1 Order (restrictions on contracting out) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (2) at the end there shall be added—

“(f) to any agreement to refrain from instituting or continuing any proceedings, other than excepted proceedings, specified in Article 62(1)(a) or (b) before an industrial tribunal if the conditions regulating compromise agreements under this Order are satisfied in relation to the agreement.”.

(3) After paragraph (2) there shall be added—

“(3) The proceedings excepted from paragraph (2)(f) are proceedings on a complaint of non-compliance with Article 49.

(4) The conditions regulating compromise agreements under this Order are that—

- (a) the agreement must be in writing;
- (b) the agreement must relate to the particular complaint;
- (c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an industrial tribunal;
- (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;
- (e) the agreement must identify the adviser; and
- (f) the agreement must state that the conditions regulating compromise agreements under this Order are satisfied.

(5) In paragraph (4)—

“independent”, in relation to legal advice to the complainant, means that it is given by a lawyer who is not acting for the other party or for a person who is connected with that other party; and

“qualified lawyer” means—

- (a) a barrister, whether in practice as such or employed to give legal advice; or
- (b) a solicitor of the Supreme Court who holds a practising certificate.

(6) For the purposes of paragraph (5) any two persons are to be treated as “connected” if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control.”.

(4) Schedule 4 shall have effect for making corresponding amendments in the Sex Discrimination (Northern Ireland) Order 1976⁽¹⁾, the No. 2 Order, the Wages (Northern Ireland) Order 1988⁽²⁾ and the Industrial Relations (Northern Ireland) Order 1992⁽³⁾.

⁽¹⁾ 1976 NI 15
⁽²⁾ 1988 NI 7
⁽³⁾ 1992 NI 5