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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2004 as amended. They have been drafted in simpler language and have been re-numbered and re-ordered. In addition to minor and drafting amendments and the updating of statutory and other references, these Regulations make the following changes of substance.

Regulation 9 gives the President power to make practice directions.

Regulation 10 empowers the Department for Employment and Learning to prescribe forms which are to be used by claimants and respondents in proceedings before an industrial tribunal. The prescribed forms do not have to be used in relation to the proceedings listed in regulation 10(3).

Regulation 11 specifies the manner in which the time limits described in the Schedules to the Regulations are to be interpreted.

Regulation 12 provides that Schedule 1 to the Regulations is to apply to all proceedings before an industrial tribunal. However Schedule 1 is modified by Schedules 2 to 6 in relation to proceedings to which each of those Schedules apply respectively.

Regulation 13 provides that details of claims, appeals, applications, decisions and their associated written reasons are to be entered on the public register.

Regulation 15 makes transitional provision in relation to proceedings which were commenced prior to 3rd April 2005. The Regulations apply to all proceedings commenced on or after that date.

Schedule 1 to the Regulations introduces some new terminology such as “claim”, “claimant”, “response”, “case management discussion” and “default judgement”.

Rules 1 to 3 of Schedule 1 provide that, from 1st October 2005, a claim should be presented using a prescribed form. The provision of certain information (“the required information”) is mandatory if the claim is to be accepted and allowed to proceed. Much of the required information is designed to establish whether the statutory disciplinary and grievance procedures under the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004 are applicable and have been followed.

Rule 4 of Schedule 1 provides that the respondent has 28 days from the date on which he was sent the claim in order to present his response. That time limit may be extended if an application to do so is made before the time limit has expired. As from 1st October 2005 a response should be presented using a prescribed form.

Rule 6 of Schedule 1 provides that the response will not be accepted if the required information in relation to it has not been provided.

Rule 7 of Schedule 1 sets out the details of any counterclaim which must be provided and it allows a chairman to establish the procedure which is to apply to a counterclaim in particular proceedings. Procedure in relation to counterclaims generally may be provided for by practice direction.

Rule 8 of Schedule 1 introduces default judgments where no response has been accepted in proceedings and the time limit for entering the response has expired.

Rules 10 to 13 of Schedule 1 describe the tribunal’s case management powers and the procedure for making applications in proceedings.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Rules 14 to 19 of Schedule 1 describe the different types of hearing which may be held, how such hearings are to be conducted and the orders which may be made at different types of hearings.

Rules 22 to 24 of Schedule 1 provide that, in relation to the majority of proceedings brought before industrial tribunals, there shall be a fixed period of conciliation of either “short” or “standard” length. Rule 23 makes provision for the early termination of such conciliation periods in certain circumstances.

Rule 25 of Schedule 1 establishes the procedure to be followed in order to withdraw a claim.

Rule 26 of Schedule 1 describes a hearing held to determine an outstanding procedural or substantive issue or dispose of the proceedings.

Rule 28 of Schedule 1 describes when orders and decisions may be made. Rule 29 specifies the matters which are to be included in a decision. Rule 30 sets out the circumstances in which it is possible to obtain reasons for a decision.

Rules 33 to 36 of Schedule 1 establish new procedures for reviewing certain decisions made by a tribunal or chairman.

Rules 38 to 41 of Schedule 1 describe the circumstances in which a costs order may be made. Such an order may only be made if the party in favour of whom it is made has been legally represented at the relevant time. The relevant time will generally be at the hearing under rule 26. The ability of the paying party to pay the costs order may also be taken into account by the tribunal or chairman.

Rules 42 to 45 of Schedule 1 describe the circumstances in which a preparation time order may be made. A preparation time order may only be made if the party in favour of whom it is made has not been legally represented at the relevant time. The relevant time will generally be at the hearing under rule 26. The ability of the paying party to pay the preparation time order may be taken into account by the tribunal or chairman. Rule 45 sets out how the amount of a preparation time order is calculated.

Rule 46 of Schedule 1 provides that a tribunal or chairman may not make a preparation time order and a costs order in favour of the same party in the same proceedings.

Rule 48 of Schedule 1 introduces wasted costs orders which may be made against representatives. The orders may not however be made against representatives who are not acting in pursuit of profit in relation to those proceedings.

Rule 50 of Schedule 1 provides that a tribunal or chairman may make a temporary restricted reporting order without holding a hearing and sets out the circumstances in which such an order will lapse. Provision is also included that any person may make representations to the tribunal or chairman before a full restricted reporting order is made.

Schedule 2 modifies the application of Schedule 1 in relation to national security proceedings before an industrial tribunal.

Schedule 3 modifies the application of Schedule 1 in relation to equal value claims under the Equal Pay Act (Northern Ireland) 1970. In relation to these claims, the tribunal is provided with new case management powers.

Rule 3 of Schedule 3 provides that where an equal value claim is disputed the tribunal must hold a stage 1 equal value hearing in accordance both with rule 4 of Schedule 3 and with the rules applicable to pre-hearing reviews in Schedule 1. Rule 4 of Schedule 3 sets out the matters to be dealt with at such a hearing. Rule 5 of Schedule 3 sets out the standard orders which may be made at such a hearing. These standard orders may be added to, varied or omitted by the tribunal.

Rule 6 of Schedule 3 provides that in cases where an independent expert has been required by the tribunal to prepare a report, the tribunal must hold a stage 2 equal value hearing. The rule lists the matters to be dealt with at such a hearing. Rule 7 of Schedule 3 sets out the standard orders which may be made, added to, varied or omitted by the tribunal at such a hearing.

Rule 8 of Schedule 3 makes provision for the admitting in evidence at a hearing (held under rule 26 of Schedule 1) of a report prepared by the independent expert. It also provides that the tribunal

may refuse to admit at the hearing evidence which has not been disclosed to the other parties before the hearing.

Rule 9 of Schedule 3 sets out the duties and powers of independent experts.

Rule 10 of Schedule 3 provides that other expert evidence may not be admitted in evidence without the permission of the tribunal. It also makes further provision in relation to other expert evidence.

Rule 11 of Schedule 3 establishes a procedure for putting written questions to experts and for the answers to those questions to be treated as part of the expert's report.

Rule 13 of Schedule 3 provides that the procedures contained in rule 10 of Schedule 2 are to apply to independent expert reports and answers to written questions in equal value claims which are also national security proceedings.

The Annex to Schedule 3 sets out an indicative timetable for equal value claims to which the tribunal is to have regard when dealing with certain case management matters.

Schedule 4 modifies the application of Schedule 1 in relation to levy appeals under the Industrial Training (Northern Ireland) Order 1984.

Schedule 5 modifies the application of Schedule 1 in relation to appeals against an improvement or prohibition notice under the Health and Safety at Work (Northern Ireland) Order 1978.

Schedule 6 modifies the application of Schedule 1 in relation to appeals against a non-discrimination notice under either the Sex Discrimination (Northern Ireland) Order 1976, the Race Relations (Northern Ireland) Order 1997 or the Equality (Disability, etc.) (Northern Ireland) Order 2000.

A Regulatory Impact Assessment in respect of these Regulations is available and a copy can be obtained from the Department for Employment and Learning, 39-49 Adelaide Street, Belfast BT2 8FD. A copy has also been placed in the library of the Northern Ireland Assembly.