1992 No. 433

FAIR EMPLOYMENT

Fair Employment Tribunal (Interest) Order (Northern Ireland) 1992

Made . . . . . *7th October 1992*

Coming into operation . . *9th November 1992*

The Department of Economic Development(**a**), in exercise of the powers conferred on it by section 26(7) of the Fair Employment (Northern Ireland) Act 1976(**b**), section 6(3) of the Fair Employment (Northern Ireland) Act 1989(**c**), Article 61(3), (5) and (6) of the Industrial Relations (Northern Ireland) Order 1976(**d**) 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, commencement and transitional provisions

1.—(1) This Order may be cited as the Fair Employment Tribunal (Interest) Order (Northern Ireland) 1992 and shall come into operation on 9th November 1992.

(2) Where a relevant decision day or a day to be treated as if it were a relevant decision day would, but for this paragraph, fall on a day before 9th November 1992, the relevant decision day or day to be treated as if it were that day shall be 9th November 1992.

Interpretation

2.—(1) In this Order—

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

"the calculation day" in relation to a relevant decision means the day immediately after the expiry of the period of 42 days beginning on (and including) the relevant decision day;

"interest" means simple interest which accrues from day to day;

"relevant decision" in relation to a tribunal means—

(*a*) an order of the tribunal under section 26(1)(*b*) of the Fair Employment (Northern Ireland) Act 1976; or

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(**a**) Formerly the Department of Manpower Services; *see* S.I. 1982/846 (N.I. 11) Article 3

(**b**) 1976 c. 25; section 26 was substituted by section 50(1) of the Fair Employment (Northern Ireland) Act 1989 c. 32

(**c**) 1989 c. 32; as substituted by Article 106(3) of the Industrial Relations (Northern Ireland) Order 1992 S.I. 1992/807 (N.I. 5)

(**d**) S.I. 1976/1043 (N.I. 16); Article 61(3) to (6) was added by paragraph 4(12) of Schedule 3 to the Industrial Relations (Northern Ireland) Order 1987 S.I. 1987/936 (N.I. 9)

(*b*) where a direction is made under section 6(2) of the Fair Employment (Northern Ireland) Act 1989(**a**) that any matter shall be heard and determined by the tribunal, any decision in relation to that matter,

by virtue of which a sum, excluding any amount representing costs or expenses, is payable by one party to proceedings before the tribunal to another such party;

"Rules of Procedure" means rules having effect in relation to proceedings before a tribunal by virtue of any statutory provision;

"the stipulated rate of interest" has the meaning assigned to it in Article 4;

"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(**b**), exercises the jurisdiction of that Tribunal.

(2) For the purposes of this Order a sum is payable by one party to proceedings to another such party if, and only if, the amount of money so payable (excluding any amount representing costs or expenses) is specified in an award of compensation by a tribunal or, as the case may be, in an order or decision of an appellate court.

(3) In this Order "decision day" means the day signified by the date recording the sending of the document which is sent to the parties recording an award of compensation by a tribunal and "relevant decision day", subject to Articles 5, 6 and 7, means the day so signified in relation to a relevant decision.

Computation of interest

3.—(1) Subject to paragraph (2) and to Article 10, where the whole or any part of a sum payable by one party to any proceedings to another such party by virtue of a relevant decision of a tribunal remains unpaid on the calculation day, that amount of money (in this Article referred to as "the unpaid amount") shall carry interest at the stipulated rate of interest from the calculation day (including that day).

(2) Where, after the calculation day, a party to any proceedings pays to another such party some but not all of the unpaid amount, then, beginning with the day on which the payment is made, interest shall continue to accrue only on that part of the amount which then still remains unpaid.

Rate of interest

4. The stipulated rate of interest which any amount carries under Article 3 shall be the rate in force on the relevant decision day in relation to interest on amounts awarded by decree in the county court.

(a) 1989 c. 32
(b) S.R. 1989 No. 444

Reviews

5. Where a tribunal reviews a relevant decision pursuant to any Rules of Procedure and the effect of the review, or of any re-hearing which takes place as a result of the review, is that the sum payable by virtue of that decision is confirmed or varied the relevant decision day shall be that of the decision which is the subject of the review.

Decisions on remission to a tribunal

6. Where an appellate court remits a matter to a tribunal for re-assessment of the sum which would have been payable by virtue of a previous relevant decision or by virtue of an order of another appellate court, the relevant decision day shall be that of that previous relevant decision or, as the case may be, the day on which the other appellate court promulgated its order.

Appeals from relevant decisions

7. Where, on an appeal from a relevant decision or on a further appeal arising from a relevant decision, an appellate court makes an order which confirms or varies the sum which would have been payable by virtue of that relevant decision if there had been no appeal, the relevant decision day shall be that of the relevant decision.

Other appeals

8.—(1) This Article applies in relation to any order made by an appellate court on an appeal from a determination of any issue by a tribunal which is not a relevant decision, or on any further appeal arising from such a determination, where the effect of the order is that for the first time in relation to that issue a sum (excluding any amount representing costs or expenses) is payable by one party to the proceedings to another such party.

(2) Where this Article applies in relation to an order, Articles 3 and 4 shall apply to the amount payable by virtue of the order as if it was an amount payable by virtue of a relevant decision and as if the day on which the appellate court promulgated the order was the relevant decision day.

9. Where, on an appeal from an order in relation to which Article 8 applies or on a further appeal arising from such an order, an appellate court makes an order which confirms or varies the amount which would have been payable by virtue of the order in relation to which Article 8 applies if there had been no appeal, the day to be treated as the relevant decision day shall be the day on which the order in relation to which Article 8 applies was promulgated.

Variations of the amount of money on appeal etc.

10. Where an amount payable by virtue of a relevant decision is varied under one of the procedures referred to in Articles 5, 6 and 7, or a sum of money treated as being so payable by virtue of Article 8 is varied under one of the procedures referred to in Articles 6 and 9, the reference in Article 3(1) to an amount payable by virtue of a relevant decision shall be treated as if it was a reference to that amount as so varied.

Sealed with the Official Seal of the Department of Economic Development on 7th October 1992.

(L.S.) *R. J. Minnis*
Assistant Secretary

The Department of Finance and Personnel hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 7th October 1992.

(L.S.) *J. H. Caldwell*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order, which comes into operation on 9th November 1992, provides that sums of money payable as a result of certain decisions of the Fair Employment Tribunal for Northern Ireland (or any tribunal exercising its jurisdiction) shall carry interest at the rate in force in relation to interest on amounts awarded by decree in the county court when all or some part of a sum payable remains unpaid 42 days after the decision of the Tribunal. These decisions are an order of compensation under section 26(1)(*b*) of the Fair Employment (Northern Ireland) Act 1976 and any decision, following a direction under section 6(2) of the Fair Employment (Northern Ireland) Act 1989, in exercise of the powers of an industrial tribunal by virtue of which one party to proceedings before the Tribunal is required to pay a sum (excluding costs and expenses) to another. Separate provisions relating to appeals and reviews have the effect, in general, that interest still accrues on money remaining unpaid 42 days after the Tribunal's decision but accrues on the amount as varied if the appeal or review results in a variation. Transitional arrangements provide that, for the purposes of the Order, decisions of the kind to which the Order refers made before 9th November 1992 are deemed to have been made on that day.