STATUTORY RULES OF NORTHERN IRELAND

2002 No. 120

INDUSTRIAL RELATIONS

Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002

Made - - - -	*25th March 2002*
Coming into operation	*28th April 2002*

Whereas:

(1) under Article 84A(1) of the Industrial Relations (Northern Ireland) Order 1992(**1**) ("the 1992 Order") the Labour Relations Agency ("the Agency") may prepare a scheme providing for arbitration in the case of disputes involving proceedings, or claims which could be the subject of proceedings, before an industrial tribunal arising out of a contravention of Part XI of the Employment Rights (Northern Ireland) Order 1996(**2**) (unfair dismissal);

(2) in pursuance of Article 84A(1) of the 1992 Order, the Agency has prepared an arbitration scheme for unfair dismissal cases;

(3) in pursuance of Article 84A(2) of the 1992 Order, the Agency has submitted a draft scheme to the Department for Employment and Learning(**3**) which has approved the scheme;

Now, therefore, the Department for Employment and Learning(**c**), in exercise of the powers conferred on it by Article 84A(2), (6), (7) and (8) of the 1992 Order and now vested in it(**4**), and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002 and shall come into operation on 28th April 2002.

(2) In this Order—

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

(**1**) S.I. 1992/807 (N.I. 5). Article 84A was inserted by Article 8 of the Employment Rights(Dispute Resolution)(Northern Ireland) Order 1998 S.I.1998 No.1265 (N.I. 8)

(**2**) S.I. 1996/1919 (N.I. 16)

(**3**) Formerly known as the Department of Higher and Further Education, Training and Employment; renamed the Department for Employment and Learning by the Department for Employment and Learning Act (Northern Ireland) 2001 (C. 15)

(**4**) The Departments (Transfer and Assignment of Functions) Order (Northern Ireland)1999 (S.R.1999 No. 481) transferred functions under the Industrial Relations (Northern Ireland) Order 1992 to the Department of Higher and Further Education, Training and Employment, now renamed the Department for Employment and Learning

(b) "basic amount" means such part of an award of compensation made by an arbitrator as comprises the basic amount, determined in accordance with paragraphs 118 to 134 of the Scheme;

(c) "the Scheme" means the arbitration scheme set out in the Schedule with the exception of paragraphs 43, 94, 159, 162 to 167, 171, 177 and 178 thereof.

Commencement of the Scheme

2. The Scheme shall come into effect on 28th April 2002.

Application of Part I of the Arbitration Act 1996

3. The provisions of Part I of the Arbitration Act 1996(**5**) referred to in the Schedule at paragraph 43, 94, 159, 162 to 167, 171, 177 and 178 and shown in italics shall, as modified in those paragraphs, apply to arbitration conducted in accordance with the Scheme.

4.—(1) Section 46(1)(*b*) of the Arbitration Act 1996 shall apply to arbitration conducted in accordance with the Scheme, subject to the following modification.

(2) For "such other considerations as are agreed by them or determined by the tribunal" in section 46(1)(*b*) substitute "the Terms of Reference in paragraph 12 of the arbitration scheme set out in the Schedule to the Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002".

Enforcement of re-employment orders

5.—(1) Industrial tribunals shall enforce re-employment orders made in arbitration conducted in accordance with the Scheme in accordance with Article 151(**6**) of the 1996 Order (enforcement by award of compensation), modified as follows.

(2) In paragraph (1)(*a*), paragraph (3) and paragraph (8), for the words "Article 147" substitute in each case "paragraph 102(i) of the Scheme."

(3) In paragraph (2) for "Article 158" substitute "Article 158(1) and (5) and paragraphs (9) and (10)".

(4) In paragraph (3)(*a*) for the words "Articles 152 to 162A" substitute the words "Article 152 to 157, Article 158(1) and (5), Articles 160 and 162A and paragraphs (9) and (11)".

(5) After paragraph (8) insert—

"(9) Article 158(1) shall not apply to compensation awarded, or to a compensatory award made, to a person in a case where the arbitrator finds the reason (or, if more than one, the principal reason) for the dismissal (or, in a redundancy case, for which the employee was selected for dismissal) to be a reason specified in any of the statutory provisions mentioned in Article158(1)A.

(10) In the case of compensation awarded to a person under Article 151(1) and (2), the limit imposed by 158(1) may be exceeded to the extent necessary to enable the award fully to reflect the amount specified as payable under the arbitrator's award in accordance with paragraphs 110(i) or 113(iv) of the Scheme.

(11) Where—

(a) a compensatory award is an award under paragraph (3)(*a*) of Article 151, and

(**5**) 1996 c. 23

(**6**) Article 151 was amended by the Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998, Article 15(1), Schedule 1 paragraph 11 and Schedule 2: by the Public Interest Disclosure Order (Northern Ireland) 1998, S.I 1998/1763 (N.I.17) Article 12(2); and by the Employment Relations (Northern Ireland) Order 1999 (S.I.1999/2790 (N.I.9)), Article 32 and Schedule 9

(b) an additional award falls to be made under (3)(*b*) of that Article,

the limit imposed by Article 158(1) on the compensatory award may be exceeded to the extent necessary to enable the aggregate of the compensatory award and additional awards fully to reflect the amount specified as payable under the arbitrator's award in accordance with paragraphs 110(i) or 113(iv) of the Scheme.

(12) In this section "the Scheme" means the arbitration scheme set out in the Schedule to the Labour Relations Agency Arbitration Scheme Order (Northern Ireland) 2002".

Awards of compensation

6. An award of a basic amount shall be treated as a basic award of compensation for unfair dismissal for the purposes of Article 229(1)(*d*)(**7**) of the 1996 Order (which specifies such an award as a debt which the Department must satisfy if the employer has become insolvent).

Sealed with the Official Seal of the Department for Employment and Learning on 25th March 2002.

Carmel Hanna
Minister for Employment and Learning

(**7**) Article 229(1)(*d*) was amended by the Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998 (S.I. 1998/1265 (N.I. 8), Article 13(4)

SCHEDULE Articles 1 and 3

Labour Relations Agency Arbitration Scheme

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