STATUTORY RULES OF NORTHERN IRELAND

2005 No. 345 (C. 27)

EMPLOYMENT

The Employment Relations (2004 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 2005

Made - - - - 21st July 2005

The Department for Employment and Learning, in exercise of the powers conferred on it by Article 1(2) and (3) of the Employment Relations (Northern Ireland) Order 2004(**1**), and of all other powers enabling it in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Employment Relations (2004 Order) (Commencement No. 3 and Transitional Provisions) Order (Northern Ireland) 2005.

Interpretation

2. In this Order—

"the 2004 Order" means the Employment Relations (Northern Ireland) Order 2004;

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**2**);

"the 1995 Order" means the Trade Union and Labour Relations (Northern Ireland) Order 1995(**3**);

"the 1992 Order" means the Industrial Relations (Northern Ireland) Order 1992(**4**);

"Schedule 1A" means Schedule 1A to the 1995 Order; and

"the Court" means the Industrial Court.

Appointed Day

3. The day appointed for the coming into operation of the provisions of the 2004 Order specified in the Schedule is 24th July 2005.

(**1**) S.I.2004/3078 (N.I. 19)
(**2**) S.I. 1996/1919 (N.I. 16)
(**3**) S.I. 1995/1980 (N.I. 12)
(**4**) S.I. 1992/807 (N.I. 5)

Transitional provisions

4. The coming into operation of the provisions of the 2004 Order specified in the Schedule is subject to the transitional provisions in Articles 5 to 18.

5.—(1) The amendments made to Schedule 1A by paragraphs 1 to 5, 6(1) and 7 of Schedule 1 to the 2004 Order do not apply to any application for recognition which is accepted by the Court under paragraph 15(5) of Schedule 1A before the appointed day.

(2) The amendments made to Schedule 1A by paragraph 6(2) of Schedule 1 to the 2004 Order do not apply to any application for a decision which is accepted by the Court under paragraph 68(5) or 76(5) of Schedule 1A before the appointed day.

6. The provisions inserted into Schedule 1A by paragraph 8 of Schedule 1 to the 2004 Order do not apply where, before the appointed day, the Court has informed the parties in accordance with paragraph 25(9) or 117(11) of Schedule 1A.

7. The amendments made to Schedule 1A by paragraph 11 of Schedule 1 to the 2004 Order do not apply to any application which is made to the Court under paragraph 11 or 12 of Schedule 1A before the appointed day.

8.—(1) The amendments made to Schedule 1A by paragraph 12 of Schedule 1 to the 2004 Order do not apply in relation to any notice which the employer gives, for the purposes of paragraph 99(2) of Schedule 1A, to the union (or each of the unions) before the appointed day.

(2) Notwithstanding their repeal by Schedule 3 to the 2004 Order, paragraphs 101(4) and (5), 109(2)(a), 113(2)(a) and 130(2)(a) of Schedule 1A will apply in relation to any notice which the employer gives, for the purposes of paragraph 99(2) of Schedule 1A, before the appointed day.

9. The provisions inserted into Schedule 1A by paragraphs 14 and 21(8) of Schedule 1 to the 2004 Order do not apply in relation to any demand which the person appointed to conduct the ballot sends, under paragraph 28(4) or 120(4) of Schedule 1A, to the employer and the union (or each of the unions) before the appointed day.

10. The amendments made to Article 144A of the 1996 Order by Articles 9, 10 and 11 of the 2004 Order, and the provision inserted into the 1996 Order by Article 11 of the 2004 Order, do not apply to protected industrial action taken by an employee where the employee starts to take the action before the appointed day.

11. The amendments made to the 1996 Order by paragraphs 11, 12 and 13 of Schedule 2 to the 2004 Order do not apply in the case of any dismissal where the effective date of termination (within the meaning of Article 129 of the 1996 Order) is before the appointed day.

12. The amendments made to the 1996 Order by Articles 20 and 21 of the 2004 Order do not apply in the case of any dismissal where the effective date of termination (within the meaning of Article 129 of the 1996 Order) is before the appointed day or in the case of any detriment where the act or deliberate failure to act is before the appointed day.

13. The provisions inserted into the 1992 Order by Article 22 of the 2004 Order do not apply to any application or complaint which is made to the Certification Officer before the appointed day.

14. The amendments made to the 1995 Order by Article 23(1) of the 2004 Order do not apply to any instrument submitted to the Certification Officer for approval before the appointed day.

15. The provisions inserted into the 1995 Order by Article 23(2) and (3) of the 2004 Order do not apply to any application for registration of an instrument of amalgamation or transfer which is sent to the Certification Officer before the appointed day.

16. The amendments made to the 1992 Order by Article 24 of the 2004 Order do not apply to any refusal or decision of the Certification Officer made before the appointed day.

17. The amendments made to the 1995 Order by paragraph 4 of Schedule 2 to the 2004 Order do not apply to any order made under Article 57(3) of the 1995 Order before the appointed day.

18. Until the appointed day for the coming into operation of paragraphs 10 and 13 of Schedule 1 to the 2004 Order, the references in Schedule 1A to paragraphs 27D(3), 27D(4), 119A(3)(a)(ii), 119D(3), 119D(4), 119E(1)(b), 119H(1), 119H(5) and 119I(1)(a) (which paragraphs 21(10) to (15), (20), (21) and (24) to (27) of Schedule 1 to the 2004 Order insert into Schedule 1A) shall be of no effect.

Sealed with the Official Seal of the Department for Employment and Learning on 21st July 2005.

T. Devine
A senior officer of the
Department for Employment and Learning