
STATUTORY INSTRUMENTS

1998 No. 1265

**The Employment Rights (Dispute
Resolution) (Northern Ireland) Order 1998**

PART II

INDUSTRIAL TRIBUNALS

Hearings etc.

Determinations without a hearing or full hearing

3. In Article 9 of the Industrial Tribunals (Northern Ireland) Order 1996 (which authorises the making of industrial tribunal procedure regulations), after paragraph (3) there shall be inserted—

“(3A) Industrial tribunal procedure regulations may authorise the determination of proceedings without any hearing (and in private) where the parties have given their written consent (whether or not they have subsequently withdrawn it).

(3B) Industrial tribunal procedure regulations may authorise the determination of proceedings without hearing anyone other than the person or persons by whom the proceedings are brought (or his or their representatives) where—

- (a) the person (or, where more than one, each of the persons) against whom the proceedings are brought has done nothing to contest the case, or
- (b) it appears from the application made by the person (or, where more than one, each of the persons) bringing the proceedings that he is not (or they are not) seeking any relief which an industrial tribunal has power to give or that he is not (or they are not) entitled to any such relief.

(3C) Industrial tribunal procedure regulations may authorise the determination of proceedings without hearing anyone other than the person or persons by whom, and the person or persons against whom, the proceedings are brought (or his or their representatives) where—

- (a) an industrial tribunal is on undisputed facts bound by the decision of a court in another case to dismiss the case of the person or persons by whom, or of the person or persons against whom, the proceedings are brought, or
- (b) the proceedings relate only to a preliminary issue which may be heard and determined in accordance with regulations under Article 11(4).”.

Hearings etc. by chairman alone

4.—(1) In Article 6 of the Industrial Tribunals (Northern Ireland) Order 1996 (which makes provision about the composition of an industrial tribunal), paragraph (3) (which specifies the tribunal proceedings which are to be heard by the chairman alone unless he decides otherwise) shall be amended in accordance with paragraphs (2) to (4).

(2) For sub-paragraph (a) (which specifies proceedings under the Employment Rights (Northern Ireland) Order 1996) there shall be substituted—

- “(a) proceedings—
- (i) on an application under Article 163, 166 or 167 of the Employment Rights Order (interim relief orders);
 - (ii) on a complaint under Article 55 (protection of wages), Article 66 (guarantee payment), Article 220 (protective award) or Article 233 (payment on insolvency of employer) of that Order;
 - (iii) on a complaint under Article 102(1) of that Order relating to Article 96 (suspension from work on medical grounds) of that Order;
 - (iv) on a reference under Article 43 (statement of particulars of employment and itemised pay statement), Article 198 (redundancy payment) or Article 205 (liability for employer’s payment) of that Order; or
 - (v) for an appointment under Article 248(4) (institution or continuance of tribunal proceedings where employee is deceased) of that Order;”.

(3) After sub-paragraph (a) there shall be inserted—

- “(aa) proceedings on a complaint under Article 36 (employer deducting unauthorised or excessive union subscription) or Article 61 (employer deducting or refusing to deduct union contribution) of the Trade Union and Labour Relations (Northern Ireland) Order 1995;
- (ab) proceedings on a complaint under regulation 11(5) of the Transfer of Undertakings (Protection of Employment) Regulations 1981;”.

(4) Sub-paragraph (e) (which specifies proceedings in which the person bringing the proceedings has given written notice withdrawing the case), apart from the word “and”, shall cease to have effect.

(5) After paragraph (6) of that Article (which makes provision for industrial tribunal procedure regulations to provide that any act required or authorised by the regulations to be done by a tribunal may be done by the chairman alone) there shall be inserted—

“(6A) Paragraph (6) in particular enables industrial tribunal procedure regulations to provide that—

- (a) the determination of proceedings in accordance with regulations under Article 9(3A), (3B) or (3C)(a),
- (b) the carrying-out of pre-hearing reviews in accordance with regulations under paragraph (1) of Article 11 (including the exercise of powers in connection with such reviews in accordance with regulations under sub-paragraph (b) of that paragraph), or
- (c) the hearing and determination of a preliminary issue in accordance with regulations under Article 11(4) (where it involves hearing witnesses other than the parties or their representatives as well as where, in accordance with regulations under Article 9(3C)(b), it does not),

may be done by the person mentioned in paragraph (1)(a) alone.”.

Hearings by chairman and one other member

5. In Article 6(1) of the Industrial Tribunals (Northern Ireland) Order 1996 (which provides that, subject to the following provisions of that Article, industrial tribunal proceedings are to be heard by the chairman and either two other members or, with the consent of the parties, one other member), for sub-paragraph (b) there shall be substituted—

“(b) two other members selected as the other members in accordance with regulations so made or, with appropriate consent, one other member selected as the other member in accordance with regulations so made;

and in sub-paragraph (b) “appropriate consent” means either consent given at the beginning of the hearing by such of the parties as are then present in person or represented, or consent given by each of the parties.”.