



Number 4 of 1973

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT 1973

REVISED

Updated to 14 October 2020

This Revised Act is an administrative consolidation of the *Minimum Notice and Terms of Employment Act 1973*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

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

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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

Minimum Notice and Terms of Employment Acts 1973 to 2005: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Civil Service Regulation (Amendment) Act 2005*, s. 1(4)). The Acts in the group are:

- *Minimum Notice and Terms of Employment Act 1973* (4/1973)
- *Protection of Employees (Employers' Insolvency) Act 1984* (21/1984), s. 13 (collective citation only)
- *Worker Protection (Regular Part-time Employees) Act 1991* (5/1991), in so far as it relates to the *Minimum Notice and Terms of Employment Acts 1973 and 1984* (repealed)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it relates to the *Minimum Notice and Terms of Employment Acts 1973 and 1984*
- *Civil Service Regulation (Amendment) Act 2005* (18/2005), Part 7

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Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked.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 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
- 1A. Application of Act to civil servants.
2. Commencement.
3. Non-application of Act.
4. Minimum period of notice.
5. Rights of employee during period of notice.
6. Right of employer to notice.
7. Right to waive notice.
8. Right to terminate contract of employment without notice.
9. Written statement of terms of employment.
10. Failure of employer to furnish statement.
11. Reference of disputes to Tribunal.
12. [Decision of adjudication officer under section 41 of Workplace Relations Act 2015.]
- 12A. Decision of Labour Court on appeal from decision referred to in section 12.
13. Provisions relating to winding up and bankruptcy.
14. Regulations.
15. Laying of Regulations and certain draft orders before Houses of Oireachtas.
16. Expenses of Minister.
17. Short title.

FIRST SCHEDULE

Computation of Continuous Service

SECOND SCHEDULE

Rights of Employee During Period of Notice

[No. 4.]

*Minimum Notice and Terms of
Employment Act 1973*

[1973.]

ACTS REFERRED TO

Redundancy Payments Act, 1967	1967, No. 21
Civil Service Commissioners Act, 1956	1956, No. 45
Merchant Shipping Act, 1894	1894, c. 60
Companies Act, 1963	1963, No. 33
Preferential Payments in Bankruptcy (Ireland) Act, 1889	1889, c. 60



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AN ACT TO REQUIRE A MINIMUM PERIOD OF NOTICE TO TERMINATE THE EMPLOYMENT OF THOSE WHO HAVE BEEN EMPLOYED FOR A QUALIFYING PERIOD, TO PROVIDE FOR MATTERS CONNECTED WITH THE GIVING OF NOTICE, AND TO REQUIRE EMPLOYERS TO GIVE WRITTEN PARTICULARS OF THE TERMS OF EMPLOYMENT, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [9th May, 1973]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—In this Act—

“the Act of 1967” means the Redundancy Payments Act, 1967;

F1[‘civil servant’ has the same meaning as in the Civil Service Regulation Act 1956;]

F1[‘Department’ has the same meaning as in the Public Service Management Act 1997;]

“employee” means an individual who has entered into or works 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 otherwise, and cognate expressions shall be construed accordingly;

“lay-off” has the meaning assigned to it by the Act of 1967;

“lock-out” has the meaning assigned to it by Part II of the Act of 1967;

“Minister” means the Minister for Labour;

“prescribed” means prescribed by regulations made by the Minister under this Act;

F1[‘Scheduled Office’ has the same meaning as it has in the Civil Service Regulation Act 1956;]

“short-time” has the meaning assigned to it by the Act of 1967;

“strike” has the meaning assigned to it by Part II of the Act of 1967;

“the Tribunal” means the Tribunal established under the Act of 1967;

“week” means any period of seven consecutive days;

“year” means any period of fifty-two weeks.

F2[Application
of Act to civil
servants.

1A.—(1) For the purposes of this Act, a reference to an ‘employee’ shall be construed as including a civil servant who holds office in the Civil Service of the Government or in the Civil Service of the State.

(2) Subject to subsection (4), for the purposes of this Act, as respects a civil servant, a reference in this Act to an ‘employer’ shall be construed as including the State, a Minister of the Government, a Department or a Scheduled Office in which the civil servant concerned holds office.

(3) As respects a civil servant, for the purposes of this Act, ‘contract of employment’ means such arrangements as are made by the Minister for Finance under section 17 of the Civil Service Regulation Act 1956, together with such further terms and conditions of service which apply to the civil servant concerned, made in respect of a particular Department or Scheduled Office which extend or alter the arrangements under the said section 17.

(4) Nothing in this section shall be construed as affecting the status of a civil servant as an officer.

(5) For the purposes of this section and the First Schedule—

(a) ‘Department’ includes such bodies or organisations (whether established by or under statute, or otherwise) other than a Scheduled Office, for which the Minister having charge of the Department concerned is responsible, and

(b) ‘Scheduled Office’ includes such bodies or organisations (whether established by or under statute or otherwise) for which the Minister of the Government having charge of the Scheduled Office is responsible.]

Commencement.

2.—This Act shall come into operation on such day as the Minister appoints by order.

Non-application
of Act.

3.—(1) This Act shall not apply to—

(a) employment of an employee who is normally expected to work for the same employer for less than F3[eighteen hours] in a week,

(b) employment by an employer of an employee who is the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, halfbrother or halfsister of the employer and who is a member of the employer’s household and whose place of employment is a private dwellinghouse or a farm in or on which both the employee and the employer reside,

(c) F4[...]

(d) employment as a member of the Permanent Defence Forces (other than a temporary member of the Army Nursing Service),

(e) employment as a member of the Garda Síochána, and

(f) employment under an employment agreement pursuant to Part II or Part IV of the Merchant Shipping Act, 1894.

(2) The Minister may by order declare that any provision of this Act shall not apply to a class or classes of employment specified in the order and from the commencement of the order this Act shall not apply to that class or those classes.

(3) Notwithstanding subsection (1) or (2) of this section, the Minister may by order declare that any provision of this Act shall apply to a class or classes of employment specified in the order and from the commencement of the order this Act shall apply to that class or those classes.

(4) An order made by the Minister under this section may include such transitional and other supplemental and incidental provisions as appear to the Minister to be necessary or expedient.

(5) The Minister may by order amend or revoke an order made under this section, including this subsection.

Minimum period
of notice.

4.—(1) An employer shall, in order to terminate the contract of employment of an employee who has been in his continuous service for a period of thirteen weeks or more, give to that employee a minimum period of notice calculated in accordance with the provisions of subsection (2) of this section.

(2) The minimum notice to be given by an employer to terminate the contract of employment of his employee shall be—

(a) if the employee has been in the continuous service of his employer for less than two years, one week,

(b) if the employee has been in the continuous service of his employer for two years or more, but less than five years, two weeks,

(c) if the employee has been in the continuous service of his employer for five years or more, but less than ten years, four weeks,

(d) if the employee has been in the continuous service of his employer for ten years or more, but less than fifteen years, six weeks,

(e) if the employee has been in the continuous service of his employer for fifteen years or more, eight weeks.

(3) The provisions of the First Schedule to this Act shall apply for the purposes of ascertaining the period of service of an employee and whether that service has been continuous.

(4) The Minister may by order vary the minimum period of notice specified in subsection (2) of this section.

(5) Any provision in a contract of employment, whether made before or after the commencement of this Act, which provides for a period of notice which is less than the period of notice specified in subsection (2) of this section, shall have effect as if that contract provided for a period of notice in accordance with this section.

(6) The Minister may by order amend or revoke an order under this section including this subsection.

Rights of
employee during
period of notice.

5.—(1) The provisions of the Second Schedule to this Act shall have effect in relation to the liability of an employer during the period of notice required by this Act to be given—

(a) by an employer to terminate the contract of employment of an employee who has been in his continuous service for thirteen weeks or more, and

(b) by an employee who has been in such continuous service to terminate his contract of employment with that employer.

(2) This section shall not apply in any case where an employee gives notice to terminate his contract of employment in response to a notice of lay-off or short-time given by his employer.

(3) Any provision in a contract which purports to exclude or limit the obligation imposed on an employer by this section shall be void.

Right of employer to notice.	<p>6.—An employer shall, subject to the right of an employee to give counter-notice under section 10 of the Act of 1967 or to give notice of intention to claim redundancy payment in respect of lay-off or short-time under section 12 of that Act, be entitled to not less than one week's notice from an employee who has been in his continuous employment for thirteen weeks or more of that employee's intention to terminate his contract of employment.</p>
Right to waive notice.	<p>7.—(1) Nothing in this Act shall operate to prevent an employee or an employer from waiving his right to notice on any occasion or from accepting payment in lieu of notice.</p> <p>(2) In any case where an employee accepts payment in lieu of notice, the date of termination of that person's employment shall, for the purposes of the Act of 1967, be deemed to be the date on which notice, if given, would have expired.</p>
Right to terminate contract of employment without notice.	<p>8.—Nothing in this Act shall affect the right of any employer or employee to terminate a contract of employment without notice because of misconduct by the other party.</p>
Written statement of terms of employment.	<p>9.—F5[...]</p>
Failure of employer to furnish statement.	<p>10.—F6[...]</p>
Reference of disputes to Tribunal.	<p>11.—F7[...].</p>
F8[Decision of adjudication officer under section 41 of Workplace Relations Act 2015	<p>12. (1) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of section 4(2) or 5 may, where the adjudication officer finds that that section was contravened by the employer in relation to the employee who presented the complaint, include a direction that the employer concerned pay to the employee compensation for any loss sustained by the employee by reason of the contravention.</p> <p>(2) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a dispute as to the entitlements of an employer under section 6 may include such directions as the adjudication officer considers appropriate.]</p>
F9[Decision of Labour Court on appeal from decision referred to in section 12	<p>12A. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in section 12, shall affirm, vary or set aside the decision of the adjudication officer.]</p>
Provisions relating to winding up and bankruptcy.	<p>13.—F10[...]</p>
Regulations.	<p>14.—The Minister may make regulations in relation to any matter referred to in this Act as prescribed.</p>

Laying of
Regulations and
certain draft
orders before
Houses of
Oireachtas.

15.—(1) Whenever an order is proposed to be made under section 3, 4, or 9 of this Act, a draft of the proposed order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by both Houses of the Oireachtas.

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

Expenses of
Minister.

16.—Any expenses incurred by the Minister 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.

Short title.

17.—This Act may be cited as the Minimum Notice and Terms of Employment Act, 1973.

Section 4

FIRST SCHEDULE

COMPUTATION OF CONTINUOUS SERVICE.

Continuity of Service

1. The service of an employee in his employment shall be deemed to be continuous unless that service is terminated by—

- (a) the dismissal of the employee by his employer, or
- (b) the employee voluntarily leaving his employment.

2. A lock-out shall not amount to a dismissal of the employee by his employer.

3. A lay-off shall not amount to the termination by an employer of his employee's service.

4. A strike by an employee shall not amount to that employee's voluntarily leaving his employment.

F11[5. An employee who claims and receives redundancy payment in respect of lay-off or short time shall be deemed to have voluntarily left his employment.]

6. The continuous service of an employee in his employment shall not be broken by the dismissal of the employee by his employer followed by the immediate re-employment of the employee.

F12[7. Where the whole or part of a trade, business or undertaking was or is transferred to another person either before or after the passing of this Act, the service of an employee before the transfer in the trade, business or undertaking, or the part thereof so transferred—

- (a) shall be reckoned as part of the service of the employee with the transferee, and
- (b) the transfer shall not operate to break the continuity of the service of the employee,

unless the employee received and retained redundancy payment from the transferor at the time of and by reason of the transfer.]

Computable Service

8. Any week in which an employee is not normally expected to work for at least F13[eighteen hours] or more will not count in computing a period of service.

9. If an employee is absent from his employment by reason of service in the Reserve Defence Force, such period of absence shall count as a period of service.

10. If an employee is absent from his employment for not more than twenty-six weeks between consecutive periods of employment because of—

- (a) a lay-off,
- (b) sickness or injury, or
- (c) by agreement with his employer,

such period shall count as a period of service.

11. If, in any week or part of a week, an employee is absent from his employment because he was taking part in a strike in relation to the trade or business in which he is employed, that week shall not count as a period of service.

12. If, in any week or part of a week, an employee was, for the whole or any part of the week, absent from work because of a lock-out by his employer, that week shall count as a period of service.

13. If, in any week or part of a week, an employee is absent from his employment by reason of a strike or lock-out in a trade or business other than that in which he is employed, that week shall count as a period of service.

F14[14. For the avoidance of doubt, a civil servant shall be considered as having given continuous service, notwithstanding the fact that the civil servant may have served in more than one Department or Scheduled Office provided that the service would otherwise, by virtue of the provisions of this Schedule, be considered to be continuous.]

Section 5

SECOND SCHEDULE

RIGHTS OF EMPLOYEE DURING PERIOD OF NOTICE.

1. Subject to the provisions of this Schedule, an employee shall, during the period of notice, be paid by his employer in accordance with the terms of his contract of employment and shall have the same rights to sick pay or holidays with pay as he would have if notice of termination of his contract of employment had not been given.

Employments for which there are normal working hours

2.(a) (i) An employee shall be paid by his employer in respect of any time during his normal working hours when he is ready and willing to work but no work is provided for him by his employer.

(ii) In this subparagraph "normal working hours" in the case of an employee who is normally expected to work overtime, include the hours during which such overtime is usually worked.

(b) In any case where an employee's pay is not wholly calculated by reference to time, the pay which his employer is bound to pay him under subparagraph (a) shall be calculated by reference to the average rate of pay earned by the employee in respect of any time worked during the thirteen weeks next preceding the giving of notice.

Employments for which there are no normal working hours

3. Subject to paragraph 4 of this Schedule, an employer shall pay to an employee, if there are no normal working hours for that employee under the contract of employment in force in the period of notice, in respect of each week in the period of notice, a sum not less than the average weekly earnings of the employee in the thirteen weeks next preceding the giving of notice.

4. An employer shall not be liable to pay to his employee any sum under paragraph 3 of this Schedule unless the employee is ready and willing to do work of a reasonable nature and amount to earn remuneration at the rate mentioned in the said paragraph 3.