STATUTORY RULES OF NORTHERN IRELAND

2011 No. 157

MEDIATION

The Cross-Border Mediation Regulations (Northern Ireland) 2011

Made - - - - *23rd March 2011*

Coming into operation *18th April 2011*

The Department of Finance and Personnel, being a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to mediation acting in exercise of the powers conferred upon it by that section hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Cross-Border Mediation Regulations (Northern Ireland) 2011 and shall come into operation on 18th April 2011.

(2) These Regulations only apply where mediation of the relevant cross-border dispute is started on or after 18th April 2011.

(3) For the purposes of paragraph (2), mediation starts on the date when all the parties to the relevant cross-border dispute and the mediator agree to participate in the mediation.

Interpretation

2.—(1) In these Regulations—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters(**3**); and

"relevant cross-border dispute" means a cross-border dispute to which the Directive applies.

(2) Expressions used in the Directive have the same meaning for the purposes of these Regulations as in the Directive, unless the context otherwise requires.

(**1**) S.I. 2010/2690

(**2**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**3**) O.J. L 136, 24.5.2008, p. 3.

Confidentiality of Mediation

3.—(1) A mediator of, or a person involved in the administration of mediation in relation to, a relevant cross-border dispute is not to be compelled in any civil proceedings or arbitration to give evidence, or produce anything, regarding any information arising out of or in connection with that mediation.

(2) Paragraph (1) does not apply—

(a) where all the parties to the mediation agree otherwise; or

(b) in the circumstances set out in paragraph (a) or (b) of Article 7.1 of the Directive.

Amendment of the Land Registration Act (Northern Ireland) 1970

4.—(1) Schedule 9 to the Land Registration Act (Northern Ireland) 1970(**4**) is amended in accordance with paragraphs (2) and (3).

(2) In paragraph 4(1), for "sub-paragraph (2)" substitute " sub-paragraph (2) and paragraph 4A".

(3) After paragraph 4 insert—

"**4A.**—(1) Sub-paragraph (2) applies where—

(a) there is mediation in relation to a relevant cross border dispute giving rise to a claim for compensation; and

(b) the period of 6 years referred to in paragraph 4(1) ("the limitation period") would, apart from this paragraph, expire—

(i) in the period of 8 weeks after the date on which the mediation ends;

(ii) on the date on which the mediation ends; or

(iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this sub-paragraph applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of sub-paragraph (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—

(a) all of the parties reach an agreement in resolution of the dispute;

(b) all of the parties agree to end the mediation;

(c) a party notifies all of the other parties of that party's withdrawal;

(d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period; or

(e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this paragraph—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

(**4**) 1970 c.18

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.".

Amendment of the Equal Pay Act (Northern Ireland) 1970

5.—(1) The Equal Pay Act (Northern Ireland) 1970(**5**) is amended in accordance with paragraphs (2) and (3).

(2) In subsections (3) to (6) of section 2ZA, for "the qualifying date is" substitute "the qualifying date is, subject to section 2ZAA,".

(3) After section 2ZA insert—

"**Extension of time limit: mediation**

2ZAA.—(1) Subsection (2) applies where—

(a) there is mediation in relation to a relevant cross border dispute giving rise to proceedings under this Act; and

(b) the six months period referred to in section 2ZA(3) to (6) ("the limitation period") would, apart from this section, expire—

(i) in the period of 8 weeks after the date on which the mediation ends;

(ii) on the date on which the mediation ends; or

(iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this subsection applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of subsection (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—

(a) all of the parties reach an agreement in resolution of the dispute;

(b) all of the parties agree to end the mediation;

(c) a party notifies all of the other parties of that party's withdrawal,

(d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period, or

(e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this section—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.".

(**5**) 1970 c.32

Amendment of the Sex Discrimination (Northern Ireland) Order 1976

6.—(1) The Sex Discrimination (Northern Ireland) Order 1976(**6**) is amended in accordance with paragraphs (2) to (4).

(2) In Article 76 (1), (3) and (4) for "An industrial tribunal" substitute "Subject to Article 76A, an industrial tribunal".

(3) In Article 76 (2) for "A county court" substitute "Subject to Article 76A, a county court".

(4) After Article 76 insert—

"**Extension of time limit: mediation**

76A.—(1) Paragraph (2) applies where—

(a) there is mediation in relation to a relevant cross border dispute giving rise to proceedings under this Order; and

(b) a period of time referred to in Article 76 ("the limitation period") would, apart from this Article, expire—

(i) in the period of 8 weeks after the date on which the mediation ends;

(ii) on the date on which the mediation ends; or

(ii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this paragraph applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of paragraph (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—

(a) all of the parties reach an agreement in resolution of the dispute;

(b) all of the parties agree to end the mediation;

(c) a party notifies all of the other parties of that party's withdrawal,

(d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period, or

(e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this Article—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.".

Amendment of the Matrimonial Causes (Northern Ireland) Order 1978

7.—(1) The Matrimonial Causes (Northern Ireland) Order 1978(**7**) is amended in accordance with paragraphs (2) and (3).

(**6**) S.I. 1976/1042 (N.I. 15)
(**7**) S.I. 1978/1045 (N.I. 15)

(2) In Article 55, for "but an application" substitute "but, subject to Article 55A, an application".

(3) After Article 55 insert—

"**Extension of time limit: mediation**

55A.—(1) Paragraph (2) applies where—

(a) there is mediation in relation to a relevant cross border dispute giving rise to a claim under section 17 of the Married Woman's Property Act 1882(**8**); and

(b) the period of 3 years referred to in Article 55 ("the limitation period") would, apart from this Article, expire—

(i) in the period of 8 weeks after the date on which the mediation ends;

(ii) on the date on which the mediation ends; or

(iii) after the date on which all of the parties to the dispute agree to participate in the mediation but before the date on which the mediation ends.

(2) Where this paragraph applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(3) For the purposes of paragraph (1) and (2), a mediation in relation to a relevant cross-border dispute ends on the date of the first of these to occur—

(a) all of the parties reach an agreement in resolution of the dispute;

(b) all of the parties agree to end the mediation;

(c) a party notifies all of the other parties of that party's withdrawal,

(d) a period of 14 days expires after a request made by one party to another party for confirmation of whether the other party has withdrawn and the other party does not respond in that period, or

(e) a period of 14 days expires after the date on which the mediator's tenure ends (by reason of death, resignation or otherwise) and a replacement mediator has not been appointed in that period.

(4) In this Article—

"the Directive" means Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

"mediation" and "mediator" have the meanings given by Article 3 of the Directive; and

"relevant cross-border dispute" means a cross-border dispute within the meaning given by Article 2 of the Directive.".

Amendment of the Domestic Proceedings (Northern Ireland) Order 1980

8.—(1) The Domestic Proceedings (Northern Ireland) Order 1980(**9**) is amended in accordance with paragraphs (2) and (3).

(2) In Article 35(1), for "paragraph (2)," substitute "paragraph (2), and subject to Article 35A,".

(3) After Article 35 insert—

(**8**) 1882 c. 75
(**9**) S.I. 1980/563 (N.I. 5)