

## SCHEDULE

### The Labour Relations Agency Arbitration Scheme

## PART XVI

### Questions of EC Law and the Human Rights Act 1998

#### **Court determination of preliminary points**

89.—(1) Section 45 of the Arbitration Act 1996<sup>(1)</sup> shall apply to arbitrations conducted in accordance with the Scheme, modified as shown in sub-paragraphs (2) to (7).

(2) The High Court or the county court may on the application of a party to arbitral proceedings (upon notice to the other parties) determine any question—

(a) of EC law; or

(b) concerning the application of the Human Rights Act 1998; and

arising in the course of the proceedings which the court is satisfied substantially affects the rights of one or more of the parties.

(3) An application under this section shall not be considered unless—

(a) it is made with the agreement of all the other parties to the proceedings, or

(b) it is made with the permission of the tribunal and the court is satisfied that the application was made without delay.

(4) The application shall identify the question of law to be determined and, unless made with the agreement of all the other parties to the proceedings, shall state the grounds on which it is said that the question should be decided by the court.

(5) Unless the court gives leave, no appeal lies from a decision of the court whether the conditions specified in subsection (2) are met.

(6) The decision of the court on the question of law shall be treated as a judgment of the court for the purposes of an appeal.

But no appeal lies without the leave of the court which shall not be given unless the court considers that the question is one of general importance, or is one which for some other special reason should be considered by the Court of Appeal.

(7) In this section, “EC law” means—

(a) any provision in the domestic legislation of Northern Ireland giving effect to rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the European Community Treaties, and

(b) any such rights, powers, liabilities, obligations and restrictions which are not given effect by any such provision.

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(1) 1996 c. 23