STATUTORY RULES OF NORTHERN IRELAND

1995 No. 240

FAIR EMPLOYMENT

Fair Employment Tribunal (Remedies) Order (Northern Ireland) 1995

Made - - - -	*5th June 1995*
Coming into operation	*17th July 1995*

The Department of Economic Development(**1**), in exercise of the powers conferred on it by section 26(6A) and (7) of the Fair Employment (Northern Ireland) Act 1976(**2**), section 6(3) of the Fair Employment (Northern Ireland) Act 1989(**3**), Article 61(3), (5) and (6) of the Industrial Relations (Northern Ireland) Order 1976(**4**) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Fair Employment Tribunal (Remedies) Order (Northern Ireland) 1995 and shall come into operation on 17th July 1995.

Interpretation

2. In this Order—

"an award under the Act" means an order under section 26(1)(b) of the Act by virtue of which a sum is payable by the respondent to proceedings before the Tribunal to the complainant in those proceedings, but does not include an award of costs or expenses under rule 11 in Schedule 1 to the Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 1989(**5**), even if made in the same proceedings as such an order;

"appellate court" means the High Court, the Court of Appeal or the House of Lords, as the case may be;

"interest" means, except in Article 15, interest included under Article 3(1)(a) or any sum awarded under the Act;

(**1**) Formerly the Department of Manpower Services; *see*S.I.1982/846 (N.I. 11) Article 3
(**2**) 1976 c. 25; section 26 was substituted by section 50(1) of the Fair Employment (Northern Ireland) Act 1989 c. 32 and amended by the Fair Employment (Amendment) (Northern Ireland) Order 1995 S.I. 1995/758 (N.I. 4)
(**3**) 1989 c. 32; as substituted by Article 106(3) of the Industrial Relations (Northern Ireland) Order 1992 S.I. 1992/807 (N.I. 5)
(**4**) S.I. 1976/1043 (N.I. 16)
(**5**) S.R. 1989 No. 445

"the Act" means the Fair Employment (Northern Ireland) Act 1976(**6**);

"the 1992 Order" means the Fair Employment Tribunal (Interest) Order (Northern Ireland) 1992(**7**);

"tribunal" means the Fair Employment Tribunal for Northern Ireland or any tribunal which, by virtue of regulation 3(3) of the Fair Employment Tribunal Regulations (Northern Ireland) 1989(**8**), exercises the jurisdiction of that Tribunal.

Interest in awards under the Fair Employment (Northern Ireland) Act 1976

3.—(1) Where, at any time after this Order comes into operation, a tribunal makes an award under the Act—

(a) it may, subject to and in accordance with this Order, include interest on any sums so awarded; and

(b) it shall consider whether to do so, without the need for any application by a party in the proceedings.

(2) Nothing in paragraph (1) shall prevent the tribunal from making an award or decision, with regard to interest, in terms which have been agreed between the parties.

Rate of interest

4.—(1) Interest shall—

(a) subject to paragraph (2), be applied at the same rate as is in force, during the period for which it is to be calculated, in relation to decrees in the county court; and

(b) be calculated as simple interest which accrues from day-to-day.

(2) Where the rate of interest applied under paragraph (1)(a) has varied during a period for which interest is to be calculated, the tribunal may, if it so desires in the interests of simplicity, apply such median or average of those rates as seems to it appropriate.

Calculation of interest

5. Subject to Articles 8 to 12, in this Article and Articles 6 and 7, in relation to any award under the Act—

"day of calculation" means the day on which the amount of interest included on the sums so awarded is calculated by the tribunal;

"mid-point date" means the date half-way through the period beginning on the date of the act of discrimination to which the award relates and ending on the day of calculation (both dates inclusive).

6. Interest shall not be included on any sum awarded under the Act in relation to a loss or matter occurring after the day of calculation, or in respect of any time before the act of discrimination to which the award relates.

7.—(1) Subject to paragraphs (2) and (3)—

(a) in the case of any sum awarded under the Act for injury to feelings, any interest included shall be for the period beginning on the date of the act of discrimination to which the award relates and ending on the day of calculation (both dates inclusive);

(**6**) 1989 c. 32
(**7**) S.R. 1992 No. 433
(**8**) S.R. 1989 No. 444

(b) in the case of all other sums of damages or compensation in the award (other than any sum referred to in Article 6) any interest included shall be for the period beginning on the mid-point date and ending on the day of calculation (both dates inclusive).

(2) Where any payment has been made before the day of calculation to the complainant by or on behalf of the respondent in respect of any loss or matter to which an award under the Act relates, interest in respect of a corresponding part of the award shall be calculated as if the references in paragraph (1), and in the definition of "mid-point date" in Article 5, to the day of calculation were to the date on which the payment was made.

(3) Where the tribunal is of the opinion that in relation to an award under the Act—

(a) there are exceptional circumstances, whether relating to the case as a whole or to a particular sum in the award, and

(b) those circumstances have the effect that serious injustice would be caused if interest were to be awarded in respect of the period or periods in paragraphs (1) or (2),

it may—

(i) calculate interest or, as the case may be, interest on the particular sum, for such different period, or

(ii) calculate interest for such different periods in respect of various sums in the award,

as it considers appropriate in the circumstances, having regard to the provisions of this Order.

Reviews

8. Where a tribunal reviews an award under the Act and the effect of the review, or of any re-hearing which takes place as a result of the review, is that the sum so awarded is confirmed or varied, the day of calculation in relation thereto shall be the day when interest was first calculated in relation to the award which was subject to the review.

Decisions on Remission to a Tribunal

9. Where an appellate court remits a matter to a tribunal for reassessment of a sum, which would have been payable by virtue of an award under the Act made by the Tribunal or by an order of another appellate court, the day of calculation in relation thereto shall be the day when interest was first calculated in relation to the award which is subject to the reassessment.

Other Appeals

10. Where, on an appeal, or on a further appeal, relating to an award under the Act, an appellate court makes an order which confirms or varies a sum which, but for the appeal, would have been payable by virtue of an award made under the Act, the day of calculation in relation thereto shall be the day when interest was first calculated in relation to the award which is subject to the appeal.

11. Where on an appeal from a determination of any issue by a tribunal which is not an award under the Act, or on any further appeal arising from such a determination—

(a) an appellate court for the first time in relation to that issue makes an award under the Act, the day of calculation in relation thereto shall be the day on which interest was calculated in relation to the sum so awarded;

(b) an appellate court confirmed or varies any award mentioned in sub-paragraph (a), the day of calculation in relation to that award should be the day when interest was first calculated in relation to the award which was confirmed or varied.