
STATUTORY INSTRUMENTS

1998 No. 3162

**The Fair Employment and Treatment
(Northern Ireland) Order 1998**

PART IX

THE FAIR EMPLOYMENT TRIBUNAL

Procedure

Tribunal procedure

84.—(1) The Department may by regulations make such provision as appears to it to be necessary or expedient with respect to proceedings before the Tribunal.

(2) The regulations may, in particular, include provision—

- (a) for determining by which tribunal any proceedings are to be determined, where the jurisdiction of the Tribunal is being exercised by more than one tribunal;
- (b) for parties to proceedings to be represented by such persons as may be determined by or under the regulations;
- (c) for requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses;
- (d) as to the admissibility of evidence;
- (e) for granting to any person such discovery or inspection of documents or right to further particulars as might be granted by a county court;

Sub#para. (f) rep. by 2003 NI 15

Sub#para. (g) rep. by 2003 NI 15

- (h) for enabling the Tribunal to review its decisions, and revoke or vary its orders or awards, in such circumstances as may be determined in accordance with the regulations;

Sub#para. (i) rep. by 2003 NI 15

Sub#para. (j) rep. by 2003 NI 15

- (k) for the registration and proof of decisions, orders and awards of the Tribunal.

[^{F1}(2A) The regulations may—

- (a) authorise the Department to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of instituting, or entering an appearance to, proceedings before the Tribunal;
- (b) authorise the Department to prescribe requirements in relation to documents to be supplied with any such form [^{F2}(including certificates issued under Article 88ZA or 88ZB)], and
- (c) make provision about the publication of anything prescribed under authority conferred by virtue of this paragraph.]

[^{F1}(2B) The regulations may authorise the determination of proceedings without any hearing in such circumstances as the regulations may prescribe.]

(3) The regulations may include provision authorising or requiring the Tribunal, in circumstances specified in the regulations, to send notice or a copy of—

- (a) any document specified in the regulations which relates to any proceedings before the Tribunal; or
- (b) any decision, order or award of the Tribunal,

to any person or body so specified.

[^{F3}(4) In relation to proceedings on a complaint under Article 38 the regulations may include provision for postponing fixing a time and place for a hearing, or postponing a time fixed for a hearing, for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn.]

(5) The regulations may enable the Tribunal to sit in private for the purposes of—

- (a) hearing evidence which in the opinion of the Tribunal relates to matters of such a nature that it would be against the interests of national security, public safety or public order to allow the evidence to be given in public;
- (b) hearing evidence from any person which in the opinion of the Tribunal is likely to consist of—
 - (i) information which he could not disclose without contravening a prohibition imposed by or under any statutory provision;
 - (ii) information which has been communicated to him in confidence or which he has otherwise obtained in consequence of the confidence reposed in him by another person;
 - (iii) information the disclosure of which would cause substantial injury to any undertaking of his or in which he works; or
 - (iv) information the disclosure of which would create a substantial risk that he or another individual would be subject to physical attack or sectarian harassment.

(6) Where the Tribunal sits in private in accordance with any provision included in the regulations by virtue of paragraph (5), the Tribunal may make an order prohibiting the disclosure of specified information, except so far as the disclosure is necessary—

- (a) for the purposes of the proceedings;
- (b) for communicating to any person the decision of the Tribunal in the proceedings and for communicating the reasons for the decision to any person to whom the Tribunal is required by the regulations to communicate them; or
- (c) for the purposes of any criminal proceedings or to comply with the order of a court.

(7) The Tribunal shall give reasons for its decisions.

(8) Part I of the Arbitration Act 1996 does not apply to any proceedings before the Tribunal.

(9) Any person who without reasonable excuse fails to comply with—

- (a) any requirement imposed by the regulations by virtue of paragraph (2)(c); or
- (b) any requirement with respect to the discovery or inspection of documents imposed by the regulations by virtue of paragraph (2)(e),

[^{F1}(c) any requirement imposed by virtue of regulations under this Article to give written answers for the purpose of facilitating the determination of proceedings as mentioned in paragraph (2B).]

is guilty of an offence.

- (10) A person guilty of an offence under paragraph (9)—
- (a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and
 - (b) if without reasonable excuse the failure continues after conviction, shall be liable on a second or subsequent summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (11) If a person discloses any information in contravention of an order of the Tribunal under paragraph (6), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

F1	2003 NI 15
F2	Words in art. 84(2A)(b) inserted (27.1.2020) by Employment Act (Northern Ireland) 2016 (c. 15), ss. 5(3)(a), 29(2) ; S.R. 2020/1, art. 2(d)
F3	2003 NI 15

[^{F4}Practice directions

- 84A.**—(1) Regulations under Article 84 may include provision—
- (a) enabling the President to make directions about the procedure of the Tribunal, including directions about the exercise by the Tribunal of powers under such regulations;
 - (b) for securing compliance with such directions; and
 - (c) about the publication of such directions.
- (2) The regulations may, instead of providing for any matter, refer to provision made or to be made about that matter by directions made by the President.]

F4	2003 NI 15
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[^{F5}Pre-hearing reviews and preliminary matters

- 84B.**—(1) Regulations under Article 84 may include provision—
- (a) for authorising the Tribunal to carry out a review of any proceedings before it at any time before a hearing held for the purpose of determining them (a “pre-hearing review”);
 - (b) for enabling such powers to be exercised in connection with a pre-hearing review as may be prescribed by the regulations.
- (2) Such regulations may in particular include provision—
- (a) for authorising the Tribunal carrying out a pre-hearing review under the regulations to make, in circumstances specified in the regulations, an order requiring a party to the proceedings in question^{F6}... to pay a deposit of an amount not exceeding^{F7} £500^{F8} as a condition of continuing to participate in those proceedings or doing such other thing as may be prescribed in the regulations] ; and
 - (b) for prescribing—
 - (i) the manner in which the amount of any such deposit is to be determined in any particular case;
 - (ii) the consequences of non-payment of any such deposit; and
 - (iii) the circumstances in which any such deposit, or any part of it, may be refunded to the party who paid it or be paid over to another party to the proceedings.

(3) Regulations under paragraph (1)(b), so far as relating to striking out, may not provide for striking out on a ground which does not apply outside a pre-hearing review.

(4) The Department may by order substitute for the sum specified in paragraph (2)(a) such other sum as is specified in the order.

(5) The regulations may also include provision for authorising the Tribunal to hear and determine separately any preliminary issue of a description prescribed by the regulations which is raised in any case.]

F5 2003 NI 15

F6 Words in art. 84B(2)(a) repealed (20.9.2021) by [Employment Act \(Northern Ireland\) 2016 \(c. 15\)](#), ss. 7(1)(a), 29(2), [Sch. 3](#); S.R. 2021/253, art. 2(b)(h)

F7 SR 2004/158

F8 Words in art. 84B(2)(a) added (20.9.2021) by [Employment Act \(Northern Ireland\) 2016 \(c. 15\)](#), ss. 7(1)(b), 29(2); S.R. 2021/253, art. 2(b)

Procedure for matters within jurisdiction of industrial tribunal

85.—(1) This Article applies where a complaint has been made to the Tribunal under Article 38 and it appears to the President or Vice-President that the complaint is one in respect of which—

- [^{F9}(a) a complaint could be made to an industrial tribunal by the complainant under any other statutory provision; or
- (b) such a complaint has been made, but the proceedings in the industrial tribunal in relation to that complaint have not been disposed of.]

(2) Where this Article applies and the President or Vice-President considers that any matters which would otherwise fall to be determined by an industrial tribunal could appropriately be heard and determined by the Tribunal, he may direct that those matters shall be so heard and determined.

(3) Where a direction is made under paragraph (2) that any matters shall be heard and determined by the Tribunal, then—

- (a) for the purpose of complying with that direction, the Tribunal shall, in relation to those matters, have the jurisdiction, and may exercise all the powers, of an industrial tribunal;
- (b) none of the following [^{F10}(if otherwise relevant to the industrial tribunal proceedings)], namely—
 - (i) Article 63(3) of the Sex Discrimination (Northern Ireland) Order 1976;
 - (ii) Article 11(5) of the Industrial Tribunals (Northern Ireland) Order 1996;
 - (iii) Article 52(3) of the Race Relations (Northern Ireland) Order 1997,
 - [^{F11}(iv) regulation 34(4) of the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003,]
 - [^{F12}(v) regulation 41(4) of the Employment Equality (Age) Regulations (Northern Ireland) 2006,]

shall apply in relation to the hearing and determination of those matters by the Tribunal;

- (c) Articles 16 and 17 of the Industrial Tribunals (Northern Ireland) Order 1996 (recovery of, and interest on, sums awarded by industrial tribunals) shall apply in relation to any sum payable in pursuance of a decision of the Tribunal in relation to any such matters as it applies in relation to a sum payable in pursuance of a decision of an industrial tribunal; and
- (d) Article 22 of the Industrial Tribunals (Northern Ireland) Order 1996 (appeals against decisions of industrial tribunals) shall apply in relation to a decision of the Tribunal in relation to any such matter as it applies in relation to a decision of an industrial tribunal.

- F9** Art. 85(1)(a)(b) substituted (3.4.2011) by [Employment Act \(Northern Ireland\) 2011 \(c. 13\), ss. 11\(2\), 17\(1\)](#); S.R. 2011/159, [art. 2](#)
- F10** Words in [art. 85\(3\)\(b\)](#) inserted (3.4.2011) by [Employment Act \(Northern Ireland\) 2011 \(c. 13\), ss. 11\(3\), 17\(1\)](#); S.R. 2011/159, [art. 2](#)
- F11** SR 2003/497
- F12** [Art. 85\(3\)\(b\)\(v\)](#) inserted (1.10.2006) by [Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/261\), reg. 53\(1\), Sch. 7 para. 5\(3\)](#) (with reg. 50)

[^{F13}Costs and expenses

85A.—(1) Regulations under Article 84 may include provision—

- (a) for the award of costs;
- (b) for the award of any allowances payable under Article 83(2).

(2) Regulations under paragraph (1) may include provision authorising the Tribunal to have regard to a person's ability to pay when considering the making of an award against him under such regulations.

(3) The regulations may include provision for authorising the Tribunal—

- (a) to disallow all or part of the costs of a representative of a party to proceedings before it by reason of that representative's conduct of the proceedings;
- (b) to order a representative of a party to proceedings before it to meet all or part of the costs incurred by a party by reason of the representative's conduct of the proceedings;
- (c) to order a representative of a party to proceedings before it to meet all or part of any allowances payable by the Department under Article 83(2) by reason of the representative's conduct of the proceedings.

(4) The regulations may also include provision for taxing or otherwise settling the costs referred to in paragraph (1)(a) or (3)(b) (and, in particular for enabling such costs to be taxed in the county court).]

F13 2003 NI 15

Payments in respect of preparation time

85B.—(1) Regulations under Article 84 may include provision for authorising the Tribunal to order a party to proceedings before it to make a payment to any other party in respect of time spent in preparing that other party's case.

(2) Regulations under paragraph (1) may include provision authorising the Tribunal to have regard to a person's ability to pay when considering the making of an order against him under such regulations.

(3) If regulations under Article 84 include—

- (a) provision of the kind mentioned in paragraph (1); and
- (b) provision of the kind mentioned in Article 85A(1)(a),

they shall also include provision to prevent the Tribunal exercising its powers under both kinds of provision in favour of the same person in the same proceedings.

Interest on awards of compensation

86.—(1) The Department may by order made with the approval of the Department of Finance and Personnel provide that an award of compensation under Article 39(1)(b) shall carry interest at such rate and between such times as may be prescribed by the order.

- (2) The power conferred by paragraph (1) includes power—
- (a) to specify cases or circumstances in which interest is not payable;
 - (b) to provide that interest is payable only on compensation exceeding a specified amount or falling between specified amounts;
 - (c) to make provision for the manner in which and the periods by reference to which interest is to be calculated and paid;
 - (d) to provide that any statutory provision—
 - (i) does or does not apply in relation to interest payable by virtue of paragraph (1); or
 - (ii) applies to it with such modifications as may be specified in the order;
 - (e) to make provision for cases where compensation is payable in pursuance of decisions or awards made on appeal from the Tribunal.

(3) In particular, an order under paragraph (1) may provide that the rate of interest shall be the rate from time to time in force in relation to interest on amounts awarded by decree in the county court.

Enforcement

87. The Judgments Enforcement (Northern Ireland) Order 1981 shall apply with the necessary modifications in relation to^{F14} any sum payable in pursuance of a decision of the Tribunal] as it applies to a sum due under a money judgment (within the meaning of that Order).

F14 Words in art. 87 substituted (15.1.2006) by [Employment \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2005 \(S.I. 2005/3424 \(N.I. 20\)\)](#), [arts. 1\(2\), 4](#)

Changes to legislation:

There are currently no known outstanding effects for the The Fair Employment and Treatment (Northern Ireland) Order 1998, Cross Heading: Procedure.