

STATUTORY INSTRUMENTS

1996 No. 1921 (N.I. 18)

The Industrial Tribunals (Northern Ireland) Order 1996 ^{F1}

- - - - - 23rd July 1996

F1 functions transferred by SR 1999/481

Modifications etc. (not altering text)

- C1** Order modified (13.11.2020) by [The Posted Workers \(Agency Workers\) Order \(Northern Ireland\) 2020](#) (S.R. 2020/251), arts. 1(1), 3 (with art. 4)
- C2** Order: certain provisions applied (with modifications) (1.10.2010) by [Employment and Support Allowance \(Transitional Provisions and Housing Benefit\) \(Existing Awards\) Regulations \(Northern Ireland\) 2010](#) (S.R. 2010/312), regs. 1, 16, Sch. 2

Title and commencement

1.—(1) This Order may be cited as the Industrial Tribunals (Northern Ireland) Order 1996.

(2) This Order shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

2.—(1) Subject to paragraph (2), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) For the purposes of this Order, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this Order—

“the Agency” means the Labour Relations Agency;

“contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing;

“the Department” means the Department of Economic Development;

“employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment;

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Industrial Tribunals (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

“employer”, in relation to an employee, means the person by whom the employee is (or, where the employment has ceased, was) employed;

“employers' association” has the same meaning as in the Trade Union and Labour Relations (Northern Ireland) Order 1995;

“employment” means employment under a contract of employment and “employed” shall be construed accordingly;

“the Employment Rights Order” means the Employment Rights (Northern Ireland) Order 1996;

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“industrial tribunal procedure regulations” has the meaning assigned by Article 9(1);

“statutory provision” has the meaning assigned by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“successor”, in relation to the employer of an employee, means (subject to paragraph (4)) a person who in consequence of a change occurring (whether by virtue of a sale or other disposition or by operation of law) in the ownership of the undertaking, or of the part of the undertaking, for the purposes of which the employee was employed, has become the owner of the undertaking or part;

“trade union” has the same meaning as in the Trade Union and Labour Relations (Northern Ireland) Order 1995.

(4) The definition of “successor” in paragraph (3) has effect (subject to the necessary modifications) in relation to a case where—

- (a) the person by whom an undertaking or part of an undertaking is owned immediately before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or
- (b) the persons by whom an undertaking or part of an undertaking is owned immediately before a change (whether as partners, trustees or otherwise) include the persons by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as it has effect where the previous owner and the new owner are wholly different persons.

(5) For the purposes of this Order any two employers shall be treated as associated if—

- (a) one is a company of which the other (directly or indirectly) has control, or
- (b) both are companies of which a third person (directly or indirectly) has control;

and “associated employer” shall be construed accordingly.

Industrial tribunals

Industrial tribunals

3.—(1) The Department may by regulations make provision for the establishment of tribunals to be known as industrial tribunals.

(2) Regulations made (or having effect as if made) wholly or partly under Article 30 of the Industrial Training (Northern Ireland) Order 1984 and in operation immediately before this Order comes into operation shall, so far as made (or having effect as if made) under that provision, continue to have effect (until revoked) as if made under paragraph (1); and the tribunals established in pursuance of such regulations shall continue to be known as industrial tribunals.

[^{F2}(3) Regulations under paragraph (1) may provide that—

- (a) the President and Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, and
 - (b) any person who is a member of a panel of chairmen of tribunals which is appointed in accordance with regulations made under that paragraph,
- may be referred to as an employment judge.]

F2 Art. 3(3) added (27.1.2020) by [Employment Act \(Northern Ireland\) 2016 \(c. 15\), ss. 11, 29\(2\); S.R. 2020/1, art. 2\(g\)](#)

Jurisdiction

Jurisdiction of industrial tribunals

4. Industrial tribunals shall exercise the jurisdiction conferred on them by or by virtue of this Order or any other statutory provision.

Power to confer further jurisdiction on industrial tribunals

- 5.—**(1) The^{F3} [Department] may by order provide that proceedings in respect of—
- (a) any claim to which this Article applies, or
 - (b) any claim to which this Article applies and which is of a description specified in the order,
- may, subject to such exceptions (if any) as may be so specified, be brought before an industrial tribunal.
- (2) Subject to paragraph (3), this Article applies to—
- (a) a claim for damages for breach of a contract of employment or other contract connected with employment,
 - (b) a claim for a sum due under such a contract, and
 - (c) a claim for the recovery of a sum in pursuance of any statutory provision relating to the terms or performance of such a contract,
- if the claim is such that a court in Northern Ireland would under the law for the time being in force have jurisdiction to hear and determine an action in respect of the claim.
- (3) This Article does not apply to a claim for damages, or for a sum due, in respect of personal injuries.
- (4) Any jurisdiction conferred on an industrial tribunal by virtue of this Article in respect of any claim is exercisable concurrently with any court in Northern Ireland which has jurisdiction to hear and determine an action in respect of the claim.
- (5) In this Article “personal injuries” includes any disease and any impairment of a person's physical or mental condition.
- (6) In this Article a reference to breach of a contract includes a reference to breach of—
- (a) a term implied in a contract by or under any statutory provision or otherwise,
 - (b) a term of a contract as modified by or under any statutory provision or otherwise, and
 - (c) a term which, although not contained in a contract, is incorporated in the contract by another term of the contract.

F3 SI 1999/663

Membership etc.

Composition of a tribunal

6.—(1) Subject to the following provisions of this Article^[F4] and to Article 9(3A)], proceedings before an industrial tribunal shall be heard by—

(a) ^{F5} ^{F6}the person who, in accordance with regulations made under Article 3(1), is the chairman, and

^{F7}(b) ^{F5} ^{F6}two other members, or (with the consent of the parties) one other member, selected as the other members (or member) in accordance with regulations so made.

(2) Subject to paragraph (5), the proceedings specified in paragraph (3) shall be heard by the person mentioned in paragraph (1)(a) alone.

(3) The proceedings referred to in paragraph (2) are—

^[F4](a) proceedings—

(i) on an application under Article 163, 166 or 167 of the Employment Rights Order (interim relief orders);

(ii) on a complaint under Article 55 (protection of wages), Article 66 (guarantee payment), Article 220 (protective award) or Article 233 (payment on insolvency of employer) of that Order;

(iii) on a complaint under Article 102(1) of that Order relating to Article 96 (suspension from work on medical grounds) of that Order;

(iv) on a reference under Article 43 (statement of particulars of employment and itemised pay statement), Article 198 (redundancy payment) or Article 205 (liability for employer's payment) of that Order; or

(v) for an appointment under Article 248(4) (institution or continuance of tribunal proceedings where employee is deceased) of that Order;]

^[F4](aa) proceedings on a complaint under Article 36 (employer deducting unauthorised or excessive union subscription) or Article 61 (employer deducting or refusing to deduct union contribution) of the Trade Union and Labour Relations (Northern Ireland) Order 1995;

(ab) proceedings on a complaint under ^[F8]regulation 15(10) of the Transfer of Undertakings (Protection of Employment) Regulations 2006^[F9]or regulation 15(10) of the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006] ;]

(b) proceedings on a complaint under section 122 of the Pension Schemes (Northern Ireland) Act 1993;

^[F10](bb) proceedings on a complaint under section 11 of the National Minimum Wage Act 1998;

(bc) proceedings on an appeal under section 19 or 22 of the National Minimum Wage Act 1998;]

(c) proceedings in respect of which an industrial tribunal has jurisdiction by virtue of Article 5;

(d) proceedings in which the parties have given their written consent to the proceedings being heard in accordance with paragraph (2) (whether or not they have subsequently withdrawn it), and

Sub#para. (e) rep. by 1998 NI 8

(f) proceedings in which the person (or, where more than one, each of the persons) against whom the proceedings are brought does not, or has ceased to, contest the case.

(4) The Department may by order amend the provisions of paragraph (3).

(5^{F5} F6 Proceedings specified in paragraph (3) shall be heard in accordance with paragraph (1) if a person who, in accordance with regulations made under Article 3(1), may be the chairman of an industrial tribunal, having regard to—

- (a) whether there is a likelihood of a dispute arising on the facts, which makes it desirable for the proceedings to be heard in accordance with paragraph (1),
- (b) whether there is a likelihood of an issue of law arising which would make it desirable for the proceedings to be heard in accordance with paragraph (2),
- (c) any views of any of the parties as to whether or not the proceedings ought to be heard in accordance with either of those paragraphs, and
- (d) whether there are other proceedings which might be heard concurrently but which are not proceedings specified in paragraph (3),

decides at any stage of the proceedings that the proceedings are to be heard in accordance with paragraph (1).

(6) Where (in accordance with the following provisions of this Order) the Department makes industrial tribunal procedure regulations, the regulations may provide that^{F4} any act which is required or authorised by the regulations to be done by an industrial tribunal and is of a description specified by the regulations for the purposes of this paragraph may] be done by the person mentioned in paragraph (1)(a) alone.

[^{F4}(6A) Paragraph (6) in particular enables industrial tribunal procedure regulations to provide that—

- (a) the determination of proceedings in accordance with regulations under Article 9(3A), (3B) or (3C)(a),
- (b) the carrying-out of pre-hearing reviews in accordance with regulations under paragraph (1) of Article 11 (including the exercise of powers in connection with such reviews in accordance with regulations under sub-paragraph (b) of that paragraph), or
- (c) the hearing and determination of a preliminary issue in accordance with regulations under Article 11(4) (where it involves hearing witnesses other than the parties or their representatives as well as where, in accordance with regulations under Article 9(3C)(b), it does not),

may be done by the person mentioned in paragraph (1)(a) alone.]

[^{F4}(6B) Industrial tribunal procedure regulations may (subject to paragraph (6C)) also provide that any act which—

- (a) by virtue of paragraph (6) may be done by the person mentioned in paragraph (1)(a) alone, and
- (b) is of a description specified by the regulations for the purposes of this paragraph,

may be done by a person appointed as a legal officer in accordance with regulations under Article 3(1); and any act so done shall be treated as done by an industrial tribunal.

(6C) But regulations under paragraph (6B) may not specify—

- (a) the determination of any proceedings, other than proceedings in which the parties have agreed the terms of the determination or in which the person bringing the proceedings has given notice of the withdrawal of the case, or
- (b) the carrying-out of pre-hearing reviews in accordance with regulations under Article 11(1).]

Para. (7) rep. by 1999 NI 9