
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XIII

PROCEDURE FOR HANDLING REDUNDANCIES

Duty of employer to consult representatives of employees

Complaint and protective award

217.—(1) Where an employer has failed to comply with any requirement of Article 216, a complaint may be presented to an industrial tribunal on that ground—

- (a) in the case of a failure relating to employee representatives, by any of the employee representatives to whom the failure related,
- (b) in the case of a failure relating to representatives of a trade union, by the trade union, and
- (c) in any other case, by any of the employees who have been or may be dismissed as redundant.

(2) If the tribunal finds the complaint well-founded it shall make a declaration to that effect and may also make a protective award.

(3) A protective award is an award in respect of one or more descriptions of employees—

- (a) who have been dismissed as redundant, or whom it is proposed to dismiss as redundant, and
- (b) in respect of whose dismissal or proposed dismissal the employer has failed to comply with a requirement of Article 216,

ordering the employer to pay remuneration for the protected period.

(4) The protected period—

- (a) begins with the date on which the first of the dismissals to which the complaint relates takes effect, or the date of the award, whichever is the earlier, and
- (b) is of such length as the tribunal determines to be just and equitable in all the circumstances having regard to the seriousness of the employer's default in complying with any requirement of Article 216;

but shall not exceed 90 days in a case falling within Article 216(2)(a) or 30 days in a case falling within Article 216(2)(b).

(5) An industrial tribunal shall not consider a complaint under this Article unless it is presented to the tribunal—

- (a) before the date on which the last of the dismissals to which the complaint relates takes effect, or
- (b) during the period of three months beginning with that date, or

- (c) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented during that period of three months.
- (6) If on a complaint under this Article a question arises—
 - (a) whether there were special circumstances which rendered it not reasonably practicable for the employer to comply with any requirement of Article 216, or
 - (b) whether he took all such steps towards compliance with that requirement as were reasonably practicable in those circumstances,it is for the employer to show that there were and that he did.