1976 No. 262

INDUSTRIAL TRIBUNALS

Industrial Tribunals (Industrial Relations) Regulations (Northern Ireland) 1976

Made . . . . . *1st September* 1976

Coming into operation . . . . . *1st October* 1976

The Department of Manpower Services in exercise of the powers conferred by Article 59 of the Industrial Relations (Northern Ireland) Order 1976(**a**), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Industrial Tribunals (Industrial Relations) Regulations (Northern Ireland) 1976 and shall come into operation on 1st October 1976.

(2) The Industrial Tribunals (Employment and Compensation) Regulations (Northern Ireland) 1967(**b**), the Industrial Tribunals (Redundancy Payments) Regulations (Northern Ireland) 1967(**c**) and the Industrial Tribunals (Equal Pay) Regulations (Northern Ireland) 1976(**d**) are hereby revoked.

Interpretation

2. In these Regulations—

"the Act of 1965" means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**e**);

"the Order of 1976" means the Industrial Relations (Northern Ireland) Order 1976;

"applicant" means a person who in pursuance of Rule 1 has sent an originating application to the Secretary of the Tribunals for a decision of a tribunal and includes—

(*a*) the Department,

(*b*) a claimant or complainant, and

(*c*) in relation to interlocutory applications under these Rules, a person who seeks any relief;

"the clerk to the tribunal" means the person appointed by the Secretary of the Tribunals to act in that capacity at one or more hearings;

"the Commission" means the Equal Opportunities Commission for Northern Ireland established under Article 54 of the Sex Discrimination (Northern Ireland) Order 1976(**f**);

(a) S.I. 1976/1043 (N.I. 16) coming into operation on 1st October 1976. See S.R. 1976 No. 218 (C. 11)
(b) S.R. & O. (N.I.) 1967 No. 110 (p. 354)
(c) S.R. & O. (N.I.) 1967 No. 111 (p. 367)
(d) S.R. 1976 No. 61
(e) 1965 c. 19 (N.I.)
(f) S.I. 1976/1042 (N.I. 15)

"decision" in relation to a tribunal includes a declaration, an order (other than an interlocutory order), a recommendation or an award of the tribunal;

"Department" means the Department of Manpower Services;

"hearing" means a sitting of a tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on any claim or question;

"the Office of the Tribunals" means the Central Office of the Industrial Tribunals;

"the President" means the President of the Industrial Tribunals or the person nominated by the Department to discharge for the time being the functions of the President;

"Register" means the Register of Applications and Decisions kept in pursuance of these Regulations;

"respondent" means a party to the proceedings before a tribunal other than the applicant, and other than the Department in proceedings under the Act of 1965 in which it is not cited as the person against whom relief is sought;

"Rule" means a Rule of Procedure contained in the Schedule;

"the Secretary of the Tribunals" means the person for the time being acting as the Secretary of the Office of the Tribunals;

"tribunal" means an industrial tribunal established in pursuance of the Industrial Tribunals Regulations (Northern Ireland) 1965(g), and in relation to any proceedings means the tribunal to which the proceedings have been referred.

Proceedings of tribunals

3. Except where separate Rules of Procedure, made under any statutory provision, are applicable the Rules of Procedure contained in the Schedule shall have effect in relation to all proceedings before a tribunal where—

(*a*) the respondent or one of the respondents resides or carries on business in Northern Ireland; or

(*b*) had the remedy been by way of action in the county court, the cause of action would have arisen wholly or in part in Northern Ireland; or

(*c*) the proceedings are to determine a question which has been referred to the tribunal by a court in Northern Ireland.

Proof of decisions of tribunals

4. The production in any proceedings in any court of a document purporting to be certified by the Secretary of the Tribunals to be a true copy of an entry of a decision in the Register shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Sealed with the Official Seal of the Department of Manpower Services for Northern Ireland on 1st September 1976.

(L.S.) *D. J. Perham*
Senior Assistant Secretary

(g) S.R. & O. (N.I.) 1965 No. 112 (p. 402) as amended by S.R. & O. (N.I.) 1966 No. 261 (p. 838) and S.R. & O. (N.I.) 1967 No. 109 (p. 345)

SCHEDULE Regulation 3

RULES OF PROCEDURE

Originating application

1.—(1) Proceedings for the determination of any matter by a tribunal shall be instituted by the applicant sending to the Secretary of the Tribunals an originating application which shall be in writing and shall set out—

(*a*) the name and address of the applicant; and

(*b*) the names and addresses of the person or persons against whom relief is sought or of the parties to the proceedings before the court (as the case may be); and

(*c*) the grounds on which that relief is sought.

(2) Where the Secretary of the Tribunals is of the opinion that the originating application does not seek or on the facts stated therein cannot entitle the applicant to a relief which a tribunal has power to give, he may give notice to that effect to the applicant stating the reasons for his opinion and informing him that the application will not be registered unless he states in writing that he wishes to proceed with it.

(3) An application as respects which a notice has been given in pursuance of the preceding paragraph shall not be treated as having been received for the purposes of Rule 2 unless the applicant intimates in writing to the Secretary of the Tribunals that he wishes to proceed with it; and upon receipt of such an intimation the Secretary of the Tribunals shall proceed in accordance with that Rule.

(4) Where the applicant does not intimate in writing to the Secretary of the Tribunals that he wishes to proceed with the application the non-registration of the application shall be without prejudice to any right of the applicant to make a further application to a tribunal.

Action upon receipt of originating application

2.—(1) Upon receiving an originating application the Secretary of the Tribunals shall enter particulars of it in the Register and shall forthwith send a copy of it to the respondent and inform the parties in writing of the case number of the originating application entered in the Register (which shall thereafter constitute the title of the proceedings) and of the address to which notices and other communications to the Secretary of the Tribunals shall be sent. Every copy of the originating application sent by the Secretary of the Tribunals under this paragraph shall be accompanied by a written notice which shall include information, as appropriate to the case, about the means and time for entering an appearance, the consequences of failure to do so, and the right to receive a copy of the decision. The Secretary of the Tribunals shall also notify the parties that in all cases under any statutory provision providing for conciliation the conciliation services of the Department are available to them.

(2) In proceedings falling under the Act of 1965, the Secretary of the Tribunals shall forthwith send copies of all documents and notices to the Department notwithstanding the fact that it may not be a party to such proceedings.

(3) In all cases under any statutory provision providing for conciliation, the Secretary of the Tribunals shall forthwith send copies of all documents and notices to the Department.

Appearance by respondent

3.—(1) A respondent shall within 14 days of receiving the copy originating application enter an appearance to the proceedings by sending to the Secretary of the Tribunals a written notice of appearance setting out his full name and address and stating whether or not he intends to resist the application and, if so, on what grounds. Upon receipt of a notice of appearance the Secretary of the Tribunals shall forthwith send a copy of it to any other party.

(2) A respondent who has not entered an appearance shall not be entitled to take any part in the proceedings except—

(i) to apply under Rule 12(1) for an extension of the time appointed by this Rule for entering an appearance;

(ii) to be called as a witness by another person;

(iii) to be sent a copy of a decision or specification of reasons or corrected decision or specification in pursuance of Rules 8(3), 8(7) or 9(5); and

(iv) to make an application under Rule 9(1)(*b*),

and accordingly (without prejudice to the generality of this provision) he shall not be entitled—

(*a*) to make an application under Rule 4;

(*b*) to submit representations in writing for consideration by the tribunal in pursuance of Rule 6(3);

(*c*) to be heard or to be represented at the hearing in pursuance of Rule 7;

(*d*) to apply for directions in pursuance of Rule 12(2) or to receive a notice in pursuance of Rule 12(4); or

(*e*) to make an application under Rule 9, except under paragraph (1)(*b*) of that Rule.

(3) A notice of appearance which is sent to the Secretary of the Tribunals after the time appointed by this Rule for entering appearance shall be deemed to include an application under Rule 12(1) (by the respondent who has sent the notice of appearance) for an extension of the time so appointed. Without prejudice to Rule 12(4), if the tribunal grants the application (which it may do notwithstanding that the grounds of the application are not stated) the Secretary of the Tribunals shall forthwith send a copy of the notice of appearance to any other party. The tribunal shall not refuse an extension of time under this Rule unless it has given the person wishing to enter an appearance an opportunity to show cause why the extension should be granted.

Power to require further particulars and attendance of witnesses and to grant discovery

4.—(1) Subject to Rule 3(2), a tribunal may on the application of a party to the proceedings (or the Department (whether or not a party)) made either by notice to the Secretary of the Tribunals or at the hearing of the originating application—

(*a*) require a party to furnish in writing to the person making the application further particulars of the grounds on which he or it relies and of any facts and contentions relevant thereto;

(*b*) grant to the person making the application such discovery or inspection of documents as might be granted by a county court; and

(*c*) require the attendance of any person (including a party to the proceedings) as a witness or require the production of any document relating to the matter to be determined, wherever such witness may be within Northern Ireland;

and may appoint the time at or within which or the place at which any act required in pursuance of this Rule is to be done.

(2) A party on whom a requirement has been made under paragraph (1)(*b*) on an ex parte application and a person on whom a requirement has been made under paragraph (1)(*c*) may apply to the tribunal to vary or set aside the requirement.

(3) No such application to vary or set aside shall be entertained in a case where a time has been appointed under paragraph (1) in relation to the requirement unless it is made before the time or, as the case may be, expiration of the time so appointed. Notice of the application in accordance with Rule 11(3) shall be given to the party on whose application the requirement was made.

(4) Every document containing a requirement under paragraph (1)(*b*) or paragraph (1)(*c*) shall contain a reference to the fact that under Article 59(11) of the Order of 1976 any person who without reasonable excuse fails to comply with any such requirement shall be liable on summary conviction to a fine not exceeding £100.

(5) If the requirement under paragraph (1)(*a*) is not complied with, a tribunal, before or at the hearing, may dismiss the application, or, as the case may be, strike out the whole or part of the notice of appearance, and, where appropriate, direct that a respondent shall be debarred from defending altogether.

Time and place of hearing and appointment of assessor

5.—(1) The Department shall fix the date, time and place of the hearing of the originating application and the Secretary of the Tribunals shall not less than 14 days (or such shorter time as may be agreed by him with the parties) before the date so fixed (subject to Rule 3(2)) send to each party a notice of hearing which shall include information and guidance as to attendance at the hearing, witnesses and the bringing of documents (if any), representation by another person and written representations.

(2) Where in the case of any proceedings it is provided for one or more assessors to be appointed the Department may, if it thinks fit, appoint a person or persons having special knowledge or experience in relation to the subject matter of the originating application to sit with the tribunal as assessor or assessors.

The hearing

6.—(1) Any hearing of or in connection with an originating application shall take place in public unless in the opinion of the tribunal a private hearing is appropriate for the purpose of hearing evidence which relates to matters of such a nature that it would be against the interests of national security, public safety or public order to allow the evidence to be given in public or hearing evidence from any person which in the opinion of the tribunal is likely to consist of—

(*a*) information which he could not disclose without contravening a prohibition imposed by or under any statutory provision; or

(*b*) any information which has been communicated to him in confidence, or which he has otherwise obtained in consequence of the confidence reposed in him by another person; or

(*c*) information the disclosure of which would cause substantial injury to any undertaking of his or any undertaking in which he works for reasons other than its effect on negotiations with respect to any of the matters mentioned in Article 3(1) of the Order of 1976.

(2) Subject to Rule 3(2), if a party shall desire to submit representations in writing for consideration by a tribunal at the hearing of the originating application that party shall send such representations to the Secretary of the Tribunals not less than 7 days before the hearing and shall at the same time send a copy of it to the other party or parties (and the Department (if not a party)).

(3) Where a party has failed to attend or be represented at the hearing (whether or not he has sent any written representations) the contents of his originating application or, as the case may be, of his entry of appearance may be treated by a tribunal as representations in writing.

(4) The Department if it so elects shall be entitled to appear as if it were a party and be heard at any hearing of or in connection with an originating application in proceedings which may involve payments out of the Northern Ireland Redundancy Fund under any statutory provision.

(5) Subject to Rule 3(2), at any hearing of or in connection with an originating application a party and any person entitled to appear may appear before the tribunal and may be heard in person or be represented by counsel or by a solicitor or by a representative of a trade union or an employers' association or by any other person whom he desires to represent him.