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STATUTORY INSTRUMENTS

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**1998 No. 1265**

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

**PART IV**

**AWARDS OF COMPENSATION**

**Internal appeal procedures and unfair dismissal awards**

**14.** After Article 162 of the Employment Rights (Northern Ireland) Order 1996 there shall be inserted—

**“Internal appeal procedures**

**162A.**—(1) Where in a case in which an award of compensation for unfair dismissal falls to be made under Article 146(4) or 151(3)(a) the tribunal finds that—

- (a) the employer provided a procedure for appealing against dismissal, and
- (b) the complainant was, at the time of the dismissal or within a reasonable period afterwards, given written notice stating that the employer provided the procedure and including details of it, but
- (c) the complainant did not appeal against the dismissal under the procedure (otherwise than because the employer prevented him from doing so),

the tribunal shall reduce the compensatory award included in the award of compensation for unfair dismissal by such amount (if any) as it considers just and equitable.

(2) Where in a case in which an award of compensation for unfair dismissal falls to be made under Article 146(4) or 151(3)(a) the tribunal finds that—

- (a) the employer provided a procedure for appealing against dismissal, but
- (b) the employer prevented the complainant from appealing against the dismissal under the procedure,

the award of compensation for unfair dismissal shall include a supplementary award of such amount (if any) as the tribunal considers just and equitable.

(3) In determining the amount of a reduction under paragraph (1) or a supplementary award under paragraph (2) the tribunal shall have regard to all the circumstances of the case, including in particular the chances that an appeal under the procedure provided by the employer would have been successful.

(4) The amount of such a reduction or supplementary award shall not exceed the amount of two weeks' pay.”

**Acts which are both unfair dismissal and disability discrimination**

15.—(1) In Article 151(6) of the Employment Rights (Northern Ireland) Order 1996 (which provides for a higher additional award for an unfairly dismissed employee who is not reinstated or re-engaged as ordered in a case where the dismissal is an act of discrimination within the meaning of other statutory provisions), at the end there shall be added

“and

(d) a dismissal which is an act of discrimination within the meaning of the Disability Discrimination Act 1995 which is unlawful by virtue of that Act.”.

(2) Article 160(1) of the Employment Rights (Northern Ireland) Order 1996 (which prohibits recovery under more than one provision in the case of an act which is both unfair dismissal and sex or race discrimination) shall be amended as follows.

(3) For sub-paragraph (b) there shall be substituted—

“(b) any one or more of the Sex Discrimination (Northern Ireland) Order 1976, the Disability Discrimination Act 1995 and the Race Relations (Northern Ireland) Order 1997.”.

(4) The words “two or three” shall cease to have effect.

(5) For the words “the other, or any of the others,” there shall be substituted “any other of them”.