



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.

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



Number 4 of 1973

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT 1973

REVISED

Updated to 14 October 2020

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

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



Number 4 of 1973

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT 1973

REVISED

Updated to 14 October 2020

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:

Annotations

Modifications (not altering text):

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

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

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

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

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

...

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

...

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

SCHEDULE 1

PART 1

ACTS OF THE OIREACHTAS

Minimum Notice and Terms of Employment Acts 1973 to 2005

...

C2 Date of expected day of return deemed to be date of termination of contract under certain circumstances for purposes of Act (1.08.2016) by *Paternity Leave and Benefit Act 2016* (11/2016), s. 26(3), S.I. No. 435 of 2016.

Provisions applying where employee not permitted to return to work

26. (1) This section applies to an employee who, having duly complied with section 24, is entitled under this Part to return to work but is not permitted to do so by the relevant employer, within the meaning of section 27 (3), and, in this section, in relation to such an employee, “the expected date of return” means the date notified under section 24 as the date on which the employee expected to return to work.

...

(3) For the purposes of the Minimum Notice and Terms of Employment Act 1973, the contract of employment of an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been terminated on the expected date of return.

...

C3 Functions transferred and specified bodies dissolved (1.01.2005) by *Health Act 2004* (42/2004), ss. 58, 59 and sch. 3 item 54, S.I. No. 885 of 2004.

Dissolution of health boards and other specified bodies.

58.—The specified bodies are, by this Act, dissolved on the establishment day.

Transfer of functions of specified bodies to Executive.

59.—(1) The functions that, immediately before the establishment day, were the functions of a specified body under or in connection with the enactments referred to in Schedule 3 are, by this Act, transferred to the Executive on that day.

(2) If a provision of an enactment referred to in Schedule 3, or a provision of an instrument made under such enactment, does not come into effect until on or after the establishment day, a function that on the passing of that enactment or the making of that instrument was assigned under or in connection with that provision to a specified body is, by this Act, transferred to the Executive on the commencement of that provision.

(3) The functions transferred by this Act to the Executive include the functions specified in any enactment referred to in Schedule 3 as a function of the following:

- (a) the chief executive officer of a health board;
- (b) the Regional Chief Executive of the Eastern Regional Health Authority;
- (c) the area chief executive of an Area Health Board.

...

SCHEDULE THREE

Transfer of Functions and References to Functional Areas

Section 59 and 67.

...

54. Minimum Notice and Terms of Employment Acts 1973 to 2001

...

C4 Application of Act interpreted (30.01.1995) by *Maternity Protection Act 1994* (34/1994), s. 40(3), S.I. No. 16 of 1995.

Provisions applying where employee not permitted to return to work.

40.—...

(3) For the purposes of the Minimum Notice and Terms of Employment Act, 1973, the contract of employment of an employee to whom this section applies who is also an employee to whom that Act applies shall be deemed to have been terminated on the expected date of return.

...

Editorial Notes:

E1 Collectively cited *Minimum Notice and Terms of Employment Acts 1973 to 2005* included in definitions of "employment enactment" and "relevant enactment" (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 1 item 12, S.I. No. 338 of 2015, with the following effects:

- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
- Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
- Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer's registered number or employee's PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
- Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
- Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
- Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
- Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2).

E2 Previous affecting provision: functions under collectively cited *Minimum Notice and Terms of Employment Acts 1973 to 2005* transferred and Minister for and Department of Jobs, Enterprise and Innovation construed (1.09.2017) by *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017* (S.I. No. 361 of 2017), arts. 2, 3, 6-8, in effect as per art. 1(2), subject to transitional provisions in arts. 4, 5; superseded as per C-note above.

E3 Previous affecting provision: name of the Department of and Minister for Enterprise, Trade and Innovation changed to Department of and Minister for 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); superseded as per E-note above.

E4 Previous affecting provision: name of the Department of and Minister for Enterprise, Trade and Employment changed to Department of and Minister for 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); superseded as per E-note above.

E5 Previous affecting provision: name of the Department of and Minister for Enterprise and Employment changed to Department of and Minister for Enterprise, Trade and Employment (12.07.1997) by *Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 305 of 1997); superseded as per E-note above.

E6 Previous affecting provision: application of Act to dismissal of certain apprentices confirmed (1.08.1995) by *Labour Services Act 1987 Apprenticeship Rules 1995* (S.I. No. 198 of 1995), rule 7(1); revoked (1.05.1997) by *Labour Services Act 1987 Apprenticeship Rules 1997* (S.I. No. 168 of 1997), rule 1(3).

E7 Previous affecting provision: application of Act to dismissal of certain apprentices confirmed (1.09.1994) by *Labour Services Act 1987 Apprenticeship Rules 1994* (S.I. No. 228 of 1994), rule 7(1); revoked (1.08.1995) by *Labour Services Act 1987 Apprenticeship Rules 1995* (S.I. No. 198 of 1995), rule 1(3).

E8 Previous affecting provision: application of Act to dismissal of certain apprentices confirmed (1.09.1993) by *Labour Services Act 1987 Apprenticeship Rules 1993* (S.I. No. 236 of 1993), rule 7(1); revoked (1.09.1994) by *Labour Services Act 1987 Apprenticeship Rules 1994* (S.I. No. 228 of 1994), rule 1(3).

E9 Previous affecting provision: name of the Department of and Minister for Industry and Commerce changed to Department of and Minister for Enterprise and Employment (20.01.1993) by *Industry and Commerce (Alteration of Name of Department and Title of Minister) Order 1993* (S.I. No. 19 of 1993); superseded as per E-note above.

E10 Previous affecting provision: functions transferred to Department of and Minister for Industry and Commerce and Department of and Minister for Labour construed (20.01.1993) by *Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993* (S.I. No. 18 of 1993), arts. 3, 4, and sch. part 1, subject to transitional provisions in arts. 5-9; superseded as per E-note above.

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.

Annotations**Amendments:**

F1 Inserted (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 24, S.I. No. 363 of 2006.

Modifications (not altering text):

C5 Functions transferred and references construed (14.10.2020) by *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438

of 2020), arts. 2, 3(1)(a), (2) and sch., in effect as per art. 1(2), subject to transitional provisions in arts. 4-8.

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

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

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

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

...

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

...

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

SCHEDULE 1

PART 1

ACTS OF THE OIREACHTAS

Minimum Notice and Terms of Employment Acts 1973 to 2005

...

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.]

Annotations**Amendments:**

F2 Inserted (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 25, S.I. No. 363 of 2006.

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

Annotations**Editorial Notes:**

E11 Power pursuant to section exercised (1.09.1973) by *Minimum Notice and Terms of Employment (Commencement) Order 1973* (S.I. No. 242 of 1973).

2. The 1st day of September, 1973, is hereby appointed as the day on which the Minimum Notice and Terms of Employment Act, 1973 (No. 4 of 1973) shall come into operation.

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.

Annotations**Amendments:**

F3 Substituted (30.11.1984) by *Protection of Employees (Employers' Insolvency) Act 1984* (21/1984), s. 13(a), commenced on enactment.

F4 Deleted (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005* (18/2005)), s. 26(a), S.I. No. 363 of 2006.

Modifications (not altering text):

C6 The limitation on the application of this Act imposed by subs. (1)(a) is restricted (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 8, S.I. No. 636 of 2001.

Application of relevant enactments.

8.—Each relevant enactment shall apply to a part-time employee in the same manner, and subject to the like exceptions not inconsistent with this section, as it applies, other than by virtue of this Act, to an employee to whom that enactment relates.

Editorial Notes:

E12 Power to amend subs. (1)(a) by order so as to vary the number of hours specified in that paragraph provided (30.11.1984) by *Protection of Employees (Employers Insolvency) Act 1984* (21/1984), s. 11(4)(a), commenced on enactment.

E13 Previous affecting provision: the limitation imposed by subs. (1)(a) was reduced to 8 hours under certain circumstances (6.04.1991) by *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 1(1)(b) and other definitions, S.I. No. 75 of 1991; repealed (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/1991), s. 5, S.I. No. 636 of 2001.

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.

Annotations

Editorial Notes:

E14 Redress and appeal procedures in respect of subs. (2) provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 1, sch. 6 part 1 item 2, sch. 6 part 2 item 2, S.I. No. 410 of 2015.

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.

Annotations

Editorial Notes:

E15 Redress and appeal procedures in respect of section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 1, sch. 6 part 1 item 2, sch. 6 part 2 item 2, S.I. No. 410 of 2015.

Right of employer to notice.

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.

Right to waive notice.

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.

(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.

Right to terminate contract of employment without notice.

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.

Written statement of terms of employment.

9.—F5[...]

Annotations

Amendments:

F5 Repealed (16.05.1994) by *Terms of Employment (Information) Act 1994* (5/1994), s. 13, S.I. No. 96 of 1994.

Failure of employer to furnish statement.

10.—F6[...]

Annotations

Amendments:

F6 Repealed (16.05.1994) by *Terms of Employment (Information) Act 1994* (5/1994), s. 13, S.I. No. 96 of 1994.

Reference of disputes to Tribunal.

11.—F7[...].

Annotations

Amendments:

F7 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 3, S.I. No. 410 of 2015, subject to transitional provisions in subss. (2), (5).

Editorial Notes:

E16 Previous affecting provision: power pursuant to section exercised (1.09.1973) by *Minimum Notice and Terms of Employment (Reference of Disputes) Regulations 1973* (S.I. No. 243 of 1973).

F8[Decision of adjudication officer under section 41 of Workplace Relations Act 2015

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.

(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.]

Annotations**Amendments:**

F8 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015) s. 52(1) and sch. 7 part 1 item 2,, S.I. No. 410 of 2015 subject to transitional provisions in subs. (3).

Editorial Notes:

E17 Relevant redress procedure specified (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 41(5)(b)(i) and sch. 6 part 1 item 2, S.I. No. 410 of 2015.

F9 [Decision of Labour Court on appeal from decision referred to in section 12

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.]

Annotations**Amendments:**

F9 Inserted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 2, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

Editorial Notes:

E18 Relevant redress procedure specified (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 44(1)(b)(i) and sch. 6 part 2 item 2, S.I. No. 410 of 2015.

Provisions relating to winding up and bankruptcy.

13.—F10[...]

Annotations**Amendments:**

F10 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 3, S.I. No. 410 of 2015, subject to transitional provisions in subss. (2), (5).

Regulations.

14.—The Minister may make regulations in relation to any matter referred to in this Act as prescribed.

Annotations**Editorial Notes:**

E19 Power pursuant to section exercised (1.09.1973) by *Minimum Notice and Terms of Employment (Reference of Disputes) Regulations 1973* (S.I. No. 243 of 1973).

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.]**

Annotations

Amendments:

F11 Substituted (9.05.1977) by *Unfair Dismissals Act 1977* (10/1977), s. 20, S.I. No. 138 of 1977.

F12 Substituted (1.10.1993) by *Unfair Dismissals (Amendment) Act 1993* (22/1993), s. 15, commenced as per s. 17(4).

F13 Substituted (30.11.1984) by *Protection of Employees (Employers Insolvency) Act 1984* (21/1984), s. 13(b), commenced upon enactment.

F14 Inserted (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 26(b), S.I. No. 363 of 2006.

Modifications (not altering text):

C7 The limitation on the application of this Act imposed by para. 8 is restricted (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 8, S.I. No. 636 of 2001.

Application of relevant enactments.

8.—Each relevant enactment shall apply to a part-time employee in the same manner, and subject to the like exceptions not inconsistent with this section, as it applies, other than by virtue of this Act, to an employee to whom that enactment relates.

C8 Power to amend para. 8 by order provided (30.11.1984) by *Protection of Employees (Employers Insolvency) Act 1984* (21/1984), s. 11(4)(b), commenced on enactment.

Power to amend Act.

11.— ...

(4) The Minister may from time to time by order amend ...

(b) paragraph 8, as amended by the said section 13, of the First Schedule to the Act of 1973, so as to vary the number of hours specified in that paragraph.

Editorial Notes:

E20 Previous affecting provision: application of First Schedule confirmed and modified (6.04.1991) by *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 2(1)-(3), S.I. No. 75 of 1991; repealed (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 5, S.I. No. 636 of 2001.

E21 Previous affecting provision: para. 7 substituted (9.05.1977) by *Unfair Dismissals Act 1977* (10/1977), s. 20, S.I. No. 138 of 1977; substituted as per F-note above.

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.



Number 4 of 1973

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT 1973

REVISED

Updated to 14 October 2020

About this Revised Act

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

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

Material not updated in this revision

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

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

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

Acts which affect or previously affected this revision

- *Workplace Relations Act 2015* (16/2015)
- *Civil Service Regulation (Amendment) Act 2005* (18/2005)
- *Protection of Employees (Fixed-Term Work) Act 2003* (29/2003)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001)
- *Maternity Protection Act 1994* (34/1994)
- *Terms of Employment (Information) Act 1994* (5/1994)
- *Unfair Dismissals (Amendment) Act 1993* (22/1993)
- *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991)
- *Protection of Employees (Employers' Insolvency) Act 1984* (21/1984)
- *Unfair Dismissals Act 1977* (10/1977)

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

Statutory instruments which affect or previously affected this revision

- *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020)
- *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017* (S.I. No. 361 of 2017)
- *Labour Services Act 1987 Apprenticeship Rules 1997* (S.I. No. 168 of 1997)
- *Labour Services Act 1987 Apprenticeship Rules 1995* (S.I. No. 198 of 1995)
- *Labour Services Act 1987 Apprenticeship Rules 1994* (S.I. No. 228 of 1994)
- *Labour Services Act 1987 Apprenticeship Rules 1993* (S.I. No. 236 of 1993)
- *Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993* (S.I. No. 18 of 1993)
- *Minimum Notice and Terms of Employment (Reference of Disputes) Regulations 1973* (S.I. No. 243 of 1973)
- *Minimum Notice and Terms of Employment (Commencement) Order 1973* (S.I. No. 242 of 1973)

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