



Number 7 of 1977

PROTECTION OF EMPLOYMENT ACT 1977

REVISED

Updated to 14 October 2020

This Revised Act is an administrative consolidation of the *Protection of Employment Act 1977*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Regulated Professions (Health and Social Care) (Amendment) Act 2020* (16/2020), enacted 14 October 2020, and all statutory instruments up to and including the *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020), made 13 October 2020, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



Number 7 of 2010

PROTECTION OF EMPLOYMENT ACT 1977

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Protection of Employment Acts 1977 to 2014: In so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014* (1/2014), s. 1(17)). The Acts in this group are:

- *Protection of Employment Act 1977* (7/1977)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it applies to the *Protection of Employment Act 1977*
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), in so far as it applies to the *Protection of Employment Act 1977*
- *Local Government Reform Act 2014* (1/2014), s. 1(17) and the amendments to the *Protection of Employees (Part-Time Work) Act 2001* and the *Protection of Employment Act 1977* provided for in s. 5(6) and sch. 2 part 6 (Note: the reference to s. 5(6) appears to be intended to refer to s. 5(8)).

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Workplace Relations Act 2015* (16/2015)
- *Local Government Reform Act 2014* (1/2014)
- *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012)
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007)
- *Employees (Provision of Information and Consultation) Act 2006* (9/2006)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001)

All Acts up to and including *Regulated Professions (Health and Social Care) (Amendment) Act 2020* (16/2020), enacted 14 October 2020, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020)
- *European Communities (Seafarers) Regulations 2018* (S.I. No. 15 of 2018)
- *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017* (S.I. No. 361 of 2017)
- *Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2015* (S.I. No. 419 of 2015)
- *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 245 of 2011)
- *Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 185 of 2010)
- *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000)
- *Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 305 of 1997)
- *Labour Services Act 1987 — Apprenticeship Rules 1997* (S.I. No. 168 of 1997)
- *Protection of Employment Order 1996* (S.I. No. 370 of 1996)
- *Labour Services Act 1987 — Apprenticeship Rules 1995* (S.I. No. 198 of 1995)
- *Labour Services Act 1987 — Apprenticeship Rules 1994* (S.I. No. 228 of 1994)
- *Labour Services Act 1987 — Apprenticeship Rules 1993* (S.I. No. 236 of 1993)
- *Industry and Commerce (Alteration of Name of Department and Title of Minister) Order 1993* (S.I. No. 19 of 1993)
- *Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993* (S.I. No. 18 of 1993)
- *Protection of Employment Act, 1977 (Commencement) Order 1977* (S.I. No. 139 of 1977)

All statutory instruments up to and including *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020), made 13 October 2020, were considered in the preparation of this revision.



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Number 7 of 1977

PROTECTION OF EMPLOYMENT ACT 1977

REVISED

Updated to 14 October 2020

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE DIRECTIVE OF THE COUNCIL OF THE EUROPEAN COMMUNITIES DONE AT BRUSSELS ON THE 17TH DAY OF FEBRUARY, 1975, REGARDING THE APPROXIMATION OF THE LAWS OF MEMBER STATES OF THOSE COMMUNITIES RELATING TO COLLECTIVE REDUNDANCIES, AND TO PROVIDE FOR OTHER MATTERS RELATING TO THAT MATTER. [5th April, 1977]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions under collectively cited *Protection of Employment Acts* transferred and references construed (14.10.2020) by *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020), arts. 2, 3(1)(a), (2) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Business, Enterprise and Innovation.

(2) References to the Department of Employment Affairs and Social Protection contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Business, Enterprise and Innovation.

3. (1) The functions vested in the Minister for Employment Affairs and Social Protection -

(a) by or under the Acts specified in Part 1 of the Schedule and the provisions of the Acts specified in Part 2 of the Schedule, and

...

are transferred to the Minister for Business, Enterprise and Innovation.

...

(2) References to the Minister for Employment Affairs and Social Protection contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Business, Enterprise and Innovation.

SCHEDULE 1

PART 1

ACTS OF THE OIREACTHAS

...

Protection of Employment Acts 1977 to 2014

...

Editorial Notes:

- E1** Collectively cited *Protection of Employment Acts 1977 to 2014* included in definitions of “employment enactment” and “relevant enactment” (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 1 item 19, S.I. No. 338 of 2015, with the following effects:
- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
 - Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
 - Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer’s registered number or employee’s PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
 - Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
 - Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
 - Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
 - Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2).
- E2** Previous affecting provision: functions under collectively cited *Protection of Employment Acts 1977 to 2014* transferred and “Minister for” and “Department of Jobs, Enterprise and Innovation” construed (1.09.2017) by *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017* (S.I. No. 361 of 2017), arts. 2, 3, 6-8, in effect as per art. 1(2), subject to transitional provisions in arts. 4, 5; superseded as per C-note above.

PART I

PRELIMINARY AND GENERAL

Short title and commencement.

- 1.—(1)** This Act may be cited as the Protection of Employment Act, 1977.
- (2)** This Act shall come into operation on such day as may be appointed by order of the Minister.

Annotations**Editorial Notes:**

- E3** Power pursuant to section exercised (10.05.1977) by *Protection of Employment Act 1977 (Commencement) Order 1977* (S.I. No. 139 of 1977).
2. The 10th day of May, 1977 is hereby appointed to be the day on which the Protection of Employment Act, 1977 (No. 7 of 1977), shall come into operation.

Interpretation. 2.—(1) In this Act—

“authorised officer” means a person appointed by the Minister to be an authorised officer for the purposes of this Act;

F1[‘contract of employment’ means:

(a) a contract of service or of apprenticeship, and

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 (No. 27 of 1971), and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contact is express or implied and, if express, whether it is oral or in writing;]

“employee” means a person who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract of employment with an employer, whether the contract is for manual labour, clerical work or otherwise, is express or implied, oral or in writing, F2[...];

F3[‘employees’ representatives’, in relation to employees who are affected, or are likely to be affected, by proposed collective redundancies (whether by being selected for redundancy or otherwise), means—

(a) a trade union, staff association or excepted body with which it has been the practice of the employer to conduct collective bargaining negotiations, or

(b) in the absence of such a trade union, staff association or excepted body, a person or persons chosen (under an arrangement put in place by the employer) by such employees from amongst their number to represent them in negotiations with the employer;]

F4[‘employer’ means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who, under a contract of employment referred to in paragraph (b) of the definition of “contract of employment”, is liable to pay the remuneration of the individual concerned in respect of the work or service concerned shall be deemed to be the individual's employer;]

F5[‘excepted body’ has the meaning assigned to it by section 6(3) of the Trade Union Act, 1941 (No. 22 of 1941), as amended;]

F6[‘Minister’ means the Minister for Enterprise, Trade and Employment;]

“prescribed” means prescribed by regulations under this Act;

“staff association” means a body of persons all the members of which are employed by the same employer and which carries on negotiations for the fixing of the wages or other conditions of employment of its own members only;

“trade union” means a trade union which is the holder of a negotiation licence granted under the Trade Union Acts, 1941 and 1971.

(2) In this Act a reference to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

(3) In this Act a reference to a subsection is to the subsection of the section in which the reference occurs unless it is indicated that reference to some other section is intended.

Annotations**Amendments:**

- F1** Substituted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 4(a).
- F2** Deleted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 4(d).
- F3** Substituted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), reg. 3(a).
- F4** Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 4(c).
- F5** Inserted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), reg.3(b).
- F6** Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s.11, commenced on enactment.

Modifications (not altering text):

- C2** Functions under collectively cited *Protection of Employment Acts* transferred and references construed (14.10.2020) by *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020), arts. 2, 3(1)(a), (2) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Business, Enterprise and Innovation.

(2) References to the Department of Employment Affairs and Social Protection contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Business, Enterprise and Innovation.

3. (1) The functions vested in the Minister for Employment Affairs and Social Protection -

(a) by or under the Acts specified in Part 1 of the Schedule and the provisions of the Acts specified in Part 2 of the Schedule, and

...

are transferred to the Minister for Business, Enterprise and Innovation.

...

(2) References to the Minister for Employment Affairs and Social Protection contained in any Act or instrument made under such Act and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Business, Enterprise and Innovation.

SCHEDULE 1

PART 1

ACTS OF THE OIREACHTAS

...

Protection of Employment Acts 1977 to 2014

...

Editorial Notes:

- E4** Previous affecting provision: definition of "employees' representatives" substituted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 4(b); superseded as per F-note above.

Regulations and orders.

3.—(1) The Minister may make regulations for the purpose of giving effect to this Act.

(2) (a) The Minister may by order amend any provision of this Act so as to comply with any international obligations relating to collective redundancies that the State has decided to assume.

(b) The Minister may by order amend or revoke an order under this section.

(3) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

Laying of orders and regulations before Houses of Oireachtas.

4.—(1) Every order and regulation under this Act (other than an order under section 3, section 6 or section 7 (3)) shall be laid before each House of the Oireachtas as soon as possible after it is made and, if a resolution annulling the order or regulation is passed by either House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

(2) Where an order is proposed to be made under section 3, section 6 or section 7 (3), a draft of the order shall be laid before both Houses of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each House.

Expenses.

5.—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Meaning of collective redundancies.

F7[6.—(1) For the purpose of this Act, ‘collective redundancies’ means dismissals effected by an employer for one or more reasons not related to the individual concerned where in any period of 30 consecutive days the number of such dismissals is —

(a) at least 5 in an establishment normally employing more than 20 and less than 50 employees,

(b) at least 10 in an establishment normally employing at least 50 but less than 100 employees,

(c) at least ten per cent. of the number of employees in an establishment normally employing at least 100 but less than 300 employees, and

(d) at least 30 in an establishment normally employing 300 or more employees.

(2) For the purpose of calculating the number of redundancies where the number of dismissals is at least 10 in an establishment normally employing more than 20 and less than 100 employees, terminations of a contract of employment which occur to the individual workers concerned shall be assimilated to redundancies provided there are at least 5 redundancies.

(3) In this section ‘establishment’ means an employer or a company or a subsidiary company or a company within a group of companies which can independently effect redundancies.]

Annotations**Amendments:**

F7 Substituted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 5.

Application and non-application of Act.

7.—(1) Subject to subsection (2), this Act applies to all persons in employment on or after the commencement of this Act in an establishment normally employing more than 20 persons.

(2) This Act does not apply to—

(a) dismissals of employees engaged under a contract of employment for a fixed term or for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment) where the dismissals occurred only because of the expiry of the term or the cesser of the purpose,

(b) a person employed by or under the State other than persons standing designated for the time being under section 17 of the Industrial Relations Act, 1969,

F8[(c) officers of a body which is a local authority within the meaning of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014),]

(d) **F9**[...]

(e) **F10**[...]

(3) (a) The Minister may by order declare that this Act shall not apply to a class of employees specified in the order and from the commencement of the order this Act shall not apply to that class.

(b) The Minister may by order declare that this Act shall apply to a specified class of employee and from the commencement of the order this Act shall apply to that class.

(c) The Minister may by order amend or revoke an order under this subsection.

(4) Where a notice of dismissal by reason of redundancy which was given before the commencement of this Act expires after such commencement, sections 9, 10, 12 and 14 shall not apply to the dismissal concerned, but such a notice shall be in accordance with the Minimum Notice and Terms of Employment Act, 1973, and with the relevant contract of employment.

(5) In this section “establishment” has the same meaning as in section 6.

Annotations**Amendments:**

F8 Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(8) and sch. 2 part 6, S.I. No. 214 of 2014.

F9 Deleted (18.01.2018) by *European Communities (Seafarers) Regulations 2018* (S.I. No. 15 of 2018), reg. 4(1).

F10 Deleted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 6.

Calculation of normal number of employees.

8.—For the purposes of this Act, the number of employees normally employed in an establishment (within the meaning of section 6) shall be taken to be the average of the number so employed in each of the 12 months preceding the date on which the first dismissal takes effect.

PART II

CONSULTATION AND NOTIFICATION

Obligation on employer to consult employees' representatives.

9.—(1) Where an employer proposes to create collective redundancies he shall, with a view to reaching an agreement, initiate consultations with employees' representatives F11[...]

(2) Consultations under this section shall include the following matters—

(a) the possibility of avoiding the proposed redundancies, reducing the number of employees affected by them or F12[F13[mitigating their consequences] by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining employees made redundant],

(b) the basis on which it will be decided which particular employees will be made redundant.

(3) Consultations under this section shall be initiated at the earliest opportunity and in any event at least 30 days F14[before the first notice of dismissal is given].

Annotations

Amendments:

- F11** Deleted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 7.
- F12** Substituted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 8.
- F13** Substituted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), art. 4.
- F14** Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 12, commenced on enactment.

Modifications (not altering text):

Editorial Notes:

- E5** Redress and appeal procedures in respect of requirements under section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 2, sch. 6 part 1 item 3, sch. 6 part 2 item 3, S.I. No. 410 of 2015.
- E6** Dismissal prior to expiry of periods specified in subs. (3) and s. 12(1) made an offence (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 10(3), commenced on enactment.
- E7** Previous affecting provision: complaints procedure provided (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), reg. 6; revoked (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(3) and sch. 2 part 2 ref. 1, subject to transitional provisions in subs. (4).

Obligation on employer to supply certain information.

10.—(1) For the purpose of consultations under section 9, the employer concerned shall supply the employees' representatives with all relevant information relating to the proposed redundancies.

(2) Without prejudice to the generality of subsection (1), information supplied under this section shall include the following, of which details shall be given in writing—

(a) the reasons for the proposed redundancies,

(b) the number, and descriptions or categories, of employees whom it is proposed to make redundant,

F15[(c) the number of employees, and description or categories, normally employed,]

F16[(cc)(i) the number (if any) of agency workers to which the Protection of Employees (Temporary Agency Work) Act 2012 applies engaged to work for the employer,

(ii) those parts of the employer's business in which those agency workers are, for the time being, working, and

(iii) the type of work that those agency workers are engaged to do,

and]

(d) the period during which it is proposed to effect the proposed redundancies.

F17[(e) the criteria proposed for the selection of the workers to be made redundant, and]

F18[(f) the method for calculating any redundancy payments other than those methods set out in the Redundancy Payment Acts, 1967 to 1991, or any other relevant enactment for the time being in force or, subject thereto, in practice.]

(3) An employer shall as soon as possible supply the Minister with copies of all information supplied in writing under subsection (2).

Annotations

Amendments:

F15 Substituted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 9(a).

F16 Inserted (16.05.2012) by *Protection of Employees (Temporary Agency Work) Act 2012* (12/2012), s. 17, commenced on enactment.

F17 Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 9(b).

F18 Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 9(b).

Editorial Notes:

E8 Redress and appeal procedures in respect of requirements under section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 2, sch. 6 part 1 item 3, sch. 6 part 2 item 3, S.I. No. 410 of 2015.

E9 Previous affecting provision: complaints procedure provided (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), reg. 6; revoked (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(3) and sch. 2 part 2 ref. 1, subject to transitional provisions in subs. (4).

F19 [Application of sections 9 and 10.]

10A.—Sections 9 and 10 shall apply to an employer irrespective of whether the decision regarding collective redundancies is being taken by the employer or by an undertaking which controls the employer and it shall not be a defence on the part of the employer that the necessary information had not been provided to the employer by a controlling party, or parties, which took the decision leading to the collective redundancies.]

Annotations

Amendments:

F19 Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 10.

Penalty for contravention of section 9 or 10.

11.—An employer who fails to initiate consultations under section 9 or fails to comply with section 10 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F20[€5,000].

Annotations

Amendments:

F20 Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 13, commenced on enactment.

Editorial Notes:

E10 Offence under section designated a relevant offence for purposes of fixed payment procedure (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 36(5)(a), S.I. No. 410 of 2015.

E11 Amount payable under fixed payment notice for breach of section set at €2,000 (1.10.2015) by *Workplace Relations Act 2015 (Fixed Payment Notice) Regulations 2015* (S.I. No. 419 of 2015), reg. 4(1).

F21 [Decision of adjudication officer under section 41 of Workplace Relations Act 2015]

11A. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of section 9 or 10 shall do one or more of the following, namely—

- (a) declare that the complaint is or, as the case may be, is not well founded,
- (b) require the employer to comply with the provision of the Act of 1977 concerned and, for that purpose, to take a specified course of action,
- (c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all of the circumstances, but not exceeding 4 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.]

Annotations

Amendments:

F21 Inserted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 3, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

F22[Decision of Labour Court on appeal from decision referred to in section 11A] **11B.** A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in section 11A, shall affirm, vary or set aside the decision of the adjudication officer.]

Annotations

Amendments:

F22 Inserted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 3, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

Obligation on employer to notify Minister of proposed redundancies.

12.—(1) Where an employer proposes to create collective redundancies, he shall notify the Minister in writing of his proposals at the earliest opportunity and in any event at least 30 days before the first dismissal takes effect.

(2) The Minister may prescribe the particulars to be specified in a notification under this section.

(3) A copy of a notification under this section shall be supplied as soon as possible by the employer affected to the employees' representatives affected who may forward to the Minister in writing any observations they have relating to the notification.

F23[(4) In the case of collective redundancies arising from the employer's business being terminated following bankruptcy or winding up proceedings or for any other reason as a result of a decision of a court of competent jurisdiction the person responsible for the affairs of the business need comply with subsection (1) only if the Minister so requests.]

F24[(5) Where the proposal to create collective redundancies concerns members of the crew of a seagoing vessel, the employer shall—

(a) where the vessel flies the Irish flag, notify the Minister in accordance with subsection (1), or

(b) where the vessel flies the flag of another State, notify the competent authority of that other State.]

Annotations

Amendments:

F23 Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 11.

F24 Inserted (18.01.2018) by *European Communities (Seafarers) Regulations 2018* (S.I. No. 15 of 2018), reg. 4(2).

Editorial Notes:

E12 Power pursuant to section exercised (10.05.1977) by *Protection of Employment Act, 1977 (Notification of Proposed Collective Redundancies) Regulations 1977* (S.I. No. 140 of 1977).

E13 Dismissal prior to expiry of periods specified in ss. 9(3) and 12(1) made an offence (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 10(3), commenced on enactment.

Penalty for contravention of section 12.

13.—An employer who contravenes section 12 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F25[€5,000].

Annotations

Amendments:

F25 Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 13, commenced on enactment.

Editorial Notes:

E14 Previous affecting provision: fine substituted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. No. 488 of 2000), reg. 5(b), superseded as per F-note above.

PART III

COMMENCEMENT OF COLLECTIVE REDUNDANCIES

Collective redundancies not to take effect for 30 days.

14.—(1) Collective redundancies shall not take effect before the expiry of the period of 30 days beginning on the date of the relevant notification under section 12.

(2) Where collective redundancies are effected by an employer before the expiry of the 30-day period mentioned in subsection (1) the employer shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding F26[€250,000].

F27[(3) Subsections (1) and (2) shall not apply in the case of collective redundancies arising from the employer's business being terminated following bankruptcy or winding up proceedings or for any other reason as a result of a decision of a court of competent jurisdiction.]

Annotations

Amendments:

F26 Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 13, commenced on enactment.

F27 Inserted (9.12.1996) by *Protection of Employment Order 1996* (S.I. No. 370 of 1996), art. 12.

Editorial Notes:

E15 Previous affecting provision: fine substituted (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 21, (S.I. No. 636 of 2001), superseded as per F-note above.

Further consultations with Minister.

15.—(1) For the purpose of seeking solutions to the problems caused by the proposed redundancies, the employer concerned shall, at the Minister's request, enter into consultations with him or an authorised officer.

(2) For the purpose of consultations under this section, an employer shall supply the Minister or an authorised officer with such information relating to the proposed redundancies as the Minister or the officer may reasonably require.

Saver for employees' rights to notice, etc.

16.—Nothing in this Act shall affect the right of any employee to a period of notice of dismissal or to any other entitlement under any other Act or under his contract of employment.

Provisions relating to authorised officers.

17.—(1) An authorised officer may—

- (a) enter at all reasonable times any premises or place where he has reasonable grounds for supposing that any employee is employed,
- (b) there make any examination or enquiry necessary for ascertaining whether this Act has been or is being complied with,
- (c) require an employer or his representative to produce any records which the employer is required by this Act to keep, and inspect and take copies of entries in the records.
- (d) examine with regard to any matters under this Act any person whom he has reasonable cause to believe to be or to have been an employer or employee and require him to answer any questions (other than questions tending to incriminate him) which the officer may put relating to those matters and to sign a declaration of the truth of the answers.

(2) The powers conferred on an authorised officer by subsection (1) (a) shall not be exercisable in respect of a private dwelling house unless the Minister (or an officer of the Minister appointed by the Minister for the purpose) certifies that he has reasonable grounds for believing that an offence under this section in relation to an employee employed in the house has been committed by the employer, and the authorised officer in applying for admission to the house produces the certificate.

(3) Any person who—

- (a) obstructs or impedes an authorised officer in the exercise of any power conferred by this section,
- (b) refuses to produce any record which an authorised officer lawfully requires him to produce,
- (c) produces, or causes to be produced or knowingly allows to be produced, to an authorised officer any record which is false in any material respect knowing it to be false,
- (d) prevents or attempts to prevent any person from appearing before or being questioned by an authorised officer, or
- (e) wilfully fails or refuses to comply with any lawful requirement of an authorised officer under subsection (1) (d)

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F28[€5,000].

(4) An authorised officer shall be furnished with a certificate of his appointment and, on applying for admission to any premises or place, shall, if so required, produce the certificate to the occupier and to any person being examined by him.

Annotations

Amendments:

- F28** Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 13, commenced on enactment.

Editorial Notes:

- E16** Previous affecting provision: fine substituted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. 488 of 2000), reg. 5(c), superseded as per F-note above.

PART IV

MISCELLANEOUS

Records to be kept by employers.

18.—(1) An employer shall keep such records as may be necessary to enable the Minister or an authorised officer to ascertain whether or not the provisions of this Act are being and have been complied with.

(2) Records kept under this section shall be retained by an employer for a period of not less than three years from the date on which they were made.

(3) An employer who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F29[€5,000].

(4) Where an employer fails to keep or retain records under this section the onus of proving that he has complied or is complying with this Act shall lie on him.

Annotations**Amendments:**

- F29** Substituted (8.05.2007) by *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), s. 13, commenced on enactment.

Editorial Notes:

- E17** Previous affecting provision: fine substituted (21.12.2000) by *European Communities (Protection of Employment) Regulations 2000* (S.I. 488 of 2000), reg. 5(d), superseded as per F-note above.

Certain provisions to be null and void.

19.—Any provision in any agreement (whether a contract of employment or otherwise) purporting to exclude or limit the operation of any provision of this Act shall be null and void.

Notices, etc. to Minister.

20.—Any notice or other document which is required or authorised by this Act to be given by an employer to the Minister shall be in writing and shall be sent by registered post addressed to the head office of the Department of Labour or, where that is not practicable, shall be delivered to that office.

Proceedings under Act.

21.—(1) An offence under this Act may be prosecuted by the Minister.

(2) Proceedings for an offence under this Act may be commenced within one year from the date of the offence.

(3) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Mitigation of
penalty for
certain offences.

22.—Where an employer is convicted of an offence under section 11 or 14, he may plead in mitigation of the penalty for that offence that there were substantial reasons related to his business which made it impracticable for him to comply with the section under which the offence was committed.

[1977.]

*Protection of Employment Act
1977*

[No. 7.]

ACTS REFERRED TO

Merchant Shipping Act, 1894	1894, c. 60
Trade Union Act, 1941	1941, No. 22
Local Government Act, 1941	1941, No. 23
Industrial Relations Act, 1969	1969, No. 14
Trade Union Act, 1971	1971, No. 33
Minimum Notice and Terms of Employment Act, 1973	1973, No. 4