STATUTORY RULES OF NORTHERN IRELAND

2005 No. 579

FAIR EMPLOYMENT

The Fair Employment Tribunal (Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*20th December 2005*
Coming into operation	*31st December 2005*

The Department for Employment and Learning(**1**), in exercise of the powers conferred on it by Article 84(1), 84(2)(c) and (e), 84(2B)(**2**) and 84B(1)(**3**) of the Fair Employment and Treatment (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Fair Employment Tribunal (Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 31st December 2005.

(2) In these Regulations "the principal Regulations" means the Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 2005(**6**) and any reference to a rule in a Schedule is a reference to a rule in that Schedule to the principal Regulations.

Amendments to the principal Regulations

2.—(1) In regulation 1(1)(a), (b) and (c) of the principal Regulations, after "Procedure" insert "2005".

(2) In regulation 9 of the principal Regulations, after paragraph (6), insert—

"(7) Where any act must or may be done within a certain period ending upon a Sunday or a public holiday, that period ends on the first day following that is not a Sunday or a public holiday.".

(**1**) Formerly the Department of Higher and Further Education, Training and Employment; *See*2001 c. 15 (N.I.)
(**2**) Paragraph (2B) was inserted by S.I.2003/2902 (N.I. 15), Article 10(1)
(**3**) Article 84B was inserted by S.I. 2003/2902 (N.I. 15), Article 13(1)
(**4**) S.I. 1998/3162 (N.I. 21)
(**5**) *See*S.R. 1999 No. 481
(**6**) S.R. 2005 No. 151

Amendments to the Schedules to the principal Regulations

3.—(1) In Schedule 1—

(a) in rule 4(4)(d) for "on what grounds" substitute "the details of the grounds of such resistance";

(b) in rule 4(6)(a) and (7)(a), before the words "the grounds" insert "details of";

(c) in rule 7(4) after "reviewed under rule 29" insert "and of their right to appeal";

(d) in rule 9(2)(c) omit "or information";

(e) in rule 9(2)(d), for "disclose documents or information to a party or to allow a party to inspect such material as might be ordered by a county court" substitute "grant to a party such discovery or inspection (including the taking of copies) of documents as might be granted by a county court";

(f) in rule 9(5), for "material" substitute "documents";

(g) in rule 12(1)(b) –

(i) for "make an order to strike out" substitute "make a decision to strike out";

(ii) for "order that a respondent" substitute "make a decision that a respondent";

(h) for rule 12(2) substitute—

"(2) A decision or order may also provide that unless the decision or order is complied with the tribunal or chairman may make a decision striking out the claim or, as the case may be, the response on the date of non-compliance without further consideration of the proceedings or the need to give notice under rule 18 or hold a pre-hearing review or a hearing under rule 22.";

(i) for rule 17(5) substitute—

"(5) Notwithstanding the preliminary or interim nature of a pre-hearing review, at a pre-hearing review the chairman may make a decision on any preliminary issue of substance relating to the proceedings. Decisions or orders made at a pre-hearing review may result in the proceedings being struck out or dismissed or otherwise determined with the result that a hearing under rule 22 is no longer necessary in those proceedings.";

(j) for rule 17(6) substitute—

"(6) Before a decision or order listed in paragraph (7) is made, notice must be given in accordance with rule 18. The decisions or orders listed in paragraph (7) may be made at a pre-hearing review or a hearing under rule 22 if one of the parties has so requested. If no such request has been made such decisions or orders may be made in the absence of the parties.";

(k) in rule 17(7) for "an order" in the first line substitute "a decision or order";

(l) for rule 18 substitute—

"**18.**—(1) Before a chairman or a tribunal makes a decision or order described in rule 17(7), except where the decision or order is one described in rule 12(2), the Secretary shall send notice to the party against whom it is proposed that the decision or order should be made. The notice shall inform him of the decision or order to be considered and give him the opportunity to give reasons why the decision or order should not be made. This paragraph shall not be taken to require the Secretary to send such notice to that party if the party has been given an opportunity to give reasons orally to the chairman or the tribunal as to why the decision or order should not be made.

(2) Where a notice required by paragraph (1) is sent in relation to a decision to strike out a claim which has not been actively pursued, unless the contrary is proved,