This Revised Act is an administrative consolidation of the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007. 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 National Shared Services Office Act 2017 (26/2017), enacted 26 July 2017, and all statutory instruments up to and including Education Support Centres (Appointment and Secondment of Directors) Regulations 2017 (S.I. No. 394 of 2017), made 1 September 2017, 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.
Introduction

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

Related legislation

Terms of Employment (Information) Acts 1994 to 2014: 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(21)). The Acts in the group are:

- Terms of Employment (Information) Act 1994
- Industrial Relations (Amendment) Act 2012 (32/2012), s. 18
- Local Government Reform Act 2014 (1/2014), s. 1(21), and the amendments to the Terms of Employment (Information) Act 1994 (5/1994) 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))

Employment Equality Acts 1998 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (Equality (Miscellaneous Provisions) Act 2015, s. 16(3)). The Acts in the group are:

- Equality Act 2004 (24/2004), Part 2
- Civil Law (Miscellaneous Provisions) Act 2008 (14/2008), Part 16
- Civil Law (Miscellaneous Provisions) Act 2011 (23/2011), ss. 18 to 26
- Equality (Miscellaneous Provisions) Act 2015 (43/2015), ss. 3 to 11

Protection of Employment Acts 1977 to 2014: this Act is one of a group of Acts included in this collective citation, to be construed together as one, insofar as they relate to it (Local Government Reform Act 2014 (1/2014), s. 1(17)). The Acts in the group are:


• Local Government Reform Act 2014 (1/2014), s. 1(17) and the amendments to the Protection of Employees (Part-Time Work) Act 2001 (45/2001) and the Protection of Employment Act 1977 (7/1977) 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))

Redundancy Payments Acts 1967 to 2014: 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(19)). The Acts in the group are:

• Redundancy Payments Act 1967 (21/1967)
• Redundancy Payments Act 1971 (20/1971)
• Redundancy Payments Act 1973 (11/1973)
• Redundancy Payments Act 1979 (7/1979)
• Protection of Employees (Employer’s Insolvency) Act 1984 (21/1984), s. 12
• Social Welfare Act 1990 (5/1990), ss. 26, 27 and 29
• Redundancy Payments Act 2003 (14/2003)
• Social Welfare Act 2011 (37/2011), Part 3
• Social Welfare Act 2012 (43/2012), Part 3
• Local Government Reform Act 2014 (1/2014), s. 1(19) and the amendment to the Redundancy Payments Act 1967 (21/1967) 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)).

Unfair Dismissals Acts 1977 to 2015: 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 (27/2015), s. 1(4)). The Acts in the group are:

• Unfair Dismissals Act 1977 (10/1977)
• Unfair Dismissals (Amendment) Act 1993 (22/1993)
• Protection of Employees (Part-Time Work) Act 2001 (45/2001), insofar as it relates to the Unfair Dismissals Acts 1977 to 1993
• Civil Service Regulation (Amendment) Act 2005 (18/2005), Part 6
• Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (27/2007), insofar as it relates to the Unfair Dismissals Acts 1977 to 2005
• Industrial Relations (Amendment) Act 2015 (27/2015), s. 39

Act previously included in the group but now repealed:


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 1994, 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**

- Industrial Relations (Amendment) Act 2015 (27/2015)
- Workplace Relations Act 2015 (16/2015)
- Protected Disclosures Act 2014 (14/2014)
- Local Government Reform Act 2014 (1/2014)
- Central Bank (Supervision and Enforcement) Act 2013 (26/2013)
- Protection of Employees (Temporary Agency Work) Act 2012 (13/2012)
- Property Services (Regulation) Act 2011 (40/2011)
- Central Bank and Credit Institutions (Resolution) Act 2011 (27/2011)
- Criminal Justice Act 2011 (22/2011)
- Credit Institutions (Stabilisation) Act 2010 (36/2010)
- Prevention of Corruption (Amendment) Act 2010 (33/2010)
- Inland Fisheries Act 2010 (10/2010)
- Labour Services (Amendment) Act 2009 (38/2009)
- National Asset Management Agency Act 2009 (34/2009)
- Charities Act 2009 (6/2009)
- Chemicals Act 2008 (13/2008)
- Health Act 2007 (23/2007)
- Consumer Protection Act 2007 (19/2007)
- Parental Leave (Amendment) Act 2006 (13/2006)
- Health Act 2004 (42/2004)
- Protection of Employees (Fixed-Term Work) Act 2003 (29/2003)
- Competition Act 2002 (14/2002)
- Protection of Employees (Part-Time Work) Act 2001 (45/2001)
- Prevention of Corruption (Amendment) Act 2001 (27/2001)
- Carer’s Leave Act 2001 (19/2001)
- Organisation of Working Time Act 1997 (20/1997)
- Labour Services Act 1987 (15/1987)

All Acts up to and including National Shared Services Office Act 2017 (26/2017), enacted 26 July 2017, were considered in the preparation of this revision.

**Statutory instruments which affect or previously affected this revision**

- Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2016 (S.I. No. 224 of 2016)
- 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 (European Aviation Safety Agency) (Amendment) Regulations 2008 (S.I. No. 95 of 2008)
• European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007)
• European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007 (S.I. No. 259 of 2007)
• European Communities (European Public Limited-Liability Company) (Employee Involvement) Regulations 2006 (S.I. No. 623 of 2006)
• European Communities (European Aviation Safety Agency) Regulations 2003 (S.I. No. 623 of 2006)
• European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 469 of 2003)

All statutory instruments up to and including Education Support Centres (Appointment and Secondment of Directors) Regulations 2017 (S.I. No. 394 of 2017), made 1 September 2017, were considered in the preparation of this revision.
SECTION 1. Short title, construction and collective citation.

2. Definitions.

3. Duration of effect of Part 2 and related matters.

PART 2

EXCEPTIONAL COLLECTIVE REDUNDANCIES


5. Redundancy Panel.

6. Reference to Redundancy Panel.

7. Request by Minister for opinion of Labour Court.

8. Hearings, and giving of opinions, by Labour Court.

9. Effect of opinion.

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PART 3

AMENDMENTS OF THE PROTECTION OF EMPLOYMENT ACT 1977


PART 4

AMENDMENTS OF THE REDUNDANCY PAYMENTS ACT 1967


15. Amendment of section 4 (classes of persons to which this Act applies) of the Redundancy Payments Act 1967.

16. Amendment of section 7 (general right to redundancy payment) of the Redundancy Payments Act 1967.

17. Amendment of section 38 (decisions by deciding officers) of the Redundancy Payments Act 1967.


PART 5

AMENDMENTS OF THE REDUNDANCY PAYMENTS ACT 1971


PART 6

AMENDMENTS OF THE REDUNDANCY PAYMENTS ACT 1979


PART 7

AMENDMENTS OF THE UNFAIR DISMISSALS ACT 1977


26. Amendment of section 5 (dismissal by way of lock-out or for taking part in strike) of the Unfair Dismissals Act 1977.

PART 8

AMENDMENTS OF THE EMPLOYMENT EQUALITY ACT 1998

27. Amendment of section 17 (compliance with statutory requirements, etc.) of the Employment Equality Act 1998.

ACTS REFERRED TO

Employment Equality Act 1998

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[8th May, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions 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. Note that the name of the “Minister for” and “Department of Enterprise, Trade and Employment” was changed:

• to the Minister for and Department of Enterprise, Trade and Innovation (2.05.2010) by Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 185 of 2010); and

• to the Minister for and Department of Jobs, Enterprise and Innovation (2.06.2011) by Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011).

...
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 Social Protection.

(2) References to the Department of Jobs, Enterprise and Innovation 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 Social Protection.

3. (1) The functions vested in the Minister for Jobs, Enterprise and Innovation—

(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

(b) under the Regulations specified in Part 3 of the Schedule,

are transferred to the Minister for Social Protection.

(2) References to the Minister for Jobs, Enterprise and Innovation 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 Social Protection.

...
be granted to the employee in respect of that penalisation both under Schedule 4 of this Act and under the Unfair Dismissals Acts 1977 to 2007.

...  

Employees are restricted to availing of one of alternative remedies provided by the Unfair Dismissals Acts and other legislation:

- (1.08.2015) by Industrial Relations (Amendment) Act 2015 (27/2015), s. 20(4), S.I. No. 329 of 2015.
- (6.07.2012) by Property Services (Regulation) Act 2011 (40/2011), s. 67(5) & sch. 4, para. 8(b), commenced on enactment.
- (16.05.2012) by Protection of Employees (Temporary Agency Work) Act 2012 (13/2012), ss. 23(2), 24(2), commenced on enactment.
- (28.10.2011) by Central Bank and Credit Institutions (Resolution) Act 2011 (27/2011), s. 70(3)(b) and (b), S.I. No. 548 of 2011.
- (9.08.2011) by Criminal Justice Act 2011 (22/2011), s. 20(4)(a) and (b), S.I. No. 411 of 2011.
- by Prevention of Corruption (Amendment) Act 2001 (27/2001), s. 8A(5) and sch. 1 para. 3(8), as inserted (15.12.2010) by Prevention of Corruption (Amendment) Act 2010 (33/2010), ss. 4 and 6, commenced on enactment.
- (1.06.2010) by Inland Fisheries Act 2010 (10/2010), s. 38(3), commenced on enactment.
- by Health Act 2004 (42/2004), s. 55M(4), as inserted (1.03.2009) by Health Act 2007 (23/2007), s. 103(1), S.I. No. 27 of 2009.
- (27.05.2008) by European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008), reg. 39(9).
- (13.06.2007) by European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (S.I. No. 285 of 2007), reg. 9(7).
- (29.05.2007) by European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007 (S.I. No. 259 of 2007), reg. 20(8).
- (1.05.2007) by Consumer Protection Act 2007 (19/2007), s. 87(4) and sch. 6, para. 4(2), S.I. No. 178 of 2007.
• by Parental Leave Act 1998 (30/1998), s. 16A(3) as inserted (18.05.2006) by Parental Leave (Amendment) Act 2006 (13/2006), s. 11, commenced on enactment.


• (14.07.2003) by Protection of Employees (Fixed-Term Work) Act 2003 (29/2003), s. 18(1), commenced on enactment.


• (2.07.2001) by Carer’s Leave Act 2001 (19/2001), s. 16(3), commenced on enactment.


• (23.01.1999) by Protections for Persons Reporting Child Abuse Act 1998 (49/1998), s. 4(3), commenced as per s. 7(2).


Editorial Notes:


• 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), not commenced as of date of revision.

1.— (1) This Act may be cited as the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007.

(2) The Protection of Employment Act 1977, together with the Protection of Employees (Part-Time Work) Act 2001 and this Act (in so far as they apply to the first-mentioned Act), shall be construed together as one and may be cited together as the Protection of Employment Acts 1977 to 2007.

(3) The Redundancy Payments Acts 1967 to 2003 and this Act (in so far as it relates to those Acts) shall be construed together as one and may be cited together as the Redundancy Payments Acts 1967 to 2007.

(4) The Unfair Dismissals Acts 1977 to 2005 and this Act (in so far as it relates to those Acts) shall be construed together as one and may be cited together as the Unfair Dismissals Acts 1977 to 2007.


Definitions.

2.— In this Act—

“employee representatives” has the same meaning as in section 2(1) of the Protection of Employment Act 1977;

“industrial action” means—

(a) 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, or

(b) the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by that employer in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by that other employer, to accept terms or conditions of or affecting employment;

“Minister” means the Minister for Enterprise, Trade and Employment;

“Secretary General” means the Secretary General of the Department of Enterprise, Trade and Employment.

Duration of effect of Part 2 and related matters.

3.— (1) Subject to this section, Part 2 has effect only for the period of 3 years from the commencement of this Act.

(2) The Minister may, by order made before the expiration of the period mentioned in subsection (1) or of any extension of that period under this subsection, extend that period or periods for a further period of 3 years if—

(a) both the Irish Congress of Trade Unions and the Irish Business and Employers Confederation have requested the extension; and

(b) the Minister is satisfied that the continued operation of Part 2 would be conducive to the continued orderly conduct of industrial relations.

(3) If—
(a) on any day, Part 2 ceases to have effect in accordance with subsection (1), and
(b) on that day, any action remains to be taken under that Part in relation to a redundancy proposal in respect of which action had commenced to be taken under that Part,

Part 2 continues in force to the extent necessary for completing the taking of that action, and any subsequent action provided for by that Part, in respect of that redundancy proposal and, for that purpose, the Redundancy Panel as constituted immediately before that day continues in existence for such time as is necessary for it to take any outstanding action in accordance with that Part.

Annotations

Editorial Notes:

E3 Power pursuant to subs. (2) exercised (7.05.2016 to 7.05.2019) by Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2016 (S.I. No. 224 of 2016).

E4 Previous affecting provision: power pursuant to subs. (2) exercised (7.05.2013 to 7.05.2016) by Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2013 (S.I. No. 153 of 2013); expired.

E5 Previous affecting provision: power pursuant to subs. (2) exercised (7.05.2010 to 7.05.2013) by Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2010 (S.I. No. 197 of 2010); expired.

PART 2

EXCEPTIONAL COLLECTIVE REDUNDANCIES

Annotations

Modifications (not altering text):

C4 Period for which Part 2 shall have effect extended (7.05.2013 to 7.05.2016) by Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2013 (S.I. No. 153 of 2013), reg. 2.

... 2. The period mentioned in subsection (1) of section 3 of the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (No. 27 of 2007), as extended by the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2010 (S.I. No. 197 of 2010), is extended by a further period of 3 years commencing on the expiration of the period provided for by Statutory Instrument No. 197 of 2010.

...  

Editorial Notes:

E6 Previous affecting provision: period for which Part 2 shall have effect extended (7.05.2010 to 7.05.2013) by Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2010 (S.I. No. 197 of 2010), reg. 2; expired.
What constitutes exceptional collective redundancies.

4.— (1) Subject to subsection (2), dismissals proposed by an employer together constitute exceptional collective redundancies for the purposes of this Part if, were they to take effect, they would be dismissals of the kind referred to in section 7(2A) of the Redundancy Payments Act 1967 (inserted by section 16).

(2) For the avoidance of doubt, it is declared that this Part does not apply to—

(a) the employment of agency workers for temporary or recurring business needs, or

(b) the use of outsourcing, contracting-out or other forms of business restructuring,

in circumstances other than those referred to in section 7(2A) of the Redundancy Payments Act 1967.

Redundancy Panel.

5.— (1) For the purposes of this Part, there is established a Redundancy Panel.

(2) The Redundancy Panel consists of the following members:

(a) a Chairman appointed, in writing, by the Minister;

(b) a member appointed, in writing, by the Irish Congress of Trade Unions;

(c) a member appointed, in writing, by the Irish Business and Employers Confederation.

(3) Each member of the Redundancy Panel shall have a deputy appointed, in writing, by the person by which that member was appointed, who shall act as a member of the panel on any occasion when that member is unable to attend a meeting of the panel, and, in subsections (4) to (9), a reference to a member includes a reference to a deputy of a member.

(4) Subject to subsections (5) to (10), a member—

(a) holds office for such period, not exceeding 3 years, as is specified in the relevant instrument of appointment, and

(b) is eligible for re-appointment.

(5) A member may resign by letter addressed to the relevant appointing authority, and the resignation shall take effect on the date of receipt of the letter.

(6) A member shall, unless he or she sooner dies, resigns or otherwise ceases to be a member, hold office until the expiration of his or her term of office.

(7) A person is not eligible to be appointed, or to continue to hold office, as a member of the Redundancy Panel if that person—

(a) is, or accepts nomination as, a member of Seanad Éireann,

(b) is, or is nominated as, a candidate for election as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) is regarded, under Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(d) is or becomes a member of a local authority within the meaning of the Local Government Act 2001 (as amended by the Local Government Reform Act 2014).
and a member who ceases, under this subsection, to be eligible to continue to hold office as a member shall thereupon cease to be a member of the Redundancy Panel.

(8) The Government may, for stated reasons, at any time remove a member from office for misbehaviour or where they consider that—

(a) the member has become incapable through ill health of effectively performing the functions of a member, or

(b) the member’s removal is necessary for the effective performance by the Redundancy Panel of its functions.

(9) A member shall cease to be a member on—

(a) being adjudicated bankrupt,

(b) making a composition or arrangement with creditors,

(c) being sentenced to imprisonment on conviction on indictment, or

(d) ceasing to be ordinarily resident in the State.

(10) Whenever a vacancy occurs in the office of a member of the Redundancy Panel, the vacancy shall be filled, for the unexpired portion of the member’s term of office, by the member’s deputy, and the relevant appointing F4[person] shall appoint a new deputy.

(11) The Redundancy Panel shall act by majority decision.

(12) Subject to subsection (11), the practice and procedure of the Redundancy Panel shall be as determined by it.

(13) The Secretary General shall arrange for the provision to the Redundancy Panel of all secretarial and other services necessary for its efficient operation.

(14) A member of the Redundancy Panel shall be paid such remuneration (if any) as is determined by the Minister with the consent of the Minister for Finance.

Annotations

Amendments:

F1 Substituted (1.10.2015) by Workplace Relations Act 2015 (16/2015), s. 85(a), S.I. No. 410 of 2015.

F2 Substituted (1.10.2015) by Workplace Relations Act 2015 (16/2015), s. 85(b), S.I. No. 410 of 2015.

F3 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.

F4 Substituted (1.10.2015) by Workplace Relations Act 2015 (16/2015), s. 85(c), S.I. No. 410 of 2015.

Reference to Redundancy Panel.

6.— (1) At any time during the period of 30 days referred to in section 9 or 12 of the Protection of Employment Act 1977 (as the case requires), a proposal to create collective redundancies may be referred to the Redundancy Panel—

(a) by employee representatives acting with the approval of the majority of those whom they represent who are affected by the redundancy proposal, or

(b) by the employer concerned,
by notice in writing addressed to the Chairman of the Panel in the care of the Secretary General and sent or delivered to the Secretary General at the principal office of the Department of Enterprise, Trade and Employment.

(2) The Secretary General shall arrange for a reference under subsection (1) to be forwarded without delay to the Chairman of the Redundancy Panel, and the Panel shall—

(a) within 1 working day of receipt by the Chairman of the reference—

(i) inform the Minister of the fact, and

(ii) invite affected parties to make submissions to it in relation to the proposal,

and

(b) within 7 working days of receipt by the Chairman of the reference—

(i) give notice in writing to the Minister that either requests the Minister to seek an opinion from the Labour Court whether the proposal is a proposal to which this Part applies or states that the Panel is of the view that the conditions for the making of such a request that are set out in subsection (3) have not been satisfied, and

(ii) give a copy of that notice to the party from which the reference was received and other affected parties.

(3) The Redundancy Panel may not make a request to the Minister under subsection (2)(b)(i) unless—

(a) it appears to the Panel that the proposed collective redundancies are exceptional collective redundancies, and

(b) the Panel is satisfied that, in relation to the proposal, the party from which the reference was received—

(i) has unsuccessfully sought to resolve the matter through local engagement, that is, all or any of the following:

(I) established dispute-resolution procedures;

(II) procedures in place, or availed of by custom or usual practice, in the employment concerned;

(III) ordinary consultative procedures,

(ii) has acted reasonably and has not acted in a manner that, in the opinion of the Panel, has frustrated the possibility of agreement to restructuring, or other changes, necessary to secure the viability of the business of the employer and, as a consequence, the best possible levels of employment and conditions, and

(iii) has not had recourse to industrial action since the proposal was referred to the Panel.

7.— (1) The Minister may, either—

(a) within 7 working days of receiving a request from the Redundancy Panel under section 6, or

(b) subject to subsection (3), on the Minister’s own initiative, in the public interest,
request the Labour Court to issue an opinion whether collective redundancies proposed by an employer constitute exceptional collective redundancies.

(2) In subsection (1)(b), “public interest” includes—
(a) public order and the interests of national security,
(b) public health and safety,
(c) the need to protect the labour market, and
(d) the protection of statutory employment rights.

(3) The Minister may make a request under subsection (1)(b) only if—
(a) it appears to the Minister that the proposed collective redundancies are exceptional collective redundancies, and
(b) the relevant period specified in subsection (4) has not expired.

(4) For the purposes of subsection (3)(b), the relevant period is—
(a) if the period of 30 days specified in section 9(3) of the Protection of Employment Act 1977 has not expired and a reference to the Redundancy Panel has not been made under section 6(1) — that period of 30 days,
(b) if a reference to the Redundancy Panel has been made under section 6(1) but the Panel has not made a request under section 6(2) — the period of 7 working days specified in section 6(2).

8.— (1) Within 16 days of receiving a request under section 7, the Labour Court shall—
(a) hold a hearing into the matter, and
(b) either—
(i) issue to the Minister its opinion whether the proposed collective redundancies are exceptional collective redundancies, or
(ii) report to the Minister that, by reason of subsection (2), it is unable to issue an opinion, specifying in the report the circumstances attracting the operation of that subsection.

(2) The Court may not issue an opinion under subsection (1) unless it is satisfied that, in relation to the relevant proposal—
(a) the party from which the reference to the Panel was received has unsuccessfully sought to resolve the matter through local engagement, that is, all or any of the following:
(i) established dispute-resolution procedures;
(ii) procedures in place, or availed of by custom or usual practice, in the employment concerned;
(iii) ordinary consultative procedures,
(b) that party has acted reasonably and has not acted in a manner that, in the opinion of the Court, has frustrated the possibility of agreement to restructuring, or other changes, necessary to secure the viability of the business of the employer and, as a consequence, the best possible levels of employment and conditions, and
(c) no industrial action, on the part of that party, is current.

(3) For the purposes of this Part, section 21 of the Industrial Relations Act 1946 has effect as if in subsection (1) of that section “and under Part 2 of the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007” were inserted after “for the purposes of any proceedings before it under this Act”.

(4) No appeal shall lie from an opinion given by the Labour Court under this section, but nothing in this section affects the power of the Employment Appeals Tribunal to make a decision on any question referred to it under section 39 of the Redundancy Payments Act 1967.

(5) The Minister shall, within 7 working days of receiving an opinion from the Labour Court under subsection (1), notify affected parties, by such means as he considers appropriate, of the giving of the opinion and its content.

Effect of opinion. 9.— (1) Where—

(a) the Labour Court issues an opinion that collective redundancies proposed by an employer are exceptional collective redundancies,

(b) the employer proceeds with the dismissals on the same basis as in the relevant proposal, and

(c) the employer applies to the Minister for a rebate under Part III of the Redundancy Payments Act 1967,

the Minister shall have regard to the opinion of the Labour Court when considering the employer’s application for the rebate.

(2) If the Minister refuses to pay the rebate, or pays a reduced rebate, the exemption from income tax provided by section 203 of the Taxes Consolidation Act 1997 does not apply in relation to lump sum payments made in pursuance of section 19 of the Redundancy Payments Act 1967 by the employer to employees dismissed as mentioned in subsection (1).
(3) Section 7 of the Unfair Dismissals Act 1977 has effect in relation to a dismissal that is one of a number of dismissals included in a collective redundancy that is determined by the Labour Court, in an opinion given under section 8, to be an exceptional collective redundancy as if—

(a) the following paragraph were substituted for paragraph (c) of subsection (1) of section 7:

“(c) payment by the employer to the employee of such compensation as is just and equitable having regard to all the circumstances but does not exceed in amount remuneration in respect of the employment from which the employee was dismissed (calculated in accordance with regulations under section 17 of this Act) for—

(i) in the case of an employee who, at the date of the dismissal, had not more than 20 years’ continuous service — 208 weeks, or

(ii) in the case of an employee who, at the date of the dismissal, had more than 20 years’ continuous service — 260 weeks.”,

and

(b) the following subsection were substituted for subsection (2) of section 7:

“(2) Without prejudice to the generality of subsection (1), in determining any reduction in the amount of compensation otherwise payable under paragraph (c) of that subsection regard shall be had only to the amount (if any) of severance or redundancy payment accepted by the employee in relation to the dismissal.”.

Extension of time during which dismissal may not take place.

10.— (1) The first dismissal under a proposal for collective redundancies that is referred to the Redundancy Panel under section 6(1) shall not take effect earlier than the expiration of the latest of whichever of the following periods is applicable:

(a) the period of 7 working days commencing on the day on which reference of the proposal is received by the Panel;

(b) the period of 7 working days commencing on the day on which a request made by the Redundancy Panel under section 6(2) is received by the Minister; or

(c) the period of 16 days commencing on the day on which a request made by the Minister under section 7(1) is lodged with the Labour Court.

(2) Nothing in subsection (1) affects either—

(a) the operation of section 9(3) or 12(1) of the Protection of Employment Act 1977, or

(b) the right of an employer to dismiss an employee otherwise than in pursuance of the proposal for collective redundancies.

(3) An employer who effects a dismissal in pursuance of a proposal for collective redundancies before the expiration of such of the periods specified in subsection (1) and in sections 9(3) and 12(1) of the Protection of Employment Act 1977 as are applicable is guilty of an offence and liable on conviction on indictment to a fine not exceeding €250,000.

PART 3
Amendment of section 2 (interpretation) of the Protection of Employment Act 1977.

11.— Section 2 of the Protection of Employment Act 1977 is amended in subsection (1) by substituting the following for the definition of “the Minister”:

“Minister’ means the Minister for Enterprise, Trade and Employment;”.

Amendment of section 9 (obligation on employer to consult employees’ representatives) of the Protection of Employment Act 1977.

12.— Section 9 of the Protection of Employment Act 1977 is amended in subsection (3) by substituting “before the first notice of dismissal is given” for “before the first dismissal takes effect”.


13.— The Protection of Employment Act 1977 is amended in each of the provisions of it specified in the Table to this section by substituting the amount specified in column (3) of that Table for the amount specified in column (2) of that Table opposite the number of the provision concerned.

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PART 4

Amendments of the Redundancy Payments Act 1967

14.— Section 2 of the Redundancy Payments Act 1967 is amended in subsection (1) by substituting the following for the definition of “the Minister”:

“Minister’ means the Minister for Enterprise, Trade and Employment;”.

Amendment of section 4 (classes of persons to which this Act applies) of the Redundancy Payments Act 1967.

15.— Section 4 of the Redundancy Payments Act 1967 is amended by substituting the following for subsection (1):

“(1) Subject to this section and to section 47, this Act applies to—

(a) employees employed in employment which is insurable for all benefits under the Social Welfare Consolidation Act 2005,
(b) employees who were so employed in such employment in the period of four years ending on the date of termination of employment, and

(c) employees who have attained the age of 66 years and are in employment that would be insurable for all benefits under the Social Welfare Consolidation Act 2005 but for—

(i) their attainment of that age, or

(ii) the fact that the employment concerned is excepted employment by reason of paragraph 2, 4 or 5 of Part 2 of Schedule 1 to that Act.”.

16.— Section 7 of the Redundancy Payments Act 1967 is amended by inserting the following after subsection (2):

“(2A) For the purposes of subsection (1), an employee who is dismissed shall be taken not to be dismissed by reason of redundancy if—

(a) the dismissal is one of a number of dismissals that, together, constitute collective redundancies as defined in section 6 of the Protection of Employment Act 1977,

(b) the dismissals concerned were effected on a compulsory basis,

(c) the dismissed employees were, or are to be, replaced, at the same location or elsewhere in the State, (except where the employer has an existing operation with established terms and conditions) by—

(i) other persons who are, or are to be, directly employed by the employer, or

(ii) other persons whose services are, or are to be, provided to that employer in pursuance of other arrangements,

(d) those other persons perform, or are to perform, essentially the same functions as the dismissed employees, and

(e) the terms and conditions of employment of those other persons are, or are to be, materially inferior to those of the dismissed employees.”.

17.— Section 38 of the Redundancy Payments Act 1967 is amended in subsection (1) by substituting the following for paragraphs (a) to (f):

“(a) as to who is the employer of an employee,

(b) in relation to the payment from the Social Insurance Fund of—

(i) rebates to employers under section 29, or

(ii) lump sums to employees under section 32,

or

(c) on such other matters arising under this Act as are prescribed,”.
Amendment of section 39 (Redundancy Appeals Tribunal and appeals and references there-to) of the Redundancy Payments Act 1967.

18.— Section 39 of the Redundancy Payments Act 1967 is amended in subsection (16) by deleting “in the prescribed manner”.

Further amendments (penalties) of the Redundancy Payments Act 1967.

19.— The Redundancy Payments Act 1967 is amended in each of the provisions of it specified in the Table to this section by substituting the amount specified in column (3) of that Table for the amount specified in column (2) of that Table opposite the number of the provision concerned.

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PART 5
AMENDMENTS OF THE REDUNDANCY PAYMENTS ACT 1971

Repeal of section 3 (provisions relating to persons reaching qualifying age for old age pension) of the Redundancy Payments Act 1971.

20.— Section 3 of the Redundancy Payments Act 1971 is repealed.

Amendment of section 16 (offences relating to payments under Principal Act) of the Redundancy Payments Act 1971.

21.— Section 16 of the Redundancy Payments Act 1971 is amended in subsections (1) and (2) by substituting “€5,000” for “£300”.

PART 6
AMENDMENTS OF THE REDUNDANCY PAYMENTS ACT 1979
22. — Section 1 of the Redundancy Payments Act 1979 is amended by substituting the following for the definition of “the Minister”:

“‘ Minister ’ means the Minister for Enterprise, Trade and Employment;”.  

23. — Section 5 of the Redundancy Payments Act 1979 is repealed.

PART 7

AMENDMENTS OF THE UNFAIR DISMISSALS ACT 1977

24. — Section 1 of the Unfair Dismissals Act 1977 is amended in subsection (1) by substituting the following for the definition of “the Minister”:

“‘ Minister ’ means the Minister for Enterprise, Trade and Employment;”.  

25. — (1) Section 2 of the Unfair Dismissals Act 1977 is amended in subsection (2)—

(a) by substituting “Subject to subsection (2A), this Act” for “This Act”, and  

(b) by deleting the proviso (commencing with the words “Provided that where, following dismissal”, including the interpretative passage commencing with the words “In this proviso ‘antecedent contract’,.”).  

(2) Section 2 of the Unfair Dismissals Act 1977 is amended by inserting the following after subsection (2):

“(2A) Where, following dismissal consisting only of the expiry of the term of a contract of employment of a kind mentioned in subsection (2) (‘the prior contract’) without the term being renewed under the contract or the cesser of the purpose of the contract—

(a) the employee concerned is re-employed by the employer concerned within 3 months of the dismissal under a contract of employment of that kind made between the employer and the employee (‘the subsequent contract’) and the nature of the employment is the same as or similar to that of the employment under the prior contract,  

(b) the employee is dismissed from the employment,  

(c) the dismissal consisted only of the expiry of the term of the subsequent contract without the term being renewed under the contract or the cesser of the purpose of the contract, and  

(d) in the opinion of the rights commissioner, the Tribunal or the Circuit Court, as the case may be, the entry by the employer into the subsequent contract was wholly or partly for, or was connected with, the purpose of the avoidance of liability under this Act,
then—

(i) this Act shall, subject to its other provisions, apply to the dismissal, and

(ii) the term of the prior contract and of any antecedent contracts shall be added to that of the subsequent contract for the purpose of the ascertainment under this Act of the period of service of the employee with the employer and the period so ascertained shall be deemed for those purposes to be one of continuous service.

(2B) In subsection (2A), ‘antecedent contract’, in relation to a prior contract, means—

(a) a contract of employment of the kind mentioned in subsection (2) the term of which expired not more than 3 months before the commencement of the prior contract, or

(b) each of a series of contracts the term of the last of which expired not more than 3 months before the commencement of that of the prior contract and the term of the other or of each of the other contracts in the series expired not more than 3 months before the commencement of that of the other, or the next, contract in the series,

being a contract or contracts made between the employer and the employee who were parties to the prior contract and the nature of the employment under which was the same as or similar to that of the employment under the prior contract.”.

(3) Section 2 of the Unfair Dismissals Act 1977 is amended in subsection (5) by substituting “subsection (2A)” for “the proviso (inserted by the Unfair Dismissals (Amendment) Act, 1993) to subsection (2) of this section”.

Amendment of section 5 (dismissal by way of lock-out or for taking part in strike) of the Unfair Dismissals Act 1977.

26.— Section 5 of the Unfair Dismissals Act 1977 is amended by inserting the following after subsection (2):

“(2A) Without prejudice to the applicability of any of the provisions of section 6 to the case, where—

(a) an employee—

(i) is deemed by subsection (1) to have been dismissed by reason of a lock-out, or

(ii) is dismissed for taking part in a strike or other industrial action,

and

(b) none of those who were locked out, or took part in the strike or industrial action, were re-engaged,

in determining whether, in those circumstances, the dismissal is an unfair dismissal, the rights commissioner, the Tribunal or the Circuit Court, as the case may be, shall have regard, for that purpose only, to—

(i) the reasonableness or otherwise of the conduct (whether by act or omission) of the employer or employee in relation to the dismissal,

(ii) the extent (if any) of the compliance or failure to comply by the employer with the procedure referred to in section 14(1),
(iii) the extent (if any) of the compliance or failure to comply by the
employer or the employee with provisions of any code of practice
referred to in section 7(2)(d), and

(iv) whether the parties have adhered to any agreed grievance proce-
dures applicable to the employment in question at the time of the
lock-out, strike or industrial action.”.

PART 8

AMENDMENTS OF THE EMPLOYMENT EQUALITY ACT 1998

27.—(1) The amendment of section 17 of the Employment Equality Act 1998 made
by paragraph (b) of section 10 of the Equality Act 2004 is deemed to have had effect
from the commencement of that paragraph as if “inserting the following subsection
after subsection (3)” had appeared instead of “substituting the following subsection
for subsection (4)”.

(2) Section 17 of the Employment Equality Act 1998 is amended by substituting the
following subsection for subsection (4):

“(4) In relation to discrimination on the age ground, nothing in this Act shall
render unlawful any act done in compliance with—

(a) the Protection of Young Persons (Employment) Act 1996, or

(b) the National Minimum Wage Act 2000.”.

Amendment of section 17 (compliance with statutory require-