



Government Circular No 106/92

THE EMPLOYMENT ACT 1991

THE EMPLOYMENT TRIBUNAL (INTEREST ON AWARDS) ORDER 1992

Approved by Tynwald 17 March 1992

Coming into operation 1st April 1992

In exercise of the powers conferred on the Department of Industry by paragraph 7 of Part II of Schedule 4 to the Employment Act 1991(a), and of all other enabling powers, the following Order is hereby made:-

Citation, commencement and interpretation

1. (1) This Order may be cited as the Employment Tribunal (Interest on Awards) Order 1992 and, subject to section 89(1) of the Employment Act 1991, shall come into operation on the 1st April 1992.

(2) In this Order -

"the calculation day", in relation to a relevant decision, means the day immediately following the expiry of the period of 42 days beginning with the relevant decision day;

"decision day" means the day signified by the date recording the sending of the document which is sent to the parties recording an award or other determination of the Tribunal, and "relevant decision day" means (subject to articles 4, 5 and 6) the day so signified in relation to a relevant decision;

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

"party" includes the Department of Health and Social Security where that Department has elected to appear as a party in accordance with any provision of the Rules entitling it so to elect;

"the prescribed rate" has the meaning given by article 3;

"relevant decision" means any award or other determination of the Tribunal by virtue of which one party to proceedings before the Tribunal is required to pay a sum of money, excluding a sum representing costs or expenses, to another party to the proceedings;

(a) 1991 c.19

"the Recoupment Regulations" means the Employment (Recoupment of Benefit) Regulations 1992 (b);

"the Rules" means the Employment Tribunal Rules 1992 (c);

"the Tribunal" means the Employment Tribunal.

(3) For the purposes of this Order a sum of money is required to be paid by one party to proceedings to another such party if, and only if, an amount of money required to be so paid is -

- (a) specified in an order or other determination of the Tribunal or in an order or decision of the High Court on appeal from the Tribunal, or
- (b) otherwise ascertainable solely by reference to the terms of such an award or determination or, as the case may be, to the terms of such an order or decision;

but where the Tribunal or the High Court has made a declaration as to entitlement under a contract nothing in this Order shall be taken to provide for interest to be payable on any payment under that contract in respect of which no obligation to make the payment has arisen under the contract before the declaration was made.

Computation of interest

2. (1) Subject to paragraphs (2), (3) and (4), where the whole or any part of a sum of money payable by virtue of a relevant decision remains unpaid on the calculation day the sum of money remaining unpaid on the calculation day shall carry interest at the prescribed rate from the calculation day (including that day).

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

(3) For the purposes of computation of interest under this Order there shall be disregarded -

- (a) any part of a sum of money which, pursuant to the Recoupment Regulations, has been claimed by the Department of Health and Social Security in a recoupment notice;
- (b) any part of a sum of money which the party required to pay the sum of money is required, by virtue of any provision contained in or having effect under any statutory provision, to deduct and pay over to a public authority in respect of income tax or contribution under Part I of the Social Security Act 1975 (an Act of Parliament)(d), as it has effect in the Island(e);

(4) Where a sum of money payable by virtue of a relevant decision is varied under one of the procedures referred to in articles 4, 5 and 6, or a sum of money treated as being so payable by virtue of article 7 is varied under the procedure referred to in article 5, the reference in paragraph (1) to a sum of money payable by virtue of a relevant decision shall be treated as if it were a reference to that sum as so varied.

Rate of interest

3. The prescribed rate for the purposes of this Order shall be the rate of interest from time to time specified or prescribed under section 9 of the Administration of Justice Act 1981(f) as that enactment has effect from time to time.

Reviews

4. Where the Tribunal reviews its decision pursuant to the Rules and the effect of the review, or of any re-hearing which takes place as a result of the review, is that a sum of money payable by one party to another party is confirmed or varied, the relevant decision day shall be the decision day of the decision which is the subject of the review.

Decisions on remission to Tribunal

5. Where the High Court remits a matter to the Tribunal for re-assessment of the sum of money which would have been payable by virtue of a previous relevant decision, the relevant decision day shall be the decision day of that previous relevant decision.

Appeals from relevant decisions

6. Where, on an appeal from a relevant decision, the High Court makes an order which confirms or varies the sum of money which would have been payable by virtue of that relevant decision if there had been no appeal, the relevant decision day shall be the decision day of that relevant decision.

Other appeals

7. (1) This article applies in relation to any order made by the High Court on an appeal from a determination of any issue by the Tribunal which is not a relevant decision, where the effect of the order is that for the first time in relation to that issue one party to the proceedings is required to pay a sum of money, other than a sum representing costs or expenses, to another party to the proceedings.

(2) Where this article applies in relation to an order, articles 2 and 3 apply to the sum of money payable by virtue of the order as if it were a sum of money payable by virtue of a relevant decision and as if the day on which the High Court promulgated the order was the relevant decision day.

Notices

9. (1) Where a decision of the Tribunal is a relevant decision and a copy of a document recording that decision is sent to all parties entitled to receive that decision, the clerk of the Tribunal shall cause a notice containing the following particulars in respect of the decision to accompany, or to be included in, the document:

- (a) the decision day;
- (b) the prescribed rate;
- (c) the calculation day.

(2) The failure to discharge the duty under paragraph (1) correctly or at all shall not affect the liability of one party to pay to another party any sum of money which is payable by virtue of this Order.

MADE this 25th day of February

1992



Minister for Industry

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order makes provision for interest on awards of the Employment Tribunal. The rate of interest referred to in article 3 is currently 10 per cent (GC 264/82).