

Draft Order laid before the Assembly under Article 90AA(7) of the Industrial Relations (Northern Ireland) Order 1992, for approval by resolution of the Assembly

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2011 No.

EMPLOYMENT

**The Labour Relations Agency (Code of Practice on Disciplinary
and Grievance Procedures) (Jurisdictions) Order (Northern
Ireland) 2011**

Laid before the Assembly in draft

<i>Made</i>	- - - -	<i>2011</i>
<i>Coming into operation</i>	-	<i>2011</i>

The Department for Employment and Learning^(a) makes the following Order in exercise of the powers conferred by Article 90AA(6)^(b) of the Industrial Relations (Northern Ireland) Order 1992, now vested in it^(c).

Citation and commencement

1. This Order may be cited as the Labour Relations Agency (Code of Practice on Disciplinary and Grievance Procedures) (Jurisdictions) Order (Northern Ireland) 2011 and shall come into operation on .

Amendment of Schedule 4A to the Industrial Relations (Northern Ireland) Order 1992

2. In Schedule 4A to the Industrial Relations (Northern Ireland) Order 1992, after the entry relating to regulation 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006^(d), insert –

“Regulation 51 of the Companies (Cross-Border Mergers) Regulations 2007 (detriment in relation to special negotiating body or employee participation)”^(e).

(a) Formerly the Department of Higher Education, Training and Employment; *see* 2001 c. 15 (N.I.)
(b) S.I. 1992/807 (N.I. 5); Article 90AA was inserted by 2011 c. 13 (N.I.), s. 4
(c) *See* S.R. 1999 No. 481
(d) S.I. 2006/2059
(e) S.I. 2007/2974

Sealed with the Official Seal of the Department for Employment and Learning on .

Dr Stephen Farry
Minister for Employment and Learning

EXPLANATORY NOTE

(This note is not part of the Order)

This Order adds to the list of jurisdictions set out at Schedule 4A to the Industrial Relations (Northern Ireland) Order 1992 (“the 1992 Order”) a reference to regulation 51 of the Companies (Cross-Border Mergers) Regulations 2007.

Schedule 4A to the 1992 Order lists the jurisdictions covered by the workplace grievance provisions set out in Article 90AA of that Order, as established by the Employment Act (Northern Ireland) 2011. Under the process, where there has been unreasonable failure to adhere to the good practice standards set out in the Labour Relations Agency’s Code of Practice on Disciplinary and Grievance Procedures, an industrial tribunal or the Fair Employment Tribunal subsequently dealing with the grievance as part of a claim is empowered to raise or lower an award by up to 50% to reflect that failure.

The Companies (Cross-Border Mergers) Regulations 2007 (“the 2007 Regulations”) implement Directive 2005/56/EC on cross-border mergers of limited liability companies. Regulation 51 of those regulations provides that an employee may present a complaint to an industrial tribunal where the employee has been subjected to a detriment in relation to various provisions of the regulations.

The effect of this Order is to ensure that grievances brought under regulation 51 of the 2007 Regulations are subject to the grievance provisions set out in Article 90AA of the 1992 Order.

A separate Regulatory Impact Assessment has not been prepared in respect of this Order; for the impact of the grievance model under 90AA of the 1992 Order, see the impact assessment prepared in relation to the policy proposals which emerged from the Department for Employment and Learning’s dispute resolution review, implemented by way of the Employment Act (Northern Ireland) 2011. The assessment is available online from www.delni.gov.uk or in hard copy by contacting the Department for Employment and Learning at Adelaide House, 39-49 Adelaide Street, Belfast BT2 8FD.

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