



Number 19 of 1990

INDUSTRIAL RELATIONS ACT 1990

REVISED

Updated to 20 December 2017

This Revised Act is an administrative consolidation of the *Industrial Relations Act 1990*. 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 *Finance Act 2017 (41/2017)*, enacted 25 December 2017, and all statutory instruments up to and including *Industrial Relations Act 1990 (Code of Practice on Longer Working) (Declaration) Order 2017 (S.I. No. 600 of 2017)*, made 20 December 2017, were considered in the preparation of this Revised Act.

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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

Industrial Relations Acts 1946 to 2015: insofar 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 (*Industrial Relations (Amendment) Act 2015* (32/2012), s. 1(2), (3)). The Acts in this group are:

- *Industrial Relations Act 1946* (26/1946)
- *Industrial Relations (Amendment) Act 1955* (19/1955) (repealed)
- *Industrial Relations Act 1969* (14/1969)
- *Industrial Relations Act 1976* (15/1976)
- *Industrial Relations Act 1990* (19/1990), other than Part II (ss. 8-22)
- *Industrial Relations (Amendment) Act 2001* (11/2001)
- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004) in so far as it relates to the *Industrial Relations Acts 1946 to 2001*
- *Industrial Relations (Amendment) Act 2012* (32/2012) other than ss. 16, 17 and 18
- *Industrial Relations (Amendment) Act 2015* (27/2015) other than ss. 24 and 36 (collectively cited *Industrial Relations Acts 1946 to 2015* and Part 3, other than s. 36, to be construed as one)

Trade Union Acts 1871 to 1990: insofar as it relates to them, Part II of this Act is one of a group of Acts included in this collective citation, to be construed together as one (s. 2(2) of this Act). The Acts in this group are:

- *Trade Union Act 1871* (34 & 35 Vict. c. 31)
- *Trade Union Act Amendment Act 1876* (39 & 40 Vict. c. 22)
- *Trade Union Act 1913* (2 & 3 Geo. 5 c. 30)
- *Trade Union (Amalgamation) Act 1917* (7 & 8 Geo. 5. c. 24) (repealed)
- *Trade Union Act 1935* (35/1935)
- *Trade Union Act 1941* (22/1941)
- *Trade Union Act 1942* (23/1942)
- *Trade Union Act 1948* (11/1948) (spent)
- *Trade Union Act 1949* (11/1949) (spent)
- *Trade Union Act 1950* (19/1950) (spent)
- *Trade Union Act 1951* (14/1951) (spent)
- *Trade Union Act 1952* (13/1952)

- *Trade Union Act 1971* (33/1971)
- *Trade Union Act 1975* (4/1975)
- *Trade Disputes (Amendment) Act 1982* (15/1982) (repealed)
- *Industrial Relations Act 1990* (19/1990) Part II (ss. 8-22)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. A list of legislative changes to any Act, and to statutory instruments from 1991, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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(c) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

(3) In any enactment other than this Act, a reference to the Trade Disputes Act, 1906 (repealed by this Act) or to any provision thereof shall, without prejudice to section 20 (1) of the Interpretation Act, 1937, be construed as a reference to any relevant provision of *Part II* of this Act.

Increase of fines. 4.—(1) A person convicted of an offence for which a penalty is provided in any enactment indicated in the *First Schedule* to this Act at any reference number shall, in lieu of the fine provided in that enactment, be liable to the fine specified in *column (3)* of that Schedule at that reference number, and that enactment shall be construed and have effect accordingly.

(2) Where it is provided in the *First Schedule* to this Act at any reference number that a person shall be liable to a daily default fine, he shall be guilty of contravening the relevant enactment on every day on which the contravention continues after conviction of the original contravention and for each such offence he shall be liable to a fine not exceeding the amount specified at that reference number instead of the fine specified for the original contravention.

(3) The provisions of this section shall not apply to any offence committed before the passing of this Act.

Summary proceedings for an offence. 5.—Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under the *Industrial Relations Acts, 1946 to 1990*, may be instituted within one year from the date of the offence.

Expenses. 6.—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.

Repeals. 7.—The enactments referred to in the *Second Schedule* to this Act are hereby repealed to the extent specified in the third column of that Schedule.

PART II

TRADE UNION LAW

Trade Disputes

Definitions for *Part II*. 8.—In this Part, save where the context otherwise requires—

“employer” means a person for whom one or more workers work or have worked or normally work or seek to work having previously worked for that person;

“trade dispute” means any dispute between employers and workers which is connected with the employment or non-employment, or the terms or conditions of or affecting the employment, of any person;

“trade union” means a trade union which is the holder of a negotiation licence under Part II of the Trade Union Act, 1941;

“worker” means any person who is or was employed whether or not in the employment of the employer with whom a trade dispute arises, but does not include a member of the Defence Forces or of the Garda Síochána;

“industrial action” means any action which affects, or is likely to affect, the terms or conditions, whether express or implied, of a contract and which is taken by any number or body of workers acting in combination or under a common understanding as a means of compelling their employer, or to aid other workers in compelling their employer, to accept or not to accept terms or conditions of or affecting employment;

“strike” means a cessation of work by any number or body of workers acting in combination or a concerted refusal or a refusal under a common understanding of any number of workers to continue to work for their employer done as a means of compelling their employer, or to aid other workers in compelling their employer, to accept or not to accept terms or conditions of or affecting employment.

Application of provisions of Part II.

9.—(1) Sections 11, 12 and 13 shall apply only in relation to authorised trade unions which for the time being are holders of negotiation licences under the Trade Union Act, 1941, and the members and officials of such trade unions, and not otherwise.

(2) Where in relation to the employment or non-employment or the terms or conditions of or affecting the employment of one individual worker, there are agreed procedures availed of by custom or in practice in the employment concerned, or provided for in a collective agreement, for the resolution of individual grievances, including dismissals, sections 10, 11 and 12 shall apply only where those procedures have been resorted to and exhausted.

(3) Procedures shall be deemed to be exhausted if at any stage an employer fails or refuses to comply with them.

(4) The procedures referred to in subsection (2) may include resort to such persons or bodies as a rights commissioner, the Labour Relations Commission, the Labour Court, [Director General of the Workplace Relations Commission] and the Employment Appeals Tribunal but shall not include an appeal to a court.

Acts in contemplation or furtherance of trade dispute.

10.—(1) An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

(2) An act done in pursuance of an agreement or combination by two or more persons, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(3) Section 3 of the Conspiracy, and Protection of Property Act, 1875, and subsections (1) and (2) of this section shall be construed together as one section.

Peaceful picketing.

11.—(1) It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union in contemplation or furtherance of a trade dispute, to attend at, or where that is not practicable, at the approaches to, a place where their employer works or carries on business, if they so attend merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working.

(2) It shall be lawful for one or more persons acting on their own behalf or on behalf of a trade union in contemplation or furtherance of a trade dispute, to attend at, or where that is not practicable, at the approaches to, a place where an employer who is not a party to the trade dispute works or carries on business if, but only if, it is reasonable for those who are so attending to believe at the commencement of their attendance and throughout the continuance of their attendance that that employer has directly assisted their employer who is a party to the trade dispute for the purpose of frustrating the strike or other industrial action, provided that such attendance is merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working.

(3) For the avoidance of doubt any action taken by an employer in the health services to maintain life-preserving services during a strike or other industrial action shall not constitute assistance for the purposes of *subsection (2)*.

(4) It shall be lawful for a trade union official to accompany any member of his union whom he represents provided that the member is acting in accordance with the provisions of *subsection (1)* or *(2)* and provided that such official is attending merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working.

(5) For the purposes of this section “trade union official” means any paid official of a trade union or any officer of a union or branch of a union elected or appointed in accordance with the rules of a union.

Removal of liability for certain acts.

12.—An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that—

- (a) it induces some other person to break a contract of employment, or
- (b) it consists of a threat by a person to induce some other person to break a contract of employment or a threat by a person to break his own contract of employment, or
- (c) it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

Restriction of actions of tort against trade unions.

13.—(1) An action against a trade union, whether of workers or employers, or its trustees or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act committed by or on behalf of the trade union in contemplation or furtherance of a trade dispute, shall not be entertained by any court.

(2) In an action against any trade union or person referred to in *subsection (1)* in respect of any tortious act alleged or found to have been committed by or on behalf of a trade union it shall be a defence that the act was done in the reasonable belief that it was done in contemplation or furtherance of a trade dispute.

Secret ballots.

14.—(1) This section shall come into operation two years after the passing of this Act (“the operative date”).

(2) The rules of every trade union shall contain a provision that—

- (a) the union shall not organise, participate in, sanction or support a strike or other industrial action without a secret ballot, entitlement to vote in which shall be accorded equally to all members whom it is reasonable at the time of the ballot for the union concerned to believe will be called upon to engage in the strike or other industrial action;
- (b) the union shall take reasonable steps to ensure that every member entitled to vote in the ballot votes without interference from, or constraint imposed by, the union or any of its members, officials or employees and, so far as is reasonably possible, that such members shall be given a fair opportunity of voting;
- (c) the committee of management or other controlling authority of a trade union shall have full discretion in relation to organising, participating in, sanctioning or supporting a strike or other industrial action notwithstanding that the majority of those voting in the ballot, including an aggregate ballot referred to in *paragraph (d)*, favour such strike or other industrial action;

- (d) the committee of management or other controlling authority of a trade union shall not organise, participate in, sanction or support a strike or other industrial action against the wishes of a majority of its members voting in a secret ballot, except where, in the case of ballots by more than one trade union, an aggregate majority of all the votes cast, favours such strike or other industrial action;
- (e) where the outcome of a secret ballot conducted by a trade union which is affiliated to the Irish Congress of Trade Unions or, in the case of ballots by more than one such trade union, an aggregate majority of all the votes cast, is in favour of supporting a strike organised by another trade union, a decision to take such supportive action shall not be implemented unless the action has been sanctioned by the Irish Congress of Trade Unions;
- (f) as soon as practicable after the conduct of a secret ballot the trade union shall take reasonable steps to make known to its members entitled to vote in the ballot:
- (i) the number of ballot papers issued,
 - (ii) the number of votes cast,
 - (iii) the number of votes in favour of the proposal,
 - (iv) the number of votes against the proposal, and
 - (v) the number of spoilt votes.

(3) The rights conferred by a provision referred to in *subsection (2)* are conferred on the members of the trade union concerned and on no other person.

(4) Nothing in this section shall constitute an obstacle to negotiations for the settlement of a trade dispute nor the return to work by workers party to the trade dispute.

(5) The First Schedule to the Trade Union Act, 1871, is hereby extended to include the requirement provided for in *subsection (2)*.

Power to alter rules of trade unions.

15.—(1) The committee of management or other controlling authority of a trade union shall, notwithstanding anything in the rules of the union, have power by memorandum in writing to alter the rules of the union so far as may be necessary to give effect to *section 14*.

(2) In the case of a trade union which is a trade union under the law of another country having its headquarters control situated in that country, the committee of management or other controlling authority referred to in this Part shall have the same meaning as in *section 17 (2)* of the Trade Union Act, 1975.

Enforcement of rule for secret ballot.

16.—(1) Every trade union registered under the Trade Union Acts, 1871 to 1975, or a trade union under the law of another country shall, not later than the operative date, forward to the Registrar of Friendly Societies a copy of its rules incorporating the provisions referred to in *subsection (2)* of *section 14*.

(2) A trade union failing to comply with *subsection (2)* of *section 14* or *subsection (1)* of this section shall cease to be entitled to hold a negotiation licence under Part II of the Trade Union Act, 1941, and its existing licence shall stand revoked on the operative date.

(3) A body of persons shall not be granted a negotiation licence unless, in addition to fulfilling the relevant conditions specified in *section 7* of the Trade Union Act, 1941, and *section 2* of the Trade Union Act, 1971, as amended by *section 21* of this Act, it

complies with *subsection (2) of section 14* and for this purpose that subsection shall have effect from the passing of this Act.

(4) A body of persons which is a trade union under the law of another country shall not be granted a negotiation licence unless, in addition to fulfilling the conditions referred to in *subsection (3)* and section 17 of the Trade Union Act, 1975, it forwards, at the time of application for a negotiation licence, a copy of its rules incorporating the provisions referred to in *subsection (2) of section 14* to the Registrar of Friendly Societies.

(5) Where the Registrar of Friendly Societies is satisfied, after due investigation, that it is the policy or practice of a trade union registered under the Trade Union Acts, 1871 to 1975, or a trade union under the law of another country persistently to disregard any requirement of the provisions referred to in *subsection (2) of section 14* he may issue an instruction to the trade union to comply with the requirement. Where such an instruction is disregarded, the Registrar of Friendly Societies shall inform the Minister and the Minister may revoke the negotiation licence of the trade union concerned.

Actions contrary to outcome of secret ballot.

17.—(1) *Sections 10, 11 and 12* shall not apply in respect of proceedings arising out of or relating to a strike or other industrial action by a trade union or a group of workers in disregard of or contrary to, the outcome of a secret ballot relating to the issue or issues involved in the dispute.

(2) In the case of ballots by more than one trade union, the outcome of a secret ballot referred to in *subsection (1)* shall mean the outcome of the aggregated ballots.

(3) Where two or more secret ballots have been held in relation to a dispute, the ballot referred to in *subsection (1)* shall mean the last such ballot.

Non-application of *sections 14 to 17* to employers' unions.

18.—*Sections 14 to 17* shall not apply to a trade union of employers.

Restriction of right to injunction.

19.—(1) Where a secret ballot has been held in accordance with the rules of a trade union as provided for in *section 14*, the outcome of which or, in the case of an aggregation of ballots, the outcome of the aggregated ballots, favours a strike or other industrial action and the trade union before engaging in the strike or other industrial action gives notice of not less than one week to the employer concerned of its intention to do so, that employer shall not be entitled to apply to any court for an injunction restraining the strike or other industrial action unless notice of the application has been given to the trade union and its members who are party to the trade dispute.

(2) Where a secret ballot has been held in accordance with the rules of a trade union as provided for in *section 14*, the outcome of which or, in the case of an aggregation of ballots, the outcome of the aggregated ballots, favours a strike or other industrial action and the trade union before engaging in the strike or other industrial action gives notice of not less than one week to the employer concerned of its intention to do so, a court shall not grant an injunction restraining the strike or other industrial action where the respondent establishes a fair case that he was acting in contemplation or furtherance of a trade dispute.

(3) Notice as provided for in *subsection (1)* may be given to the members of a trade union by referring such members to a document containing the notice which the members have reasonable opportunity of reading during the course of their employment or which is reasonably accessible to them in some other way.

(4) *Subsections (1) and (2)* do not apply—

(a) in respect of proceedings arising out of or relating to unlawfully entering into or remaining upon any property belonging to another, or unlawfully causing damage or causing or permitting damage to be caused to the property of another, or

(b) in respect of proceedings arising out of or relating to any action resulting or likely to result in death or personal injury.

(5) Where two or more secret ballots have been held in relation to a dispute, the ballot referred to in *subsections (1) and (2)* shall be the last such ballot.

Amendment of Trade Union Acts, 1941, 1971 and 1975

Change of deposit consequent on change in number of members.

20.—(1) Within one month after the 31st December each year a trade union which is the holder of a negotiation licence shall send to the Minister a statement of the number of its members on the 31st December and, if it is necessary to increase or reduce a deposit under Part II of the Trade Union Act, 1941, as amended by section 2 of the Trade Union Act, 1971, by any amount in order to make it equal to the appropriate sum, such trade union shall, not later than four months after the 31st December, increase such deposit by such amount or apply for the return out of such deposit of such amount (as the case may require).

(2) *Subsection (1)* shall take effect on 1st January, 1991.

(3) The “appropriate sum” in *subsection (1)* shall be the appropriate sum under—

(a) section 7 (2) of the Trade Union Act, 1941, or

(b) section 2 (4) of the Trade Union Act, 1971, or

(c) *section 21 (3) or section 21 (4)* of this Act,

for the time being, as the case may be.

(4) If, in relation to any trade union required to send a statement under this section, there is a failure to send a statement or there is sent a wilfully false statement, such of the members and officers of the trade union as consent to or facilitate the failure to send a statement or the sending of the false statement and, in the case of a trade union registered under the Trade Union Acts, 1871 to 1975, the trade union itself shall each be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £500.

(5) Save in pursuance of this section, a trade union shall not, on account of a change in the number of its members, change the amount of a deposit under Part II of the Trade Union Act, 1941, as amended by section 2 of the Trade Union Act, 1971.

(6) Sections 14 and 16 of the Trade Union Act, 1941, shall apply in relation to a deposit made with the High Court under this Act or under the Trade Union Act, 1971, as it applies to a deposit under the Trade Union Act, 1941.

Amendment of section 2 of Trade Union Act, 1971.

21.—(1) In this section “the Act of 1971” means the Trade Union Act, 1971.

(2) Section 2 (1) (b) of the Act of 1971 (which refers to the minimum membership for the grant of a negotiation licence) is hereby amended, in relation to applications for a negotiation licence made after the passing of this Act, by the substitution for “500” of “1,000”.

(3) In respect of a body of persons applying under section 9 (1) of the Trade Union Act, 1941, for a negotiation licence after the passing of this Act, “the appropriate sum” referred to in section 2 (1) (a) of the Act of 1971 shall be the sum appropriate to the number of members of the body in accordance with the *Third Schedule* to this Act or the sum deposited and kept deposited in the High Court before such passing

in accordance with the said section 2 (1) (a) and the Schedule to the Act of 1971, as the case may be.

(4) Whenever after the passing of this Act a trade union is formed consisting wholly or mainly of two or more trade unions which have been amalgamated and each of which, immediately before the amalgamation, had been the holder of a negotiation licence, “the appropriate sum” referred to in the said section 2 (1) (a) shall be such sum as the Minister may determine in respect of the union so formed.

Amalgamations
and transfers.

22.—(1) Section 15 of the Trade Union Act, 1975 (which refers to a grant towards expenses of amalgamations or transfers) is hereby amended by the deletion of “were exceptional and”.

(2) Whenever two or more trade unions engage in an unsuccessful attempt to amalgamate or to effect a transfer of engagements from one union to another the Minister may, with the consent of the Minister for Finance, make to one or more of those trade unions out of moneys to be provided by the Oireachtas a grant of such amount as the Minister thinks fit towards such expenses as he is satisfied were incurred, within the period of two years immediately prior to the failure, by that trade union in the course of, or in contemplation of, such attempted amalgamation or transfer.

(3) Where an instrument of amalgamation takes effect the registration of any amalgamating union shall cease to have effect and on the granting of a negotiation licence to the new union any negotiation licence held by an amalgamating union shall cease to have effect.

(4) Where an instrument of transfer of engagements takes effect the registration of any transferor union and any negotiation licence held by such union shall cease to have effect.

PART III

INDUSTRIAL RELATIONS GENERALLY

“worker”.

23.—(1) In the Industrial Relations Acts, 1946 to 1976, and this Part, “worker” means any person aged 15 years or more who has entered into or works under [(or, where the employment has ceased, worked under)] a contract with an employer, whether the contract be for manual labour, clerical work or otherwise, whether it be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour including, in particular, a psychiatric nurse employed by a health board and any person designated for the time being under *subsection (3)* but does not include—

(a) a person who is employed by or under the State,

(b) a teacher in a secondary school,

(c) a teacher in a national school,

[(ca) a teacher employed by an education and training board,]

(d) [...][...]

[(e)[...]]

(f) [...]

(2) [...]

(3) The Minister for Finance may from time to time—

(a) designate for the purpose of *subsection (1)* any persons [...] employed by virtue of section 30 (1) (g) of the Defence Act, 1954, or employed by or under the State, and

(b) cancel the designation of any persons under this subsection.

(4) Any person who stands designated by virtue of section 17 (2) (a) of the Industrial Relations Act, 1969, at the passing of this Act shall remain designated for the purpose of *subsection (1)* unless the designation is cancelled under *subsection (3) (b)*.

(5) [...]

(6) [...]

*The Labour Court and the Labour Relations
Commission*

Establishment of
the Commission.

24.—(1) There shall be a body to be known as the Labour Relations Commission to fulfil the functions assigned to it by this Act.

(2) The Commission shall stand established on such day as the Minister by order appoints.

(3) The Commission shall consist of a chairman and six ordinary members who shall be appointed by the Minister.

(4) The *Fourth Schedule* to this Act shall apply to the Commission.

Functions of the
Commission.

25.—(1) The Commission shall have general responsibility for promoting the improvement of industrial relations and shall—

(a) provide a conciliation service;

(b) provide an industrial relations advisory service;

(c) prepare codes of practice relevant to industrial relations after consultation with unions and employer organisations;

(d) offer guidance on codes of practice and help to resolve disputes concerning their implementation;

(e) [...]

(f) select and nominate persons for appointment as rights commissioners and provide staff and facilities for the rights commissioner service;

(g) conduct or commission research into matters relevant to industrial relations;

(h) review and monitor developments in the area of industrial relations;

(i) assist joint labour committees and joint industrial councils in the exercise of their functions.

(2) The Commission may at the request of one or more parties to a trade dispute or on its own initiative offer the parties its appropriate services with a view to bringing about a settlement.

(3) Except where there is specific provision for the direct reference of trade disputes to the Labour Court, trade disputes shall first be referred to the Commission or to its appropriate services.

(4) The Commission may, if it thinks fit, on request or on its own initiative, provide for employers, employers' associations, workers and trade unions such advice as it thinks appropriate on any matter concerned with industrial relations.

(5) The functions referred to in *subsection (1) (a), (b) or (d)* shall be performed on behalf of the Commission by members of its staff duly appointed by the Commission.

(6) The Commission, a member of the Commission or any of its staff shall not include in any report any information obtained by it in the course of any proceedings before it under this Act as to any trade union or as to the business carried on by any person which is not available otherwise than through evidence given at the proceedings (including conciliation conferences and advisory meetings) without the consent of the trade union or person concerned, nor shall any member of the Commission or any of its staff or any person concerned in the proceedings, without such consent, disclose any such information.

(7) *Subsection (6)* shall not apply to a report to the Court under *section 26 (1) (a)* or a notice to the Court under *section 26 (3) (a)* or a report under *section 48 (3)*.

(8) *Subsection (6)* is without prejudice to [...] *section 14* of the Industrial Relations Act, 1969.

Investigation of
dispute by Court.

26.—(1) The Court shall not investigate a trade dispute unless—

(a) subject to *subsection (3)*, it receives a report from the Commission stating that the Commission is satisfied that no further efforts on its part will advance the resolution of the dispute, and

(b) the parties to the dispute have requested the Court to investigate the dispute.

(2) The report referred to in *subsection (1) (a)* shall include information on the issues in dispute, the attempts made to resolve the dispute and any other information which the Commission considers of assistance to the Court.

(3) Notwithstanding *subsection (1) (a)*, the Court may investigate a dispute if—

(a) the Chairman of the Commission (or any member or officer of the Commission authorised by him) notifies the Court that in the circumstances specified in the notice the Commission waives its function of conciliation in the dispute, and

(b) the parties to the dispute have requested the Court to investigate the dispute.

(4) The foregoing provisions of this section shall not apply in relation to an investigation of a trade dispute by the Court instituted by it before the establishment of the Commission or an appeal to the Court in relation to a recommendation of a rights commissioner or of an equality officer.

(5) Where the Court, following consultation with the Commission, is of opinion, in relation to a trade dispute which but for this subsection it would be precluded by virtue of *subsection (1)* from investigating, that there are exceptional circumstances which warrant it so doing, it may investigate the dispute.

Time limit in rela-
tion to trade
dispute where
retired worker is
party to dispute

[26A. (1) Notwithstanding any other provision of this or any other enactment, but subject to subsection (2), an adjudication officer or the Court shall not investigate a trade dispute to which a worker who has ceased to be employed by reason of his or her retirement is a party unless—

(a) the dispute was referred to the Commission for conciliation within a period of 6 months from the date on which the worker's employment ceased, or the date on which the event to which the dispute relates occurred, whichever is the earlier, or

(b) the dispute was referred to an adjudication officer or, as the case may be, the Court within the period referred to in paragraph (a).

(2) Notwithstanding subsection (1), an adjudication officer or, as the case may be, the Court may extend the period referred to in that subsection by a further period not exceeding 6 months where the adjudication officer or the Court is satisfied that the failure to refer the dispute within the period referred to in subsection (1) was due to reasonable cause.

(3) The Commission or the Court shall not investigate a trade dispute to which a worker referred to in subsection (1) is a party where the dispute is subject to investigation by the Pensions Ombudsman.]

Procedure of the Commission.

27.—(1) The Commission may act notwithstanding the existence of not more than two vacancies in its membership.

(2) The Commission may from time to time make rules regulating its own procedure and business (including the fixing of a quorum for its meetings) and shall furnish the Minister with a copy of any such rules as soon as may be after they have been made.

(3) The Commission shall in each year, at such date as the Minister may direct, make a report of its activities to the Minister including such observations as it thinks proper relating to trends and developments in industrial relations including pay and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(4) The Commission shall supply to the Minister such information as he may from time to time require regarding its activities.

The chief executive.

28.—(1) There shall be a chief officer of the Commission who shall be known as the chief executive.

(2) The first chief executive shall be appointed by the Minister and each subsequent chief executive shall be appointed by the Minister after consultation with the Commission.

(3) The terms and conditions of service of the post of chief executive shall be determined by the Minister with the consent of the Minister for Finance.

(4) The office of chairman and the post of chief executive may be held by the same person for such period and subject to such conditions as the Minister with the consent of the Minister for Finance may determine.

(5) The chief executive may be removed from office by the Minister for stated reasons.

Superannuation and gratuities for and in respect of the chief executive of the Commission.

29.—(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for the granting of pensions, gratuities and other allowances on cessation of office or death to or in respect of the chief executive of the Commission.

(2) The Minister may, with the consent of the Minister for Finance, at any time amend a scheme made by him under this section.

(3) A scheme made by the Minister under this section shall be carried out by the Minister in accordance with its terms.

(4) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(5) Every scheme made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Grants to the Commission and power to borrow.

30.—(1) In each financial year there may be paid to the Commission out of moneys provided by the Oireachtas a grant of such amount as the Minister, with the consent of the Minister for Finance, may sanction towards the expenses of the Commission in the performance of its functions.

(2) The Commission may, with the consent of the Minister, given with the consent of the Minister for Finance, borrow temporarily by arrangement with bankers such sums as it may require for the purpose of providing for current expenditure.

Accounts and audits.

31.—(1) The Commission shall, in such form as may be approved by the Minister with the consent of the Minister for Finance, keep all proper and usual accounts of all moneys received or expended by it.

(2) Accounts kept in pursuance of this section shall be submitted annually at such times as the Minister, with the consent of the Minister for Finance, directs, by the Commission to the Comptroller and Auditor General for audit and those accounts, when so audited, shall (together with the report of the Comptroller and Auditor General thereon), be presented to the Minister, who shall cause copies of the audited accounts and the report to be laid before each House of the Oireachtas.

Staff of the Commission.

32.—(1) The Minister, with the consent of the Minister for Finance, may appoint such staff as he thinks necessary to assist the Commission in the performance of its functions.

(2) Appointments under this section shall be on such terms as the Minister with the consent of the Minister for Finance determines and shall be subject to the [Public Service Management (Recruitment and Appointments) Act 2004], and the Civil Service Regulation Acts, 1956 and 1958.

Industrial relations officers and advisory service.

33.—(1) The Commission may appoint members of its staff to act as industrial relations officers.

(2) The industrial relations officers shall perform any duties assigned to them by the Commission through its chairman or its chief executive officer and, in particular, they shall assist in the prevention and settlement of trade disputes.

(3) The Commission may appoint members of its staff, including industrial relations officers, to give advice on matters relating to industrial relations to management and workers or their representatives.

Rights commissioners.

34.—(1) Where the Minister proposes to appoint a rights commissioner under section 13 (1) of the Industrial Relations Act, 1969, he shall request the Commission to submit to him a panel of persons and he shall not appoint as a rights commissioner any person other than a person included in such panel.

(2) The term of office of a rights commissioner appointed in pursuance of *subsection (1)* shall be a period not exceeding three years.

(3) A rights commissioner may be re-appointed for a further term or terms by the Minister.

The Rights
Commissioner
Service.

35.—(1) The rights commissioners shall operate as a service of the Commission and references to rights commissioners in the Industrial Relations Act, 1969, the Unfair Dismissals Act, 1977, and the Maternity Protection of Employees Act, 1981, shall be taken to be references to rights commissioners so operating.

(2) A rights commissioner shall be independent in the performance of his functions.

Objections and
appeals.

36.—(1) An objection under section 13 (3) (b) (ii) of the Industrial Relations Act, 1969, by a party to a trade dispute to an investigation of the dispute by a rights commissioner shall be of no effect unless it is notified in writing to the commissioner within three weeks after notice of the reference of the dispute to the commissioner has been sent by post to that party.

(2) An appeal to the Court against the recommendation of a rights commissioner shall not be considered unless it is notified in writing to the Court within six weeks after the making of the recommendation.

(3) A rights commissioner, in addition to notifying the Court, shall notify the Minister and the Commission of every recommendation made by him.

(4) The Commission shall not exercise its function of conciliation on a dispute on which a rights commissioner has made a recommendation.

Equality officers.

37.—[...]

Reference of
dispute by Minis-
ter.

38.—(1) Where the Minister is of the opinion that a trade dispute, actual or apprehended, affects the public interest, he may refer the matter to the Commission or the Court, which shall endeavour to resolve the dispute.

(2) Where the Minister is of the opinion that a trade dispute is a dispute of special importance, he may request the Commission or the Court or another person or body to conduct an enquiry into the dispute and to furnish a report to him on the findings.

Review of joint
labour commit-
tees.

39.F18[...]

Superannuation
and gratuities for
and in respect of
chairman, deputy
chairmen and
ordinary
members of the
Court.

40.—Section 5 of the Industrial Relations Act, 1969, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for the granting of pensions, gratuities and other allowances on cessation of office or death to or in respect of the chairman, a deputy chairman (whether appointed under section 4 (1) or 4 (4) of this Act or under section 8 (3) of the Industrial Relations Act, 1976) who is required by the Minister to devote the whole of his working time to the duties of the office of deputy chairman, and the ordinary members of the Court.”.

Divisions of
Court.

41.—The Minister may amend or revoke an order made by him under section 8 (1) of the Industrial Relations Act, 1976.

Codes of Practice

Codes of practice.

42.—(1) The Commission shall prepare draft codes of practice concerning industrial relations for submission to the Minister, either on its own initiative or at the request of the Minister.

(2) Before submitting a draft code of practice to the Minister, the Commission shall seek and consider the views of organisations representative of employers and

organisations representative of workers, and such other bodies as the Commission considers appropriate.

(3) Where the Minister receives a draft code of practice from the Commission he may by order declare that the code, scheduled to the order, shall be a code of practice for the purposes of this Act.

(4) In any proceedings before a court, the Labour Court, the Commission, the Employment Appeals Tribunal, [[**Director General of the Workplace Relations Commission**] or a **rights commissioner**], a code of practice shall be admissible in evidence and any provision of the code which appears to the court, body or officer concerned to be relevant to any question arising in the proceedings shall be taken into account in determining that question.

(5) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any proceedings.

(6) The Minister may at the request of or after consultation with the Commission by order revoke or amend a code of practice.

(7) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either House within the next twenty-one days on which that House has sat after the order has been laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done there-under.

Functions of Labour Court relating to codes of practice.

43.—(1) The Court may on the application of one or more parties concerned give its opinion as to the interpretation of a code of practice, provided that in the case of an application by one party notice of the application has been given by that party to the other party.

(2) The Court may investigate a complaint that there has been a breach of a code of practice provided that the complaint has been referred to the Court by a party directly involved and that the complaint has first been considered by the Commission in accordance with *section 26*.

(3) Where the Court has investigated such a complaint, it may make a recommendation setting forth its opinion in the matter and, where appropriate, its view as to the action which a party in breach of the code should take or cease from taking in order to ensure compliance with the code.

Joint Labour Committees

Constitution and proceedings of joint labour committees.

44.—The provisions of the *Fifth Schedule* to this Act shall have effect with respect to the constitution and proceedings of joint labour committees.

Making of establishment orders.

45.—(1) The day for the holding of an enquiry into an application for an establishment order under section 38 of the Industrial Relations Act, 1946, to be set out in a notice under that section shall be not less than thirty days from the date of publication of the notice or later than sixty days from the receipt of the application by the Court and section 38 (b) (ii) of the section shall stand amended accordingly.

(2) The Court shall make an establishment order, or make known its decision not to do so, within forty-two days of the completion of the enquiry held in accordance with the said section 38.

Exclusion from scope of joint labour committee.

46.—(1) The Court may by order exclude an undertaking to which a registered employment agreement applies from the scope of the functions of a joint labour committee at the request of the employer and the group of workers or their represen-

tatives in the undertaking provided that the remuneration and conditions of employment provided for in the registered employment agreement are not less favourable than those provided for in the relevant employment regulation order.

(2) An order under *subsection (1)* shall cease to have effect if—

- (a) the remuneration and conditions of employment provided for in the registered employment agreement become less favourable than those provided for in the relevant employment regulation order, or
- (b) the registered employment agreement is revoked.

Report for assistance of joint labour committee.

47.—(1) The Court may, on its own initiative or at the request of a joint labour committee, arrange for the provision of a report on the industry or trade covered by the committee and the position of its workforce, having regard to the purposes for which the committee was established.

(2) A request for a report under *subsection (1)* may be made by the committee on the application of the chairman with the approval of a majority of the members of the committee.

Proposals for employment regulation order.

48.—(1) Where a joint labour committee has formulated proposals for an employment regulation order, the committee shall publish a notice stating—

- (a) the place where copies of the proposals may be obtained;
- (b) that representations with respect to the proposals may be made to the committee within the period of twenty-one days after the date of such publication.

(2) The joint labour committee, having considered any representations made to it in accordance with *subsection (1)*, may submit to the Court such proposals as it thinks proper for an employment regulation order.

(3) When proposals for an employment regulation order are submitted to the Court, the chairman of the committee shall submit a report to the Court on the circumstances surrounding their adoption.

(4) The Court may, as it thinks proper, by order give effect to the proposals from such date (subsequent to the date of the order) as the Court specifies in the order.

(5) (a) Where the Court is not satisfied that it should make an order giving effect to the proposals it may submit to the committee amended proposals which it is willing to accept.

(b) The committee may, if it thinks fit, re-submit the amended proposals, with or without modifications, to the Court.

(c) The Court may, as it thinks proper, make an order giving effect to the proposals as so re-submitted from such date (subsequent to the date of the order) as the Court thinks proper and specifies in the order or refuse to make an order.

Enforcement of employment regulation order by inspector by civil proceedings.

49.—(1) An inspector may institute on behalf of a worker civil proceedings for the enforcement of any right of action of the worker against his employer in respect of the failure of the employer to comply with a condition of employment of an employment regulation order and in any such proceedings an order may be made for the payment of costs by the inspector but not by the worker.

(2) The power given by *subsection (1)* shall not be in derogation of any right of the worker to institute civil proceedings on his own behalf.

Amendment of section 52 (2) (d) of Industrial Relations Act, 1946. **50.**—Section 52 (2) (d) of the Industrial Relations Act, 1946 (which refers to failure or refusal to comply with any lawful requirement of an inspector) is hereby amended by the deletion of “wilfully” before “fails”.

Registered Employment Agreements

Records. **51.**—[...]

Powers of inspection for enforcement of registered employment agreement. **52.**—[...]

Proof of registered employment agreement and related matters. **53.**—[...]

Enforcement of registered employment agreement by inspector by civil proceedings. **54.**—[...]

Amendment of section 12 (2) (d) of Industrial Relations Act, 1969. **55.**—Section 12 (2) (d) of the Industrial Relations Act, 1969 (which refers to failure or refusal to comply with a lawful requirement of an inspector) is hereby amended by the deletion of “wilfully” before “fails”.

Failure to Attend Sitting of Court

Evidence of failure to attend sitting of Court. **56.**—(1) A document purporting to be sealed with the seal of the Court stating that—

(a) the person named in the document was, by a summons under section 21 of the Industrial Relations Act, 1946, summoned to attend as a witness before the Court on a day and at a place specified in the document,

(b) a sitting of the Court was held on that day and at that place, and

(c) the said person made default in attending the Court in pursuance of the summons,

shall, in a prosecution against the person so named for the alleged default, be received in evidence of the matters so stated without further proof.

(2) Section 18 of the Industrial Relations Act, 1946, shall apply to a document to which *subsection (1)* relates.

Section 4.

FIRST SCHEDULE

INCREASE OF FINES

Ref No. (1)	Section (2)	Fine (3)
TRADE UNION ACT, 1871		
1	15	£200 per day.
2	16	£500, in lieu of five pounds. £1,000, in lieu of fifty pounds.
TRADE UNION ACT, 1941		
3	6(2)	£1,000 and a daily default fine of £200.
4	12(2)	£100 and a daily default fine of £10.
5	13(2)	£100 and a daily default fine of £10.
INDUSTRIAL RELATIONS ACT, 1946		
6	21(3)	£200.
7	32(4)	【£3,000】 and a daily default fine of 【£1,000】.
8	45(1)	£750.
9	45(3) (a)	£750.
10	48(2)	£750.
11	49(3)	£500.
12	52(2)	£500.
13	52(3)	£1,000.
14	72(b)	£1,000.
INDUSTRIAL RELATIONS ACT, 1969		
15	10(2)	£1,000 and a daily default fine of £200.
16	10(3)	£1,000 and a daily default fine of £200.
17	12(2)	£500.
TRADE UNION ACT, 1975		
18	Section 10 (8): Schedule, Paragraph 3 (1)	£200.

Section 7.

SECOND SCHEDULE

REPEALS

Session and Chapter or Number and Year	Short title	Extent of Repeal
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38 & 39 Vict., c. 86	The Conspiracy, and Protection of Property Act, 1875	In section 3, the first paragraph, and the paragraph inserted by 6 Edw. 7, c. 47, section 1.
6 Edw. 7, c. 47	Trade Disputes Act, 1906	The whole Act.
No. 22 of 1941	Trade Union Act, 1941	Section 11 Section 15.
No. 26 of 1946	Industrial Relations Act, 1946	Section 4 Section 23 (2) Section 41 Section 43 (1) Section 64 Sections 67, 69, 71 and 72 Second Schedule.
No. 14 of 1969	Industrial Relations Act, 1969	Section 6 In section 10 (3) all words from "shall be liable on conviction" to "one hundred pounds and" Section 11 Section 17 Section 18.
No. 33 of 1971	Trade Union Act, 1971	Section 2 (3).
No. 15 of 1976	Industrial Relations Act, 1976	Section 2 Section 5.
No. 15 of 1982	Trade Disputes (Amendment) Act, 1982	The whole Act.

Section 21.

THIRD SCHEDULE

DEPOSITS

1. Where the number of members does not exceed 2,000, the deposit shall be £20,000.

2. Where the number of members exceeds 2,000 but does not exceed 5,000, the deposit shall be £20,000 together with £800 for each additional 300 members (or part of 300 members) in excess of 2,000 members.

3. Where the number of members exceeds 5,000 but does not exceed 10,000, the deposit shall be £28,000 together with £800 for each additional 500 members (or part of 500 members) in excess of 5,000 members.

4. Where the number of members exceeds 10,000 but does not exceed 20,000, the deposit shall be £36,000 together with £800 for each additional 1,000 members (or part of 1,000 members) in excess of 10,000 members.

5. Where the number of members exceeds 20,000 the deposit shall be £44,000 together with £800 for each additional 1,000 members (or part of 1,000 members) in excess of 20,000 members, but subject to an overriding maximum of £60,000.

Section 24.

FOURTH SCHEDULE

LABOUR RELATIONS COMMISSION

1. The Labour Relations Commission shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name.

2. The chairman shall be appointed by the Minister after consultation with such organisations as the Minister considers to be representative of workers and of employers and shall be appointed for such period and on such terms and conditions as the Minister determines.

3. Of the ordinary members of the Commission—

(a) two shall be workers' members;

(b) two shall be employers' members; and

(c) two shall be nominated by the Minister.

4. The workers' members shall be the persons nominated for appointment by the Minister by such organisation or organisations as the Minister determines to be representative of trade unions of workers.

5. The employers' members shall be the persons nominated for appointment by the Minister by such organisation or organisations as the Minister determines to be representative of employers.

6. Each ordinary member shall be a part-time member of the Commission and shall be appointed on such terms and conditions as the Minister determines.

7. The chairman and each ordinary member may be paid, out of moneys provided by the Oireachtas, such allowances for expenses as the Minister, with the consent of the Minister for Finance, determines.

8. The chairman or an ordinary member may resign his office by letter addressed to the Minister.

9. The Minister may remove the chairman or an ordinary member from office for stated reasons.

10. (1) Where the chairman or an ordinary member of the Commission is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the European Parliament he shall thereupon cease to hold office.

(2) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he is so entitled or is such a member, be disqualified from becoming the chairman or an ordinary member of the Commission.

11. The seal of the Commission shall be authenticated by the signature of the chairman or an ordinary member authorised by the Commission to act in that behalf and the signature of an officer of the Commission authorised by the Commission to act in that behalf.

12. Judicial notice shall be taken of the seal of the Commission and every document purporting to be an instrument made by the Commission and to be sealed with the seal (purporting to be authenticated in accordance with *paragraph 11*) of the Commission shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

Section 44.

FIFTH SCHEDULE

CONSTITUTION AND PROCEEDINGS OF JOINT LABOUR COMMITTEES

1. In this Schedule—

“committee” means a joint labour committee;

“the Acts” means the Industrial Relations Acts, 1946 to 1990.

2. (1) Subject to *paragraph 3*, a committee shall consist of—

(a) one member (in this Schedule referred to as the independent member) appointed by the Minister and chosen as being an independent person, who shall be chairman of the committee, and

(b) members (in this Schedule referred to as representative members) appointed by the Court being—

(i) such number as the Court thinks fit of persons (in this Schedule referred to as representative (employers) members) who, in the opinion of the Court, represent employers in relation to whom the committee is to operate, and

(ii) an equal number of persons (in this Schedule referred to as representative (workers) members) who, in the opinion of the Court, represent workers in relation to whom the committee is to operate.

(2) Before appointing a representative member of a committee the Court shall, so far as is reasonably practicable, consult any organisation of employers or, as the case may be, workers concerned.

(3) The Minister shall appoint an independent person who shall act as independent member and chairman in the absence of the chairman and references in the Acts to an independent member or the chairman shall include references to a person so acting.

[(4) (a) Subject to clause (b), the independent member of a committee shall hold office for such period, not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.

(b) Every person who, immediately before the commencement of section 15 of the Industrial Relations (Amendment) Act 2012, was an independent member of a committee shall cease to hold office as such independent member on that date.

(c) Where the term of office of an independent member of a committee expires under clause (b) or by the effluxion of time he or she shall be eligible for reappointment to that office.]

(5) Where a representative member of a committee ceases, in the opinion of the Court, to be representative of the employers or, as the case may be, workers whom he was appointed to represent, the Court shall determine his membership.

(6) The Court may, in its discretion, determine the membership of any representative member of a committee.

(7) Where the membership of any representative member of a committee is determined, such member shall cease to be a member of the committee.

3. In the case of the joint labour committee for agricultural workers established under section 4 of the Industrial Relations Act, 1976—

(a) the independent member shall be appointed by the Minister with the consent of the Minister for Agriculture and Food;

(b) the representative (employers) members of the committee shall be appointed by the Court from a panel prepared and presented to the Court by the Minister after consultation with such organisation or organisations representative of agricultural employers as the Minister thinks fit and with the consent of the Minister for Agriculture and Food;

(c) the representative (workers) members of the committee (to a number equal to the number of representative (employers) members) shall be appointed by the Court from a panel prepared and presented to the Court by the Minister after consultation with such organisation or organisations representative of agricultural workers as the Minister thinks fit and with the consent of the Minister for Agriculture and Food;

(d) paragraph 2 (2) shall not apply.

4. The proceedings of a committee shall not be invalidated by reason of any vacancy therein or of any defect in the appointment of a member.

5. In order to constitute a meeting of a committee the independent member and at least one-third of the whole number of the representative members must be present.

6. (1) Subject to the provisions of this paragraph, every member of a committee shall have one vote.

(2) If at any meeting of a committee the group of representative (employers) members present does not equal in number the group of representative (workers) members present—

(a) whichever of the said groups is in the majority may arrange that any one or more of its number shall refrain from voting so as to preserve equality,

(b) if no such arrangement is made, the chairman of the committee may adjourn the voting on any question to another meeting of the committee.

7. (1) A committee shall meet at such places and times as it may from time to time determine to be suitable for the discharge of its functions and may adjourn any of its meetings.

(2) A committee shall, save as otherwise provided by the Acts, adopt such procedure at its meetings and otherwise, as it may determine to be suitable for the discharge of its functions.

8. (1) A committee, with the consent of the Court, may appoint sub-committees to assist it.

(2) A sub-committee of a committee may consist of members of the committee and such other persons as the committee with the concurrence of the Court may appoint.

(3) A district trade committee established under the Trade Boards Acts, 1909 and 1918, established by a committee when it was a trade board shall be deemed to be a sub-committee appointed by the committee under *subparagraph (1)* of this paragraph.

9. Members of a committee or of a sub-committee, may be paid such remuneration and allowances (including compensation for loss of time) as the Minister, with the consent of the Minister for Finance, may determine.

10. In the case of each joint labour committee existing at the passing of this Act, the independent members shall be entitled to continue in office until the appointment of the independent member of that committee under *paragraph 2 (1) (a)* or *3*, as the case may require.