STATUTORY RULES OF NORTHERN IRELAND

# 2004 No. 519 (C. 30)

# EMPLOYMENT

## The Employment Relations (2004 Order) (Commencement No. 1 and Transitional Provisions) Order (Northern Ireland) 2004

*Made - - - - 21st December 2004*

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 and interpretation

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

**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**).

### Commencement

**3.** The following provisions of the 2004 Order come into operation on 26th December 2004 –

(a) Articles 12 to 15 and 18;

(b) in Schedule 2 to the 2004 Order (Amendments), paragraphs 8 to 10, 14, 15, 18, 19, 22, 23, 24(1), (3) and (4), and 25 (which contain amendments connected with Articles 12 to 15) and Article 30(1) so far as it relates to those paragraphs;

(c) in Schedule 3 to the 2004 Order (Repeals), the entries relating to Articles 73, 75, 136 and 161 of the 1996 Order(**3**) and Article 19 of the Employment Relations (Northern Ireland) Order 1999(**4**) (which contain repeals connected with Articles 12 to 15) and Article 30(2) so far as it relates to those repeals.

(**1**) S.I.2004/3078 (N.I. 19)
(**2**) S.I. 1996/1919 (N.I. 16)
(**3**) Articles 73 and 75 were amended by S.I. 1999/2790 (N.I. 9), Article 4 and Schedule 2
(**4**) S.I. 1999/2790 (N.I. 9)

**Transitional provisions**

**4.** The coming into operation of the provisions mentioned in Article 3 is subject to the transitional provisions in Articles 5 to 8.

**5.** The Articles inserted into the 1996 Order by Article 14 of the 2004 Order (Articles 77A to 77F) do not apply to an offer made to a complainant before 26th December 2004 or to an offer that is part of a series of similar offers made to a complainant where the first offer in the series was made to him before that date.

**6.**—(1) The amendments and repeals made by the following provisions of the 2004 Order –

(a) Article 12 and paragraphs (1) to (7) of Article 13,

(b) the paragraphs of Schedule 2 mentioned in Article 3(b), and

(c) the entries in Schedule 3 mentioned in Article 3(c) that relate to Articles of the 1996 Order,

do not apply in the circumstances specified in paragraph (2).

(2) The circumstances are –

(a) where the act or failure to act to which the complaint relates was done before 26th December 2004, or

(b) where the act or failure to act to which the complaint relates is part of a series and the first act or failure in the series was done before that date.

(3) For the purposes of paragraph (2) an act extending over a period is done on the last day of that period and a failure to act shall be treated as done when it was decided on.

(4) For the purposes of paragraph (3), in the absence of evidence establishing the contrary, the employer shall be taken to decide on a failure to act-

(a) when he does an act inconsistent with doing the failed act, or

(b) if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

**7.** The amendments to Article 136 of the 1996 Order made by Article 15 of the 2004 Order do not apply in relation to dismissal where the "effective date of termination", as defined in Article 129 of the 1996 Order(**5**), occurred before 26th December 2004.

**8.** The amendments made to Articles 12, 13 and 14 of the Employment Relations (Northern Ireland) Order 1999 by Article 18 of the 2004 Order do not apply in relation to any disciplinary or grievance hearing occurring on or after 26th December 2004 that the worker was required or invited to attend before that date.

(**5**) Article 129 was amended by S.I. 1999/2790 (N.I. 9), Article 40 and Schedule 9 and S.R. 2002 No. 298