
STATUTORY INSTRUMENTS

1998 No. 3162

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART IX

THE FAIR EMPLOYMENT TRIBUNAL

Procedure

Tribunal procedure

84.—(1) The Department may by regulations make such provision as appears to it to be necessary or expedient with respect to proceedings before the Tribunal.

(2) The regulations may, in particular, include provision—

- (a) for determining by which tribunal any proceedings are to be determined, where the jurisdiction of the Tribunal is being exercised by more than one tribunal;
- (b) for parties to proceedings to be represented by such persons as may be determined by or under the regulations;
- (c) for requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses;
- (d) as to the admissibility of evidence;
- (e) for granting to any person such discovery or inspection of documents or right to further particulars as might be granted by a county court;
- (f) for enabling an officer of the Tribunal to determine matters arising prior to a hearing;
- (g) prescribing forms to be completed by the parties to a complaint under Article 38 before any hearing before the Tribunal;
- (h) for enabling the Tribunal to review its decisions, and revoke or vary its orders or awards, in such circumstances as may be determined in accordance with the regulations;
- (i) for the award of costs;
- (j) for taxing or otherwise settling any such costs (and, in particular, for enabling such costs to be taxed in the county court); and
- (k) for the registration and proof of decisions, orders and awards of the Tribunal.

(3) The regulations may include provision authorising or requiring the Tribunal, in circumstances specified in the regulations, to send notice or a copy of—

- (a) any document specified in the regulations which relates to any proceedings before the Tribunal; or
 - (b) any decision, order or award of the Tribunal,
- to any person or body so specified.

(4) In relation to proceedings on a complaint under Article 38 , the regulations shall include provision for postponing the hearing of a complaint for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the complaint to be settled by way of conciliation or arbitration and withdrawn.

(5) The regulations may enable the Tribunal to sit in private for the purposes of—

- (a) hearing evidence which in the opinion of the Tribunal relates to matters of such a nature that it would be against the interests of national security, public safety or public order to allow the evidence to be given in public;
- (b) hearing evidence from any person which in the opinion of the Tribunal is likely to consist of—
 - (i) information which he could not disclose without contravening a prohibition imposed by or under any statutory provision;
 - (ii) information which has been communicated to him in confidence or which he has otherwise obtained in consequence of the confidence reposed in him by another person;
 - (iii) information the disclosure of which would cause substantial injury to any undertaking of his or in which he works; or
 - (iv) information the disclosure of which would create a substantial risk that he or another individual would be subject to physical attack or sectarian harassment.

(6) Where the Tribunal sits in private in accordance with any provision included in the regulations by virtue of paragraph (5), the Tribunal may make an order prohibiting the disclosure of specified information, except so far as the disclosure is necessary—

- (a) for the purposes of the proceedings;
- (b) for communicating to any person the decision of the Tribunal in the proceedings and for communicating the reasons for the decision to any person to whom the Tribunal is required by the regulations to communicate them; or
- (c) for the purposes of any criminal proceedings or to comply with the order of a court.

(7) The Tribunal shall give reasons for its decisions.

(8) Part I of the Arbitration Act 1996 does not apply to any proceedings before the Tribunal.

(9) Any person who without reasonable excuse fails to comply with—

- (a) any requirement imposed by the regulations by virtue of paragraph (2)(c); or
- (b) any requirement with respect to the discovery or inspection of documents imposed by the regulations by virtue of paragraph (2)(e),

is guilty of an offence.

(10) A person guilty of an offence under paragraph (9)—

- (a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
- (b) if without reasonable excuse the failure continues after conviction, shall be liable on a second or subsequent summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

(11) If a person discloses any information in contravention of an order of the Tribunal under paragraph (6), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Procedure for matters within jurisdiction of industrial tribunal

85.—(1) This Article applies where a complaint has been made to the Tribunal under Article 38 and it appears to the President or Vice-President that the complaint is one in respect of which—

- (a) a complaint could be made to an industrial tribunal on the ground that—
 - (i) a person has committed an act of discrimination against the complainant which is unlawful by virtue of any provision of Part III of the Sex Discrimination (Northern Ireland) Order 1976; or
 - (ii) a person has committed an act of discrimination against the complainant which is unlawful by virtue of any provision of Part II of the Disability Discrimination Act 1995; or
 - (iii) the complainant has been unfairly dismissed within the meaning of Part XI of the Employment Rights (Northern Ireland) Order 1996; or
 - (iv) a person has committed an act of discrimination against the complainant which is unlawful by virtue of any provision of Part II of the Race Relations (Northern Ireland) Order 1997; or
- (b) a complaint has been made to an industrial tribunal on that ground, but the proceedings under the Sex Discrimination (Northern Ireland) Order 1976, the Disability Discrimination Act 1995, the Employment Rights (Northern Ireland) Order 1996 or the Race Relations (Northern Ireland) Order 1997, (as the case may be), have not been disposed of.

(2) Where this Article applies and the President or Vice-President considers that any matters which would otherwise fall to be determined by an industrial tribunal could appropriately be heard and determined by the Tribunal, he may direct that those matters shall be so heard and determined.

(3) Where a direction is made under paragraph (2) that any matters shall be heard and determined by the Tribunal, then—

- (a) for the purpose of complying with that direction, the Tribunal shall, in relation to those matters, have the jurisdiction, and may exercise all the powers, of an industrial tribunal;
- (b) none of the following, namely—
 - (i) Article 63(3) of the Sex Discrimination (Northern Ireland) Order 1976;
 - (ii) Article 11(5) of the Industrial Tribunals (Northern Ireland) Order 1996;
 - (iii) Article 52(3) of the Race Relations (Northern Ireland) Order 1997,shall apply in relation to the hearing and determination of those matters by the Tribunal;
- (c) Articles 16 and 17 of the Industrial Tribunals (Northern Ireland) Order 1996 (recovery of, and interest on, sums awarded by industrial tribunals) shall apply in relation to any sum payable in pursuance of a decision of the Tribunal in relation to any such matters as it applies in relation to a sum payable in pursuance of a decision of an industrial tribunal; and
- (d) Article 22 of the Industrial Tribunals (Northern Ireland) Order 1996 (appeals against decisions of industrial tribunals) shall apply in relation to a decision of the Tribunal in relation to any such matter as it applies in relation to a decision of an industrial tribunal.

Interest on awards of compensation

86.—(1) The Department may by order made with the approval of the Department of Finance and Personnel provide that an award of compensation under Article 39(1)(b) shall carry interest at such rate and between such times as may be prescribed by the order.

- (2) The power conferred by paragraph (1) includes power—
 - (a) to specify cases or circumstances in which interest is not payable;

- (b) to provide that interest is payable only on compensation exceeding a specified amount or falling between specified amounts;
 - (c) to make provision for the manner in which and the periods by reference to which interest is to be calculated and paid;
 - (d) to provide that any statutory provision—
 - (i) does or does not apply in relation to interest payable by virtue of paragraph (1); or
 - (ii) applies to it with such modifications as may be specified in the order;
 - (e) to make provision for cases where compensation is payable in pursuance of decisions or awards made on appeal from the Tribunal.
- (3) In particular, an order under paragraph (1) may provide that the rate of interest shall be the rate from time to time in force in relation to interest on amounts awarded by decree in the county court.

Enforcement

87. The Judgments Enforcement (Northern Ireland) Order 1981 shall apply with the necessary modifications in relation to an award of compensation under Article 39(1)(b) and any interest thereon due by virtue of an order under Article 86(1) as it applies to a sum due under a money judgment (within the meaning of that Order).