

2020 No. 4

EMPLOYMENT

DISPUTE RESOLUTION

The Industrial Tribunals (1996 Order) (Application of Conciliation Provisions) Order (Northern Ireland) 2020

Made - - - - *3rd January 2020*

Coming into operation - *27th January 2020*

The Department for the Economy(a), in exercise of the powers conferred by Articles 20(8) and (8A) and 25(5) of the Industrial Tribunals (Northern Ireland) Order 1996(b), makes the following Order.

Citation and commencement

1. This Order may be cited as the Industrial Tribunals (1996 Order) (Application of Conciliation Provisions) Order (Northern Ireland) 2020 and shall come into operation on 27th January 2020.

Amendments to the Industrial Tribunals (Northern Ireland) Order 1996

2. In Article 20(1) of the Industrial Tribunals (Northern Ireland) Order 1996—

(a) in sub-paragraph (c) omit the reference to “Article 112(1) of the Employment Rights (Northern Ireland) Order 1996” and in the appropriate place insert—

“(viiia) Article 112(1) of the Employment Rights (Northern Ireland) Order 1996;”;

(b) in sub-paragraph (cc) omit “18.”;

(c) after sub-paragraph (e) insert—

“(ea) under regulation 11 of the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979;

(eb) under Article 6 of the Industrial Tribunals Extension of Jurisdiction Order (Northern Ireland) 1994;

(ec) under paragraph 2 of Schedule 2 to the Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996;”;

(d) after sub-paragraph (k) insert—

“(ka) under regulation 15 of the Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003;”;

(a) 2016 c. 5 (N.I.). Functions relevant to this Order were transferred from the Department for Employment and Learning by S.R. 2016 No. 76, Article 6(1)(c).

(b) S.I. 1996/1921 (N.I. 18); Article 20 was amended by the Employment Act (Northern Ireland) 2016 (c. 15 (N.I.)), section 3 and Schedule 1.

- (e) in sub-paragraph (o) for the two places it occurs, substitute—
 - “(o) under regulation 30 or 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006;
 - (oa) under paragraph 4 or 8 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006;”;
- (f) in sub-paragraph (t), after “5” insert “, 10”; and
- (g) after sub-paragraph (t) insert—
 - “(ta) under regulation 5 of the Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016;”.

Amendments

3. The amendments in the Schedule to this Order have effect.

Sealed with the Official Seal of the Department for the Economy on 3rd January 2020.



Colin Jack
A senior officer of the
Department for the Economy

SCHEDULE

Article 3

Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979

1. The Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979^(a) are amended as follows.

2. In regulation 11 after paragraph (2) insert—

“(2A) Regulation 12 (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

3. After regulation 11 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

12.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the three month time limit set by regulation 11(2) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by regulation 11(2) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by paragraph (2) of regulation 11 to extend the three month time limit set by that paragraph is exercisable in relation to that time limit as extended by this regulation.”.

Industrial Tribunals Extension of Jurisdiction Order (Northern Ireland) 1994

4. The Industrial Tribunals Extension of Jurisdiction Order (Northern Ireland) 1994^(b) is amended as follows.

5. In Article 7 for “An industrial tribunal” substitute “Subject to Article 8A, an industrial tribunal”.

6. In Article 8 for “An industrial tribunal” substitute “Subject to Article 8A, an industrial tribunal”.

7. After Article 8 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

8A.—(1) This Article applies where this Order provides for it to apply for the purposes of a provision of this Order (“a relevant provision”).

(a) S.R. 1979 No. 437.

(b) S.R. 1994 No. 308. Article 7 was amended by S.R. 2004 No. 521.

(2) In this Article—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when the time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by a relevant provision would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Where an industrial tribunal has power under this Order to extend the time limit set by a relevant provision, the power is exercisable in relation to that time limit as extended by this Article.”.

Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996

8. Schedule 2 to the Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996(a) is amended as follows.

9. In paragraph 3 for “An industrial tribunal” substitute “Subject to paragraph 3A, an industrial tribunal”.

10. After paragraph 3 insert—

“**3A.**—(1) In this paragraph—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the three month time limit set by paragraph 3 expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by paragraph 3 would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by paragraph 3 to extend the three month time limit set by that paragraph is exercisable in relation to that time limit as extended by this paragraph.”.

(a) S.R. 1996 No. 511.

Transnational Information and Consultation of Employees Regulations 1999

11. The Transnational Information and Consultation of Employees Regulations 1999(a) are amended as follows.

12. In regulation 27(b) after paragraph (2A) insert—

“(2B) Regulation 27B (extension of time limit to facilitate conciliation before institution of proceedings in Northern Ireland) applies for the purposes of paragraph (2).”.

13. After regulation 27A(c) insert—

“Extension of time limit to facilitate conciliation before institution of proceedings in Northern Ireland

27B.—(1) In this regulation—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the three month time limit set by regulation 27(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by regulation 27(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 27(2)(b) to extend the three month time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

14. In regulation 41(2)(b)(d), for “Article 20” substitute “any of Articles 20A to 20C”.

Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000

15. The Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000(e) are amended as follows.

16. In regulation 8 after paragraph (2) insert—

“(2A) Regulation 8A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

17. After regulation 8 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

8A.—(1) In this regulation—

(a) S.I. 1999/3323.

(b) Regulation 27 was amended by S.I. 2014/386.

(c) Regulation 27A was inserted by S.I. 2014/386.

(d) Regulation 41 was amended by S.I. 2004/2518, S.I. 2009/3348, S.I. 2013/1956, S.I. 2014/386 and S.I. 2014/431.

(e) S.R. 2000 No. 219. Regulation 8 was amended by S.R. 2002 No. 286.

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
 - (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.
- (2) In working out when the time limit set by regulation 8(2) expires the period beginning with the day after Day A and ending with Day B is not to be counted.
- (3) If the time limit set by regulation 8(2) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.
- (4) The power conferred on the industrial tribunal by regulation 8(3) to extend the time limit set by paragraph (2) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002

18. The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002(a) are amended as follows.

19. In regulation 7 after paragraph (2) insert—

“(2A) Regulation 7A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

20. After regulation 7 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

7A.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
 - (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.
- (2) In working out when the time limit set by regulation 7(2) expires the period beginning with the day after Day A and ending with Day B is not to be counted.
- (3) If the time limit set by regulation 7(2) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.
- (4) The power conferred on the industrial tribunal by regulation 7(3) to extend the time limit set by paragraph (2) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

(a) S.R. 2002 No. 298.

Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003

21. The Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003(a) are amended as follows.

22. In regulation 15 after paragraph (2) insert—

“(2A) Regulation 15A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2)(a).”.

23. After regulation 15 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

15A.—(1) In this regulation—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the three month time limit set by regulation 15(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by regulation 15(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 15(2)(b) to extend the three month time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

Merchant Shipping (Working Time: Inland Waterways) Regulations 2003

24.—(1) The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003(b) are amended as follows.

(2) In regulation 4 after paragraph (b) insert—

“(ba) in regulation 18A(1)(a) for the words “subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)” substitute “paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;

(bb) in regulation 18A(1)(b) for the words “(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section” substitute “(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”;

(a) S.R. 2003 No. 173.

(b) S.I. 2003/3049. Regulation 4 modifies regulations 18A and 19 for application to Northern Ireland. Regulation 4 was amended by S.I. 2014/386, S.I. 2014/431 and S.I. 2017/1149. Regulation 18A was inserted by S.I. 2014/386. Regulation 19 was amended by S.I. 2013/1956, S.I. 2014/386, S.I. 2014/431 and S.I. 2017/1149.

Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003

25. The Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003(a) are amended as follows.

26. In regulation 41 after paragraph (1A) insert—

“(1B) Regulation 41A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1)(a).”.

27. After regulation 41 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

41A.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the three month time limit set by regulation 41(1)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by regulation 41(1)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 41(3) to extend the three month time limit set by paragraph (1)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004

28.—(1) The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004(b) are amended as follows.

(2) In regulation 4 after paragraph (d) insert—

“(da) in regulation 19A(1)(a) for the words “subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)” substitute “paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;

(db) in regulation 19A(1)(b) for the words “(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section” substitute “(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”;

(a) S.R. 2003 No. 497. Regulation 41 was amended by S.R. 2004 No. 521.

(b) S.I. 2004/1713. Regulation 4 modifies regulations 19A and 20 for application to Northern Ireland. Regulation 4 was amended by S.I. 2014/386 and S.I. 2014/431. Regulation 19A was inserted by S.I. 2014/386. Regulation 20 was amended by S.I. 2013/1956, S.I. 2014/386 and S.I. 2014/431.

Information and Consultation of Employees Regulations (Northern Ireland) 2005

29. The Information and Consultation of Employees Regulations (Northern Ireland) 2005(a) are amended as follows.

30. In regulation 29 after paragraph (2) insert—

“(2A) Regulation 29A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

31. After regulation 29 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

29A.—(1) In this regulation—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 29(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 29(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 29(2)(b) to extend the time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

32. In regulation 38 in paragraph (2), for “Article 20” substitute “any of Articles 20A to 20C”.

Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006

33. The Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006(b) is amended as follows.

34. In paragraph 4 after sub-paragraph (2) insert—

“(2A) Paragraph 4A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (2).”.

35. After paragraph 4 insert—

“4A.—(1) In this paragraph—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Tribunals Order (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(a) S.R. 2005 No. 47.

(b) S.R. 2006 No. 48.

(2) In working out when the time limit set by paragraph 4(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by paragraph 4(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by paragraph 4(2)(b) to extend the time limit set by paragraph 4(2)(a) is exercisable in relation to that time limit as extended by this paragraph.”.

36. In paragraph 11, in sub-paragraph (2), for “Article 20” substitute “any of Articles 20A to 20C”.

Employment Equality (Age) Regulations (Northern Ireland) 2006

37. The Employment Equality (Age) Regulations (Northern Ireland) 2006(a) are amended as follows.

38. In regulation 48 after paragraph (2) insert—

“(2A) Regulation 48A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1).”.

39. After regulation 48 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

48A.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 48(1) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 48(1) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 48(4) to extend the time limit set by paragraph (1) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

European Cooperative Society (Involvement of Employees) Regulations 2006

40.—(1) Schedule 3 to the European Cooperative Society (Involvement of Employees) Regulations 2006(b) is amended as follows.

(2) After paragraph 9 insert—

“9A. In regulation 30A—

- (a) in paragraph (1)(a) for the words “subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting

(a) S.R. 2006 No. 261.

(b) S.I. 2006/2059. Regulation 30A was inserted by S.I. 2014/386.

proceedings)” substitute “paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;

- (b) in paragraph (1)(b) for the words “(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section” substitute “(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”;
- (c) in paragraph (4) for the words “employment tribunal” substitute “industrial tribunal”.

Companies (Cross-Border Mergers) Regulations 2007

41.—(1) Schedule 2 to the Companies (Cross-Border Mergers) Regulations 2007(a) is amended as follows.

(2) After paragraph 6 insert—

“6A. In regulation 45A—

- (a) in paragraph (1)(a) for the words “subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)” substitute “paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;
- (b) in paragraph (1)(b) for the words “(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section” substitute “(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”;
- (c) in paragraph (4) for the words “employment tribunal” substitute “industrial tribunal”.

Cross-border Railway Services (Working Time) Regulations (Northern Ireland) 2008

42. The Cross-border Railway Services (Working Time) Regulations (Northern Ireland) 2008(b) are amended as follows.

43. In regulation 17 after paragraph (2) insert—

“(2A) Regulation 17A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

44. After regulation 17 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

17A.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(a) S.I. 2007/2974. Regulation 45A was inserted by S.I. 2014/386.

(b) S.R. 2008 No. 315.

(2) In working out when the time limit set by regulation 17(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 17(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 17(2)(b) to extend the time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

45. In regulation 18(2)(a) (restrictions on contracting out) for “Article 20” substitute “any of Articles 20A to 20C”.

European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009

46. The European Public Limited-Liability Company (Employee Involvement) (Northern Ireland) Regulations 2009(a) are amended as follows.

47. In regulation 28 after paragraph (2) insert—

“(2A) Regulation 28A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2).”.

48. After regulation 28 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

28A.—(1) In this regulation—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 28(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the three month time limit set by regulation 28(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 28(2)(b) to extend the three month time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

49. In regulation 37(2) for “Article 20” substitute “any of Articles 20A to 20C”.

Agency Workers Regulations (Northern Ireland) 2011

50. The Agency Workers Regulations (Northern Ireland) 2011(b) are amended as follows.

51. In regulation 18 after paragraph (4) insert—

(a) S.I. 2009/2402.

(b) S.R. 2011 No. 350.

“(4A) Regulation 18A (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (4).”.

52. After regulation 18 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

18A.—(1) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 18(4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 18(4) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 18(5) to extend the time limit set by paragraph (4) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

Employment Relations (Northern Ireland) Order 1999 (Blacklists) Regulations (Northern Ireland) 2014

53. The Employment Relations (Northern Ireland) Order 1999 (Blacklists) Regulations (Northern Ireland) 2014(a) are amended as follows.

54. In regulations 7 and 10 after paragraph (1) insert—

“(1A) Regulation 18 (extension of time limit to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (1).”.

55. After regulation 17 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

18.—(1) This regulation applies where these Regulations provide for it to apply for the purposes of a provision of these Regulations (“a relevant provision”).

(2) In this regulation—

- (a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(3) In working out when the time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(a) S.R. 2014 No. 88.

(4) If the time limit set by a relevant provision would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Where an industrial tribunal has power under these Regulations to extend the time limit set by a relevant provision, the power is exercisable in relation to that time limit as extended by this regulation.”.

Working Time Regulations (Northern Ireland) 2016

56. The Working Time Regulations (Northern Ireland) 2016(a) are amended as follows.

57. In regulation 43, in paragraph (2), for “regulation 44” substitute “regulations 44 and 44A”.

58. After regulation 44 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

44A.—(1) In this regulation—

(a) Day A is the day on which the worker concerned complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

(b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 43(2)(a) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 43(2)(a) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 43(2)(b) to extend the time limit set by paragraph (2)(a) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

59. In regulation 45(2)(a) (restrictions on contracting out) for “Article 20” substitute “any of Articles 20A to 20C”.

Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016

60. The Posted Workers (Enforcement of Employment Rights) Regulations (Northern Ireland) 2016(b) are amended as follows.

61. In regulation 5, in paragraph (4), after “paragraph (6)” insert “and regulation 5A”.

62. After regulation 5 insert—

“Extension of time limit to facilitate conciliation before institution of proceedings

5A.—(1) In this regulation—

(a) Day A is the day on which the posted worker in the construction sector complies with the requirement in paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact Labour Relations Agency

(a) S/R. 2016 No. 49.

(b) S.R. 2016 No. 242.

before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

- (b) Day B is the day on which that worker receives or, if earlier, is treated as receiving (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article.

(2) In working out when the time limit set by regulation 5(4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(3) If the time limit set by regulation 5(4) would (if not extended by this paragraph) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(4) The power conferred on the industrial tribunal by regulation 5(6) to extend the time limit set by paragraph (4) of that regulation is exercisable in relation to that time limit as extended by this regulation.”.

63. In regulation 7 (restrictions on contracting out)—

- (a) for paragraph (2) substitute—

“(2) Paragraph (1) does not apply to—

- (a) any agreement to refrain from instituting or continuing proceedings where a conciliation officer has taken action under any of Articles 20A to 20C of the Industrial Tribunals (Northern Ireland) Order 1996 (conciliation); or
- (b) any agreement to refrain from instituting or continuing proceedings if the conditions regulating compromise agreements under these Regulations are satisfied in relation to the agreement.”;

- (b) in paragraph (3) for “paragraph (2)” substitute “paragraph (2)(b)”.

Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018

64.—(1) Regulation 4 of the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018(a) is amended as follows.

- (2) For paragraph (c) substitute—

“(c) in regulation 27(3)(b) for the words “section 18A(1) of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)” substitute “Article 20A(1) of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)”;

- (3) After paragraph (c) insert—

“(ca) in regulation 27(3)(c) for the words “(by virtue of the regulations made under section 18A(11) of the Employment Tribunals Act 1996) the certificate issued under subsection (4) of that section” substitute “ (by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article”;

(a) S.I. 2018/58. Regulation 4 modifies regulations 27 and 28 for application to Northern Ireland.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Article 20(1) of the Industrial Tribunals (Northern Ireland) Order 1996 (“the 1996 Order”). Article 20(1) lists the proceedings which are relevant proceedings for the purposes of early conciliation and other conciliation services provided by the Labour Relations Agency. The amendments made by this Order update the list of jurisdictions in Article 20(1).

The Schedule to this Order makes consequential amendments to the limitation periods which apply to the jurisdictions listed in Article 20(1) of the 1996 Order where not already provided. The Schedule also makes consequential amendments to cross references to new conciliation provisions set out in Articles 20A to 20C of the 1996 Order.

A Regulatory Impact Assessment has been produced and is available from the website of the Department for the Economy at <https://www.economy-ni.gov.uk/consultations/employment-law-review> or alongside this Statutory Rule at <http://www.legislation.gov.uk/nisr>.

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