1965. No. 267 [C]

INDUSTRIAL TRIBUNALS

Employment and Compensation

REGULATIONS, DATED 10TH DECEMBER, 1965, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 52 OF THE CONTRACTS OF EMPLOYMENT AND REDUNDANCY PAYMENTS ACT (NORTHERN IRELAND) 1965.

The Ministry of Health and Social Services, in exercise of powers conferred by section 52 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a) and of all other powers enabling it in that behalf hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Industrial Tribunals (Employment and Compensation) Regulations (Northern Ireland) 1965 and shall come into operation on 13th December, 1965.

Interpretation

2.—(1) In these Regulations—

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

"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;

"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;

"compensation question" means a question—

(*a*) as to a person's entitlement to compensation for loss of office or employment, or for loss or diminution of emoluments or of pension rights,

(*b*) as to the manner of a person's employment or the comparability of his duties, or

(*c*) as to whether a person's position is worsened by reason of a statutory provision;

"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 reference;

"the Ministry" means the Ministry of Health and Social Services;

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

"the 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;

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

"the Secretary of the Tribunals" means the Secretary of the Central Office of the Industrial Tribunals for the time being;

(a) 1965. c. 19 (N.I.).

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

(2) A form referred to by number means the form so numbered in the Appendix to the Schedule.

Procedure of tribunals

3.—(1) The Rules of Procedure contained in the Schedule shall have effect in relation to proceedings to which this Regulation applies.

(2) This Regulation applies to proceedings—

(*a*) in pursuance of section 5 of the Act as to the written particulars of terms of employment required to be given by an employer to an employee under section 4 of that Act;

(*b*) to determine any compensation question which, by or under any statutory provision passed or made on or after 19th October, 1965 is directed to be referred to and determined by a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(b).

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 Ministry of Health and Social Services for Northern Ireland this 10th day of December, Nineteen hundred and sixty-five.

(L.S.)

W. Slinger,
Assistant Secretary.

(a) S.R. & O. (N.I.) 1965, No. 112. (b) 1964. c. 18 (N.I.).

SCHEDULE

Rules of Procedure

Originating application

1. Proceedings for the determination by a tribunal of any question shall be instituted by the applicant sending to the Secretary of the Tribunals an originating application which—

(*a*) in the case of proceedings in pursuance of section 5 of the Act shall be in accordance with Form 1; and

(*b*) in the case of any proceedings referred to in paragraph (2)(*b*) of Regulation 3 shall be in accordance with Form 2,

and shall set out the grounds of the application.

Registering of originating application

2. 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 shall inform the applicant and the respondent or respondents in writing of the case number of the originating application entered in the Register which shall thereafter constitute the title of the proceedings. The copy of the originating application sent by the Secretary of the Tribunals to a respondent shall be accompanied by a notice in accordance with Form 3, a copy of which shall also be sent by the Secretary to the applicant.

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 notice of appearance which shall be in accordance with Form 4 stating whether 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 the 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; and

(ii) to be sent a copy of a decision or corrected decision in pursuance of Rule 9(3) or 9(6),

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 notice of the date, time and place of the hearing in pursuance of Rule 5;

(*c*) to submit representations in writing for consideration by the tribunal in pursuance of Rule 6(2);

(*d*) to be heard or represented at the hearing in pursuance of Rule 7 or 8;

(*e*) to enter into a written agreement in pursuance of Rule 11(1)(*d*); or

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

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

4.—(1) Subject to Rule 3(2), the tribunal may on the application of a party to the proceedings or of a person qualified under Rule 7 to represent him at the hearing, made either by notice to the Secretary of the Tribunals or at the hearing—

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

(*b*) grant to a party such discovery and inspection of documents as might be granted by the 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 question to be determined;

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) Every document containing a requirement under sub-paragraph (*b*) or sub-paragraph (*c*) of the preceding paragraph of this Rule shall contain a reference to the fact that under section 52(4) of the Act any person who without reasonable excuse fails to comply with any such requirement is liable on summary conviction to a fine not exceeding £50 or imprisonment for a term not exceeding three months or both.

Time and place of hearing and appointment of assessor

5.—(1) The Ministry shall fix the date, time and place of the hearing and the Secretary of the Tribunals shall not less than 14 days before the date so fixed (subject to Rule 3(2)) send to each party a notice in accordance with Form 5.

(2) Where in the case of any proceedings referred to in paragraph (2)(*b*) of Regulation 3 the statutory provision in question provides for one or more assessors to be appointed the Ministry may after consultation with the chairman of the tribunal appoint a person or persons having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as assessor or assessors.

The hearing

6.—(1) The hearing of an originating application shall take place in public, unless the tribunal determines at the request of a party to hear the application in private.

(2) Subject to Rule 3(2), if a party shall desire to submit representations in writing for consideration by the tribunal at the hearing 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 thereof to the other party.

Representation

7. Subject to Rule 3(2), at the hearing a party may appear and may be heard in person or be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or, with the leave of the tribunal, by any other person.

Procedure at hearing

8.—(1) Subject to Rule 3(2), parties to the proceedings shall be entitled to make opening statements, to call witnesses, to cross-examine any witnesses called by any other party and to address the tribunal.

(2) Subject to Rule 3(2), a party may if he so desires give evidence on his own behalf.

(3 If a party shall fail to appear or to be represented at the time and place fixed for the hearing, the tribunal may dispose of the application in the absence of that party or may adjourn the hearing to a later date: Provided that before disposing of an application in the absence of a party the tribunal shall consider any representations submitted by that party in pursuance of Rule 6(2).

(4) The tribunal may require any witnesses to give evidence on oath or affirmation, and for that purpose the chairman may administer an oath or affirmation in due form.

Decision of tribunal

9.—(1) A decision of the tribunal may be taken by a majority thereof and, if in accordance with Regulation 3(1) of the Industrial Tribunals Regulations (Northern Ireland) 1965 the tribunal shall be constituted of two members only, the chairman shall have a second or casting vote.

(2) The decision of the tribunal shall be recorded in a document signed by the chairman which shall contain the reasons for the decision.

(3) The clerk to the tribunal shall transmit the document signed by the chairman to the Secretary of the Tribunals who shall as soon as may be enter it in the Register, and shall send a copy of the entry to each of the parties.

(4) The Register shall be kept at the Office of the Tribunals and shall be open to the inspection of any person without charge at all reasonable hours.

(5) The chairman of the tribunal shall have power by certificate under his hand to correct clerical mistakes in decisions of the tribunal or errors arising therein from any accidental slip or omission.

(6) A copy of any decision so corrected shall be sent by the clerk to the tribunal with the certificate of the chairman to the Secretary of the Tribunals who shall thereupon enter the correction in the Register and shall send a copy of the corrected entry to each party.

Costs

10. The tribunal shall not normally award costs but where in its opinion a party to the proceedings (and if he is a respondent whether or not he has entered an appearance) has acted frivolously and vexatiously the tribunal may include in its decision—

(1) an order that that party shall pay to another party a specified sum in respect of the costs incurred by that other party;

(2) an order that that party shall pay to the Ministry a specified sum in respect of the whole, or any part of, any allowances (other than allowances paid to members of tribunals or assessors) paid by the Ministry under section 13(3) of the Industrial Training Act (Northern Ireland) 1964 (as amended by section 52(5) of the Act) to any person for the purposes of, or in connection with, his attendance at the tribunal.

Miscellaneous powers of tribunal

11.—(1) The tribunal may, if it thinks fit—

(*a*) extend the time appointed by these Rules for doing any act notwithstanding that the time appointed may have expired;

(*b*) postpone the day or time fixed for, or adjourn, the hearing;

(*c*) if the applicant shall at any time give notice of the abandonment of his originating application, dismiss the proceedings;

(*d*) if both or all the parties agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly.

(2) Subject to the provisions of these Rules the tribunal may regulate its own procedure and may, if it thinks fit, before granting an application under Rule 4 or 12 require the party making the application to give notice of it to the other party. The notice shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made being an address and time specified for the purposes of the application by the tribunal.

(3) Any act, other than the determination of a reference, required or authorised by these Rules to be done by the tribunal may be done by, or on the direction of, the Ministry or the chairman of the tribunal.

Applications

12.—(1) An application to the tribunal for an extension of the time appointed by these Rules for doing any act may be made by a party either before or after the expiration of any time so appointed.

(2) Subject to Rule 3(2), a party may at any time apply to the tribunal for directions on any matter arising in connection with the proceedings.