STATUTORY RULES OF NORTHERN IRELAND

2005 No. 578

EMPLOYMENT

The Industrial Tribunals (Constitution and Rules of Procedure) (Amendment) (No. 2) 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 26(1) of the Health and Safety at Work (Northern Ireland) Order 1978(**2**) and Articles 3(1), 6(6A)(b)(**3**), 9(1), (2) and (3)(d) and (e), 11(1)(**4**) and (4)(**5**), 12(6)(**6**), 13(1), 14(2) and 25(5) of the Industrial Tribunals (Northern Ireland) Order 1996(**7**), and now vested in it(**8**), 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 Industrial Tribunals (Constitution and Rules of Procedure) (Amendment) (No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 31st December 2005.

(2) In these Regulations "the principal Regulations" means the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005(**9**) 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), (c), (d), (e) and (f) of the principal Regulations, after "Procedure" insert "2005".

(2) In regulation 11 of the principal Regulations, after paragraph (6), insert—

(**1**) Formerly the Department of Higher and Further Education, Training and Employment; *See*2001 c. 15 (N.I.)
(**2**) S.I. 1978/1039 (N.I. 9); Article 26 was modified by S.I. 1984/1159 (N.I. 9), Schedule 4; its interpretation was modified by S.R. 2000 No. 87, regulation 2; S.R. 2000 No. 120, regulation 19; and 2002 c. 8 (N.I.), s. 1
(**3**) Paragraph (6A) was inserted by S.I. 1998/1265 (N.I. 8), Article 4(5)
(**4**) Article 11(1)(a) was amended by S.I. 2003/2902 (N.I. 15), Article 7(2)
(**5**) Article 11(4) was amended by S.I. 1998/1265 (N.I. 8), Schedule 1, paragraph 19
(**6**) Article 12(6) was amended by S.I. 2004/3078 (N.I. 19), Article 17
(**7**) S.I. 1996/1921 (N.I. 18)
(**8**) *See*S.R. 1999 No. 481
(**9**) S.R. 2005 No. 150, as amended by S.R. 2005 No. 376

"(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.".

Amendments to the Schedules to the principal Regulations

3.—(1) In Schedule 1—

(a) in rule 1(5)(c), for "paragraph 4(h)" substitute "paragraph 4(j)";

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

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

(d) in rule 8(4) after "reviewed under rule 33" insert "and of their right to appeal";

(e) in rule 10(2)(c) omit "or information";

(f) in rule 10(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";

(g) in rule 10(5), for "material" substitute "documents";

(h) in rule 13(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";

(i) for rule 13(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 19 or hold a pre-hearing review or a hearing under rule 26.";

(j) for rule 18(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 26 is no longer necessary in those proceedings.";

(k) for rule 18(6) substitute—

"(6) Before a decision or order listed in paragraph (7) is made, notice must be given in accordance with rule 19. The decisions or orders listed in paragraph (7) may be made at a pre-hearing review or a hearing under rule 26 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.";

(l) in rule 18(7) for "an order" in the first line substitute "a decision or order";

(m) for rule 19 substitute—

"**19.**—(1) Before a chairman or a tribunal makes a decision or order described in rule 18(7), except where the decision or order is one described in rule 13(2) or it is a temporary restricted reporting order made in accordance with rule 50, 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