1976 No. 61

INDUSTRIAL TRIBUNALS

Industrial Tribunals (Equal Pay) Regulations (Northern Ireland) 1976

Made . . . . . 19*th February* 1976

Coming into operation . . . 11*th March* 1976

The Department of Manpower Services, in exercise of powers conferred by section 52(1)(*d*) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a), and now vested in it(b), and of every other power enabling it in that behalf, hereby makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Industrial Tribunals (Equal Pay) Regulations (Northern Ireland) 1976 and shall come into operation on 11th March 1976.

Application

2. These Regulations apply to proceedings in pursuance of references under section 2(1) and (2) of the Equal Pay Act (Northern Ireland) 1970(c).

Interpretation

3. In these Regulations—

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

"applicant" means a person (including the Department) 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;

"the 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 appointed by the Department to discharge for the time being the functions of the President;

"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;

(a) 1965 c. 19 (N.I.)
(b) S.R. & O. (N.I.) 1973 No. 504 Article 6(1) and Sch. 3 (II, p. 2992)
(c) 1970 c. 32 (N.I.)

(*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 to be 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).

(3) A notice of appearance which is sent to the Secretary of the Tribunals after the time appointed by this Rule for entering an 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 the 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), the tribunal may on the application of a party to the proceedings 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 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 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 claim or question;

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(2) shall be given to the party on whose application the requirement was made.

(4) Every document containing a requirement under paragraph (1)(*b*) or (1)(*c*) 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

5. 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 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.

The hearing

6.—(1) Any hearing of or in connection with 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 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 thereof to the other party.

Representation

7. Subject to Rule 3(2), at any hearing of or in connection with an originating application 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 employer's association or, with the leave of the tribunal, by any other person.

Procedure at hearing

8.—(1) Subject to Rule 3(2), at the hearing of the originating application the parties 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 witness to give evidence on oath or affirmation and for that purpose there may be administered 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(e) 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: Provided that the specification of the reasons for the decision shall be omitted from the Register in any case in which the tribunal on the application of either or any of the parties so directs on the ground that disclosure would be contrary to the interests of that party, and in that event a specification of the reasons shall be sent to the parties together with the copy of the entry.

(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 a tribunal shall have power by certificate under his hand to correct in documents recording the tribunal's decisions clerical mistakes or errors arising therein from any accidental slip or ommission.

(e) S.R. & O. (N.I.) 1965 No. 112 (p. 402)

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations regulate the procedure of industrial tribunals on references under section 2(1) and (2) of the Equal Pay Act (Northern Ireland) 1970.