

EXPLANATORY MEMORANDUM TO

The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012

S.R. 2012 No. 301

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Employment and Learning ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 84A(2), (6), (7) and (8) of the Industrial Relations (Northern Ireland) Order 1992 ("the 1992 Order") and Article 89(2) and (6) of the Fair Employment and Treatment (Northern Ireland) Order 1998 ("the 1998 Order") and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2012 ("the Order") will define and govern the working arrangements pertaining to a new Labour Relations Agency (LRA) arbitration scheme. The Order comes into operation concurrently with a Statutory Rule stipulating the employment rights jurisdictions to which the new arbitration scheme may apply.
- 2.2. Article 1 cites the name of the Order and the date on which it shall come into operation.
- 2.3. Article 2 provides interpretation of terms used in the Order.
- 2.4. Article 3 revokes existing LRA arbitration schemes in respect of unfair dismissal and flexible working while preserving their effect in respect of arbitral agreements made prior to the Order coming into operation.
- 2.5. Article 4 commences the arbitration scheme set out in the Schedule to the Order, subject to the provisions set out in Article 3.
- 2.6. Article 5 provides that certain provisions contained in Part I of the Arbitration Act 1996 relevant to applications to a court, shall apply with modifications set out in the Schedule to the Order.
- 2.7. Article 6 provides that terms of reference for arbitral proceedings shall apply as modified by the Schedule to the Order.

3. Background

- 3.1. As part of an extensive review of systems for resolving workplace disputes the Department undertook to bring forward a range of alternative dispute resolution measures.

- 3.2. The Order forms part of a package of legislation that will establish a single and substantially expanded Labour Relations Agency (LRA) Arbitration Scheme that will provide a voluntary alternative to legal proceedings before an industrial tribunal or the Fair Employment Tribunal.
- 3.3. The effect of the Order will be to create the legal and administrative arrangements for the LRA Arbitration Scheme whilst simultaneously revoking pre-existing arbitration schemes. The jurisdictions to which the scheme may apply are determined by way of a separate statutory rule.

4. Consultation

- 4.1. No formal consultation has been undertaken in respect of the Order as it contributes to a policy programme that has already been the subject of a full public consultation process.

5. Equality Impact

- 5.1. The Order has not been subject to a separate equality impact assessment as it serves to fulfil objectives that have already been subject to a full assessment as part of the Department's review of workplace dispute resolution systems. That assessment identified modest benefits to those who do not have the time, resources or willingness to enter into a full legal process. Single parents (predominantly women), whose time and/or resources are limited by family commitments, may see alternative dispute resolution as a welcome alternative to a tribunal. The same is likely to be true of those suffering from a psychological disability or other health condition such as a stress-related illness or depression, who may find it difficult to cope with confrontational legal proceedings. Arbitration is a cheaper, less costly and less stressful option for those who wish to avail of it.

6. Regulatory Impact

- 6.1. The Order has not been subject to a separate regulatory impact assessment for the reason given above i.e. it serves to fulfil objectives that have already been subject to a full assessment. That assessment projected modest savings of approximately £60,000 across taxpayers, employees and employers as a result of increased work to resolve disputes following the lodgement of a claim with a tribunal.

7. Financial Implications

- 7.1. As above.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The provisions of the Order are not considered to be in breach of Section 24.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. The Order applies only to Northern Ireland.

11. Additional Information

11.1. Not applicable.