

*These notes refer to the Employment Act (Northern Ireland)
2016 (c.15) which received Royal Assent on 22nd April 2016*

Employment Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Miscellaneous

Section 22: Indexation of amounts: timing and rounding

This section amends Article 33(2) and (3) of the Employment Relations (Northern Ireland) Order 1999 (“ERO 1999”) by setting a time for orders made under that Article to come into operation and amending the calculation which is to be used to increase or decrease the relevant limits.

Article 33(2) of the ERO 1999 provides that, if the Retail Prices Index (RPI) for September of a year is higher or lower than the RPI for the previous September, the Department is required to make an order to increase or decrease the limits which apply to certain IT awards and other amounts payable under employment legislation.

The list of sums to be increased or decreased as a result of a change in the RPI is set out in Article 33(1) of the ERO 1999. The sums for the relevant payments and awards are revised by order annually under the ERO 1999. Section 22 amends Article 33(2) so that future changes to the relevant limits are to be made on 6th April each year rather than (as currently) as soon as practicable. All limits remain linked to the RPI.

Section 22 also changes the rounding calculation set out in Article 33(3) of the ERO 1999 so that all limits are rounded up or down to the nearest pound.

Additionally, a new paragraph (7) is added to Article 33 specifying that the Department may at any time make an order increasing or decreasing sums dealt with under Article 33. Such an order would need to be laid in draft before, and approved by, the Assembly before becoming operational. Provision is made that if such an order is made, it can obviate the need for the normal annual revision of limits in line with the RPI.

Section 23: Prohibition on disclosure of information held by the Labour Relations Agency

This section inserts Article 90B into the Industrial Relations (Northern Ireland) Order 1992. The new Article prohibits the LRA, or persons appointed by the

LRA, from releasing information relating to a worker, employer of a worker, or a trade union, that they hold in the course of performing their functions.

Paragraph (2) of Article 90B specifies the circumstances in which the prohibition does not apply, for example if the disclosure is made for the purposes of a criminal investigation, or in a way that means that no-one to whom the information relates can be identified. Paragraph (4) of the Article makes a breach of the prohibition a criminal offence, punishable by a fine. By virtue of paragraph (5), any such proceedings, brought against the person who has breached the prohibition in Northern Ireland, can only be instituted by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Section 24: Variation in procedures for certain orders and regulations

Section 24 amends Article 251 of the ERO 1996 so that the Department's powers to amend certain legislative provisions are made subject to the draft affirmative procedure before the Assembly. These include powers relating to the qualifying period for unfair dismissal and certain of the new public interest disclosure provisions inserted into the ERO 1996 by the Act.

Application of the draft affirmative procedure means that any rules under these powers must be laid in draft and cannot be made unless approved by the Assembly.

The section also contains technical amendments allowing for more efficient procedural handling of certain regulations containing provisions which are subject to different Assembly procedures.

Section 25: Statutory shared parental pay: correction of references

Section 25 corrects a small number of references in the Social Security Contributions and Benefits (Northern Ireland) Act 1992, dealing with statutory shared parental pay, which were introduced by the Work and Families Act (Northern Ireland) 2015.

Section 26: References to tribunal jurisdictions to which Articles 17 and 27 of the Employment (Northern Ireland) Order 2003 apply

Section 26 updates legislative references in Schedules 2 and 4 to the Employment (Northern Ireland) Order 2003 ("EO 2003").

Schedule 2 to the EO 2003 lists the range of employment rights in respect of which, if minimum statutory disciplinary and dismissal procedures have not been followed in the workplace, an industrial tribunal may adjust an award.

Schedule 4 to that Order lists the jurisdictions in respect of which industrial tribunals are normally required to make or increase an award if an employer has provided an employee with an incomplete or inaccurate written statement of employment particulars.