Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

Number 9 *of* 2006

EMPLOYEES (PROVISION OF INFORMATION AND CONSULTATION) ACT 2006

REVISED

Updated to 1 February 2019

This Revised Act is an administrative consolidation of the *Employees (Provision of Information and Consultation) Act 2006*. 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 *Local Government Act 2019* (1/2019), enacted 25 January 2019, and all statutory instruments up to and including *Brown Crab (Conservation Of Stocks) Regulations 2019* (S.I. No. 26 of 2019), made 1 February 2019, were considered in the preparation of this Revised Act.

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EMPLOYEES (PROVISION OF INFORMATION AND CONSULTATION) ACT 2006

REVISED

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Number 9 *of* 2006

EMPLOYEES (PROVISION OF INFORMATION AND CONSULTATION) ACT 2006

REVISED

Updated to 1 February 2019

AN ACT TO IMPLEMENT DIRECTIVE 2002/14/EC OF THE EUROPEAN PARLIAMENT [1] AND OF THE COUNCIL OF 11 MARCH 2002 BY PROVIDING FOR THE ESTABLISHMENT OF ARRANGEMENTS FOR INFORMING AND CONSULTING EMPLOYEES IN UNDERTAKINGS, TO IMPLEMENT ARTICLE 3(2) OF COUNCIL DIRECTIVE NO. 2001/23/EC OF 12 MARCH 2001 [2] ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES RELATING TO THE SAFEGUARDING OF EMPLOYEES' RIGHTS IN THE EVENT OF TRANSFERS OF UNDERTAKINGS, BUSINESSES OR PARTS OF UNDERTAKINGS OR BUSINESSES AND TO PROVIDE FOR RELATED MATTERS.

[9*th April*, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— (1) In this Act—

F1**[**'agency worker' means an agency worker to whom the Protection of Employees (Temporary Agency Work) Act 2012 applies;**]**

"appointed" means, in the absence of an election, appointed by the employees and the basis on which that appointment is made may, if the employees so determine, be such as is agreed by them with the employer;

"Commission" means the Labour Relations Commission;

"consultation" means the exchange of views and establishment of dialogue between either or both—

(*a*) one or more employees,

(*b*) the employees' representative or representatives,

and the employer;

"contract of employment" means a contract of service or of apprenticeship whether express or implied, and if express, whether oral or in writing;

"Court" means the Labour Court;

"Directive" means Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community;

[1] O.J. No. L080, 23/03/2002, p. 29

[2] O.J. No. L082, 22/03/2001, p. 16

"employee" means a person who has entered into or works under a contract of employment and references, in relation to an employer, to an employee shall be read as references to an employee employed by that employer;

"employee threshold" has the meaning assigned by *section 7*;

"employees' representative" has the meaning assigned by *section 6*;

"employer", in relation to an employee, means the person by whom the employee is employed under a contract of employment;

"excepted body" has the meaning assigned by section 6(3) of the Trade Union Act 1941, as amended;

"expert" means an individual, and may be the holder from time to time of a named office or position in a body corporate or other body or organisation;

"information" means transmission by the employer to one or more employees or their representatives (or both) of data in order to enable them to acquaint themselves with the subject matter and to examine it and cognate words shall be read accordingly;

"Information and Consultation Forum" means a Forum established in accordance with *Schedule 1* for the purpose of informing and consulting employees;

"Minister" means Minister for Enterprise, Trade and Employment;

"negotiated agreement" has the meaning assigned by *section 8*;

"pre-existing agreement" has the meaning assigned by *section 9*;

"prescribed" means prescribed by regulations made by the Minister;

F1**[** 'relevant information' means information as respects—

(*a*) the number of agency workers temporarily engaged to work for the employer,

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

(*c*) the type of work that those agency workers are engaged to do; **]**

"relevant workforce threshold" has the meaning assigned by *section 4*;

"trade union" means a trade union which holds a negotiation licence under Part II of the Trade Union Act 1941, as amended;

"undertaking" means a public or private undertaking carrying out an economic activity, whether or not operating for gain.

F1**[**(1A) For the purposes of this Act, an agency worker to whom the Protection of Employees (Temporary Agency Work) Act 2012 applies shall, for the duration of the agency worker's assignment with a hirer (within the meaning of that Act), be treated as being employed by the employment agency concerned, and accordingly references in this Act to contract of employment shall, as respects any such agency worker, be construed as including references to contract of employment within the meaning of that Act.**]**

(2) A word or expression that is used in this Act and is also used in the Directive has the same meaning in this Act as it does in the Directive.

(3) For the avoidance of doubt, a reference in this Act—

(*a*) to the negotiation of an agreement establishing information and consultation arrangements or to such an agreement that has been negotiated, or

(*b*) to an Information and Consultation Forum,

includes a reference—

(i) to the negotiation of more than one such agreement or, as appropriate, to more than one such agreement that has been negotiated, or

(ii) to more than one such Forum.

(4) *Subsection (3)* is without prejudice to section 18(*a*) of the Interpretation Act 2005.

Regulations.

2.— (1) The Minister may make regulations prescribing any matter or thing referred to in this Act as prescribed or to be prescribed.

(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations or for giving full effect to this Act.

Right of employees to information and consultation.

3.— (1) Subject to the provisions of this Act, an employee employed in an undertaking employing 50 or more employees has a right to information and consultation.

(2) This Act is without prejudice to—

(*a*) the information and consultation procedures under the Protection of Employment Act 1977, as amended by the Protection of Employment Order 1996 (S.I. No. 370 of 1996), and the European Communities (Protection of Employment) Regulations 2000 (S.I. No. 488 of 2000),

(*b*) the information and consultation procedures under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003),

(*c*) the information and consultation procedures under the Transnational Information and Consultation of Employees Act 1996 and the European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations 1999 (S.I. No. 386 of 1999), and

(*d*) any right to information, consultation or participation conferred on employees by any other Act or instrument thereunder.

(3) For the avoidance of doubt, the according to employees of their rights through a European Employees' Forum, an Information and Consultation procedure or a European Works Council established under the Transnational Information and Consultation of Employees Act 1996 or by an agreement under section 6 of that Act, is not sufficient compliance by the employer with this Act.

Application — workforce thresholds.

4.— (1) This Act applies—

(*a*) from a date to be prescribed (being a date before 23 March 2007) to undertakings with at least 150 employees,

(*b*) from 23 March 2007 to undertakings with at least 100 employees, and

(*c*) from 23 March 2008 to undertakings with at least 50 employees.

(2) The number of employees referred to in *subsection (1)* is referred to in this Act as a "relevant workforce threshold".

Calculating workforce thresholds.

5.— (1) In determining whether employees are employed in an undertaking that meets a relevant workforce threshold, the number of employees in the undertaking

shall be reckoned by calculating the average number of employees employed in the undertaking during the 2 years before the date that a request is—

(*a*) made under *subsection (2)*,

(*b*) received under *subsection (4)* by the Court or a nominee of the Court, or

(*c*) received under *section 7* by the employer, the Court or a nominee of the Court.

(2) Without prejudice to *subsection (4)*, following a request from one or more employees or employees' representatives (or both), the employer shall provide details of the number of employees in the undertaking during the period referred to in *subsection (1)* to those employees or employees' representatives (or both) not later than 4 weeks from the date of receipt of that request (but that period of 4 weeks may be extended by agreement between the parties).

(3) If the undertaking has been in existence for less than 2 years, the period of 2 years referred to in *subsection (1)* shall be replaced by the period the undertaking has been in existence.

(4) One or more employees may request the Court or a nominee of the Court to make the request referred to in *subsection (5)* of the employer and to do the other things mentioned therein.

(5) Where a request under *subsection (4)* is received by the Court or a nominee of the Court, the Court or the nominee shall—

(*a*) notify the employer as soon as is reasonably practicable that a request under that subsection has been made,

(*b*) request from the employer details of the numbers of employees in the undertaking during the period referred to in *subsection (1)*, and

(*c*) issue a written notification to the employee or employees who made the request under *subsection (4)* confirming the number of employees in the undertaking during the period concerned.

(6) Where the Court or its nominee requests information from the employer under *subsection (5)(b)*, the employer shall provide the information requested not later than 4 weeks from the date of receipt of that request (but that period of 4 weeks may be extended by agreement between the employer and the Court or its nominee).

(7) If the number of employees for the time being in an undertaking falls below the relevant workforce threshold and remains below the threshold for 12 months, then, at the request of the employer or a majority of the employees, the Information and Consultation Forum established under *section 10* shall stand dissolved unless both parties agree to its continuation.

Employees' representative.

6.— (1) In this Act, "employees' representative" means an employee elected or appointed for the purposes of this Act.

(2) Subject to *subsections (3)* and *(4)*, the employer shall arrange for the election or appointment of one or more than one employees' representative under this section.

(3) Without prejudice to *section 11*, where it is the practice of the employer to conduct collective bargaining negotiations with a trade union or excepted body, employees who are members of a trade union or excepted body that represents 10 per cent or more of the employees in the undertaking shall be entitled to elect or appoint from amongst their members one or more than one employees' representative for the purposes of this Act.

(4) The number of employees' representatives (if any) elected or appointed under *subsection (3)* shall be determined on a pro rata basis by reference to the number of other employees' representatives (if any) elected or appointed under this section.

(5) Where a dispute arises under this section, it may be referred by the employer, trade union, excepted body or one or more than one employee to the Labour Court for determination in accordance with the procedures set out in *subsections (6)*, *(7)*, *(9)* and *(10)* of *section 15*.

Process for establishing information and consultation arrangements.

7.— (1) Subject to *subsection (2)* and *section 9*, the employer—

(*a*) may at his or her own initiative, or

(*b*) shall at the written request of at least 10 per cent of employees received either by him or her on the one hand, or by the Court or a nominee of the Court on the other hand,

enter into negotiations with employees or their representatives (or both) to establish information and consultation arrangements.

(2) The minimum requirement of 10 per cent of employees of the undertaking provided for in *subsection (1)(b)* shall be construed as meaning the lesser of—

(*a*) 10 per cent of the employees in the undertaking concerned (but not less, in any case, than 15 employees), or

(*b*) 100 employees,

(to be known and in this Act referred to as the "employee threshold").

(3) Where a request is received by the Court or a nominee of the Court under *subsection (1)(b)*, the Court or the nominee shall—

(*a*) notify the employer as soon as is reasonably practicable that the request has been made,

(*b*) request from the employer the information that it or its nominee requires to verify the number and names of the employees who have made the request, and

(*c*) issue a written notification to the employer and the employees who have made the request confirming how many employees have made the request and whether the employee threshold has been met on the basis of the information provided by the employees and the employer.

(4) Where the Court or its nominee requests information from the employer under *subsection (3)(b)*, the employer shall provide the information requested as soon as is reasonably practicable.

(5) Where a notification under *subsection (3)(c)* confirms that the request meets the employee threshold, the date of receipt of the notification by the employer shall be taken to be the date on which the employer received the request.

(6) Within 6 months from commencing negotiations, the parties shall agree to establish an information and consultation arrangement by means of—

(*a*) a negotiated agreement under *section 8*, or

(*b*) the Standard Rules under *section 10* (as set out in *Schedule 1*).

(7) The period of 6 months referred to in *subsection (6)* may be extended by agreement of the parties.

(8) If, at the time of making a request under *subsection (1)(b)*, the employee threshold is not met, the employees of the undertaking shall not make a further request for negotiations until 2 years have passed from the date on which the initial or previous request was received by the employer or the date of receipt of notification by the employer under *subsection (3)(c)*.

Negotiated agreements.

8.— (1) An agreement establishing one or more information and consultation arrangements may be negotiated by the employer and the employees or their representatives (or both) (to be known and in this Act referred to as a "negotiated agreement").

(2) A negotiated agreement shall be—

(*a*) in writing and dated,

(*b*) signed by the employer,

(*c*) approved by the employees,

(*d*) applicable to all employees to whom the agreement relates, and

(*e*) available for inspection by those persons and at the place agreed between the parties.

(3) For the purposes of *subsection (2)(c)*, the agreement shall be regarded as having been approved by the employees—

(*a*) where a majority of those employees employed in the undertaking who cast a preference do so in favour of the terms of the agreement,

(*b*) where a majority of employee representatives, elected or appointed for the purposes of negotiations under this Act, approve the agreement in writing, or

(*c*) where the result of employing any other procedure agreed to by the parties for determining whether the agreement has been so approved discloses that it has been so approved.

(4) The employer shall ensure that the procedure for the casting of a preference referred to in *subsection (3)(a)* is confidential and capable of independent verification and of being used by all employees.

(5) A negotiated agreement shall include reference to the following matters:

(*a*) the duration of the agreement and the procedure, if any, for its renegotiation;

(*b*) the subjects for information F2**[**(including relevant information)**]** and consultation;

(*c*) the method and timeframe by which information is to be provided, including as to whether it is to be provided directly to employees or through one or more employees' representatives;

(*d*) the method and timeframe by which consultation is to be conducted, including as to whether it is to be conducted directly with employees or through one or more employees' representatives; and

(*e*) the procedure for dealing with confidential information.

(6) At any time before a negotiated agreement expires or within 6 months after its expiry, the parties to the agreement may renew it for any further period they think fit.

(7) A negotiated agreement renewed under *subsection (6)* within the period of 6 months referred to in that subsection shall be deemed to have remained in force from the date it would otherwise have expired.

Pre-existing agreements.

9.— (1) Subject to the provisions of this section, where an agreement (to be known and in this Act referred to as a "pre-existing agreement") exists within—

(*a*) an undertaking referred to in *section 4(1)(a)*, on or before a date to be prescribed (being a date before 23 March 2007),

(*b*) an undertaking referred to in *section 4(1)(b)*, on or before 23 March 2007, or

(*c*) an undertaking referred to in *section 4(1)(c)*, on or before 23 March 2008,

and that pre-existing agreement satisfies the requirements of this section, the employer is not obliged to comply with a request under *section 7*.

(2) A pre-existing agreement shall be—

(*a*) in writing and dated,

(*b*) signed by the employer,

(*c*) approved by the employees,

(*d*) applicable to all employees to whom the agreement relates, and

(*e*) available for inspection by those persons and at the location agreed by the parties.

(3) For the purposes of *subsection (2)(c)*, a pre-existing agreement shall be regarded as having been approved by the employees—

(*a*) where a majority of those employees employed in the undertaking who cast a preference do so in favour of the terms of the agreement, or

(*b*) where the result of employing any other procedure agreed to by the parties for determining whether the agreement has been so approved discloses that it has been so approved.

(4) The employer shall ensure that the procedure referred to in *subsection (3)(a)* is confidential and capable of independent verification and of being used by all employees.

(5) A pre-existing agreement shall be presumed to be valid unless proved to the contrary, and shall remain in force—

(*a*) for the period, if any, specified in the agreement or the agreement as renewed,

(*b*) in the case of an open ended agreement, until it is brought to an end in accordance with its terms, or

(*c*) until it is brought to an end by agreement of the parties.

(6) Where a pre-existing agreement is not in force for 6 months, *section 7* shall apply.

(7) A pre-existing agreement shall include reference to the following matters—

(*a*) the duration of the agreement and the procedure, if any, for its review,

(*b*) the subjects for information and consultation,

(*c*) the method by which information is to be provided, including as to whether it is to be provided directly to employees or through one or more employees' representatives, and

(*d*) the method by which consultation is to be conducted, including as to whether it is to be conducted directly with employees or through one or more employees' representatives.

Standard rules on information and consultation.

10.— (1) Where—

(*a*) the parties agree to adopt the Standard Rules set out in *Schedule 1* and the procedures for the election of employees' representatives set out in *Schedule 2* ,

(*b*) the employer refuses to enter into negotiations within 3 months of receiving the written request from employees as provided for under *section 7(1)* or of the date of receipt of notification by the employer under *section 7(3)(c)*, or

(*c*) the parties to the negotiations cannot agree to the establishment of an information and consultation arrangement within the time limit specified in *section 7(6)* and *section 7(7)*,

the Standard Rules shall apply to the undertaking and an Information and Consultation Forum shall be established.

(2) Subject to *section 14(4)* and *(5)*, where the Standard Rules apply to an undertaking, the employer shall as soon as practicable, but not later than 6 months after they first become applicable, comply with the requirements of the Standard Rules.

(3) After a minimum initial period of 2 years from the establishment of the Information and Consultation Forum and thereafter on a basis agreed by both parties, the application of the Standard Rules to an undertaking may be reviewed by the Information and Consultation Forum and the employer, and both parties may enter into negotiations for the purpose of changing the rules or procedures for that Forum and may change those rules or procedures accordingly.

(4) If the terms of a negotiated agreement are not approved in accordance with *section 8(3)*, the Standard Rules shall not apply until 2 years have passed.

(5) Where, during the period of 2 years referred to in *subsection (4)*, the parties seeking to approve a negotiated agreement re-enter negotiations and approve a negotiated agreement the Standard Rules shall not apply.

Direct involvement.

11.— (1) In relation to *sections 8* and *9*, an employee may exercise his or her right to information and consultation under *section 3* either directly or by means of his or her representatives elected or appointed for that purpose.

(2) Subject to *subsection (3)* and where a system of direct involvement is in operation for the whole or part only of the undertaking concerned, in order to be represented by his or her representatives at least 10 per cent of employees for whom the direct involvement system operates are required to make a written request to the employer, the Court or a nominee of the Court seeking to exercise the right to information and consultation through employees' representatives.

(3) The minimum requirement of 10 per cent of employees of the undertaking provided for in *subsection (2)* is subject to the approval of the majority of employees to whom the direct involvement system applies.

(4) For the purposes of *subsection (3)*, a request to change from a system of direct involvement to a system of representation through employees' representatives shall be regarded as having been approved by the employees for whom the direct involvement system operates where a majority of those employees who cast a preference are in favour of the change.

(5) The employer shall ensure that the procedure for the casting of a preference referred to in *subsection (4)* is confidential and capable of independent verification and of being used by all employees.

(6) On receipt of a request under *subsection (2)* which is approved under *subsection (3)*, an employer shall arrange for the election or appointment of representatives by the employees.

Co-operation.

12.— When defining or implementing practical arrangements for information and consultation under this Act, the employer and one or more employees or his or her representatives (or both) shall work in a spirit of co-operation, having due regard to their reciprocal rights and duties, and taking into account the interests both of the undertaking and of the employees.

Protection of employees' representatives.

13.— (1) An employer shall not penalise the employees' representative for performing his or her functions in accordance with this Act.

(2) For the purposes of this section, an employees' representative is penalised if he or she—

(*a*) is dismissed or suffers any unfavourable change to his or her conditions of employment or any unfair treatment (including selection for redundancy), or

(*b*) is the subject of any other action prejudicial to his or her employment.

(3) Subject to *subsection (5)*, the employees' representative shall be afforded any reasonable facilities, including time off, that will enable him or her to perform his or her functions as employees' representative promptly and efficiently.

(4) An employees' representative shall be paid his or her wages (within the meaning of the Payment of Wages Act 1991) for any period of absence afforded to him or her in accordance with *subsection (3)*.

(5) The granting of facilities under *subsection (3)* shall have regard to the needs, size and capabilities of the undertaking concerned and shall not impair the efficient operation of the undertaking.

(6) *Schedule 3* has effect in relation to an alleged contravention of *subsection (1)*.

(7) If a penalisation of an employees' representative, in contravention of *subsection (1)*, constitutes a dismissal of the representative within the meaning of the Unfair Dismissals Acts 1977 to 2005, relief may not be granted to the representative in respect of that penalisation both under *Schedule 3* and under those Acts.

Confidential information.

14.— (1) Subject to *subsections (4)* and *(5)* an individual who at any time is or was—

(*a*) a member of an Information and Consultation Forum,

(*b*) an employees' representative who is party to an information and consultation arrangement,

(*c*) an employee participant in an information and consultation arrangement, or

(*d*) an expert providing assistance,

shall not disclose to employees or to third parties any information which, in the legitimate interest of the undertaking, has been expressly provided to him or her by the undertaking in confidence.

(2) The duty of confidentiality imposed by *subsection (1)* shall continue to apply after the cessation of the employment of the individual concerned or the expiry of his or her term of office.

(3) Notwithstanding *subsection (1)*, the individual concerned may disclose information which has been expressly provided to him or her in confidence to

employees and to third parties where those employees or third parties are subject to a duty of confidentiality under this Act.

(4) An employer may refuse to communicate information or undertake consultation where the nature of that information or consultation is such that, by reference to objective criteria, it would—

(*a*) seriously harm the functioning of the undertaking, or

(*b*) be prejudicial to the undertaking.

(5) An employer shall refuse to disclose information where disclosure of the information concerned is prohibited by any enactment.

(6) The Court or any member of the Court or the registrar or any officer or servant of the Court, including any person or persons appointed by the Court as an expert or mediator, shall not disclose any information obtained by it in confidence in the course of any proceedings before it under this Act.

Dispute resolution.

15.— (1) Disputes between an employer and one or more employees or his or her representatives (or both) concerning:

(*a*) negotiations under *section 8* or *10* ,

(*b*) interpretation or operation of any agreement under *section 8* or *9*,

(*c*) interpretation or operation of the Standard Rules under *section 10* (as set out in *Schedule 1*) or the procedures for election of employees' representatives (as set out in *Schedule 2*), or

(*d*) interpretation or operation of a system of direct involvement under *section 11*,

may, subject to *subsection (2)*, be referred by the employer, one or more than one employee or his or her representatives (or both) to the Court for investigation.

(2) Such a dispute may be referred to the Court only after—

(*a*) recourse to the internal dispute resolution procedure (if any) in place in the employment concerned has failed to resolve the dispute, and

(*b*) the dispute has been referred to the Commission which, having made available such of its services as are appropriate for the purpose of resolving the dispute, furnishes a certificate to the Court stating that the Commission is satisfied that no further efforts on its part will advance the resolution of the dispute.

(3) Having investigated a dispute under *subsection (1)*, the Court may make a recommendation in writing giving its opinion in the matter.

(4) Where, in the opinion of the Court, a dispute that is the subject of a recommendation under *subsection (3)* has not been resolved, the Court may, at the request of—

(*a*) an employer, or

(*b*) one or more employees or their representatives (or both),

and, following a review of all relevant matters, make a determination in writing.

(5) Disputes between an employer and one or more than one employee or his or her representatives (or both) concerning—

(*a*) instances where the employer refuses to communicate information or undertake consultation under *section 14(4)* or *(5)*,

(*b*) instances where the employer discloses information to an individual to whom *section 14(1)* applies subject to the condition that the information is not to be disclosed to a third party due to its confidential nature, or

(*c*) instances where an individual to whom *section 14(1)* applies discloses information, which in the legitimate interest of the undertaking has been expressly provided to him or her in confidence, to employees or to third parties not subject to a duty of confidentiality,

may be referred by the employer, one or more employees or his or her representatives (or both) to the Court for determination.

(6) As regards a dispute referred to it under *subsection (1)* or *(5)*, the Court shall—

(*a*) give the parties an opportunity to be heard by it and to present any evidence relevant to the dispute,

(*b*) make a recommendation or, as the case may be, determination in writing in relation to the dispute, and

(*c*) communicate the recommendation or, as the case may be, determination to the parties.

(7) The following matters or procedures to be followed in relation to them, shall be determined by the Court, namely:

(*a*) the procedure in relation to all matters concerning the initiation and hearing by the Court of a dispute under this section;

(*b*) the times and places of hearings of such disputes;

(*c*) the publication and notification of recommendations and determinations of the Court;

(*d*) any matters consequential on, or incidental to, the matters referred to in *paragraphs (a)* to *(c)*.

(8) In deciding what constitutes confidential information, the Court may be assisted by a panel of experts.

(9) A party to a dispute under this section may appeal from a determination of the Court to the High Court on a point of law and the decision of the High Court shall be final and conclusive.

(10) The Court may refer a question of law arising in proceedings before it under this section to the High Court for determination and the decision of the High Court shall be final and conclusive.

Power of Court to administer oaths and compel witnesses.

16.— (1) The Court shall, on the hearing of a dispute referred to it for recommendation or determination under *section 6* or *section 15* or on the hearing of an appeal under *Schedule 3*, have power to take evidence on oath and for that purpose may cause to be administered oaths to persons attending as witnesses at that hearing.

(2) Any person who, upon examination on oath authorised by this section, wilfully makes any statement which is material for that purpose and which he or she knows to be false or does not believe to be true is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both.

(3) The Court may, by giving notice in that behalf in writing to any person, require that person to attend at such time and place as is specified in the notice to give evidence in relation to a dispute referred to the Court for recommendation or determination under *section 6* or *section 15* or an appeal under *Schedule 3* or to

produce any documents in his or her possession, custody or control which relate to any such matter.

(4) A notice under *subsection (3)* may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to that person at the address at which he or she ordinarily resides or, in the case of the employer, at the address at which the employer concerned ordinarily resides or carries on any profession, business or occupation.

(5) A person to whom a notice under *subsection (3)* has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(6) A witness in a hearing of a dispute or appeal before the Court has the same privileges and immunities as a witness before the High Court.

Enforcement.

17.— (1) If—

(*a*) a party to a Court determination fails to carry out in accordance with its terms a determination of the Court in relation to a dispute under *section 6* or *15*, or

(*b*) a party to a complaint under *Schedule 3* fails to carry out in accordance with its terms a decision of a rights commissioner or a determination of the Court under that Schedule in relation to the complaint,

within the period specified in the determination or decision or if no such period is so specified within 6 weeks from the date on which the determination or decision is communicated to the parties, the Circuit Court shall, on application to it in that behalf by one or more of the parties to the dispute or complaint, without hearing any evidence (other than in relation to the matters aforesaid) make an order directing the party concerned to carry out the determination or decision in accordance with its terms.

(2) The reference in *subsection (1)* to a determination of the Court or a decision of a rights commissioner is a reference to such a determination or decision in relation to which, at the end of the time for bringing an appeal against it, no such appeal has been brought or, if such an appeal has been brought it has been abandoned and the references to the date on which the determination or decision is communicated to the parties shall, in a case where such an appeal is abandoned, be read as references to the date of that abandonment.

(3) In an order under this section providing for the payment of compensation of the kind referred to in *paragraph 1(3)(c)* of *Schedule 3*, the Circuit Court may, if in all the circumstances it considers it appropriate to do so, direct the employer concerned to pay to the employee concerned interest on the compensation at the rate referred to in section 22 of the Courts Act 1981, in respect of the whole or any part of the period beginning 6 weeks after the date on which the determination of the Court or the decision of the rights commissioner is communicated to the parties and ending on the date of the order.

(4) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the employer concerned ordinarily resides or carries on any profession, business or occupation.

Inspectors.

18.— (1) In this section "inspector" means a person appointed under *subsection (2)*.

(2) The Minister may, in writing, appoint as many persons as the Minister thinks appropriate to be inspectors for the purposes of this Act.

(3) Subject to this section, an inspector may do all or any of the following things for the purposes of this Act—

(*a*) enter at all reasonable times any premises or place where the inspector believes on reasonable grounds that—

(i) an employee is employed in work, or

(ii) the work that an employee is employed to do is directed or controlled,

(*b*) make such examination or enquiry as may be necessary for ascertaining whether this Act is being complied with in respect of an employee employed in those premises or that place or an employee whose work is directed or controlled from the premises or place,

(*c*) require the employer of an employee, or the representative of the employer, to produce to the inspector any records the employer is required to keep under any other enactment that are relevant to the employer's obligations under this Act and inspect and take copies of entries in the records (including, in the case of information in a non-legible form, a copy of or an extract from that information in a more permanent legible form),

(*d*) require any person the inspector believes on reasonable grounds to be or to have been an employee or the employer of an employee to furnish such information to the inspector as the inspector may reasonably request,

(*e*) examine with regard to any matters under this Act any person the inspector has reasonable cause to believe to be or to have been an employer or employee and require the person to answer such questions (other than questions tending to incriminate the person) as the inspector may put relative to those matters and to sign a declaration of the truth of the answers.

(4) An inspector shall not, except with the consent of the occupier, enter a private dwelling (other than a part of the dwelling used as a place of work) unless he or she has obtained a warrant from the District Court under *subsection (7)* authorising the entry.

(5) Where an inspector in attempting to exercise his or her powers under this section is prevented from entering any premises, he or she may apply under *subsection (7)* for a warrant authorising the entry.

(6) An inspector, where he or she considers it necessary to be so accompanied, may be accompanied by a member of the Garda Síochána when exercising a power conferred on an inspector under this section.

(7) If a judge of the District Court is satisfied on the sworn information of an inspector that there are reasonable grounds for suspecting that information required by an inspector under this section is held on any premises or any part of the premises, the judge may issue a warrant authorising an inspector accompanied by other inspectors or a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter the premises (if need be by the use of reasonable force) and exercise all or any of the powers conferred on an inspector under *subsection (3)*.

(8) A person who—

(*a*) obstructs or impedes an inspector in the exercise of any of the powers conferred on an inspector under this section,

(*b*) refuses to produce a record which an inspector lawfully requires the person to produce,

(*c*) produces or causes to be produced, or knowingly allows to be produced, to an inspector a record which is false or misleading in a material respect, knowing it to be so false or misleading,

(*d*) gives to an inspector information which is false or misleading in a material respect knowing it to be so false or misleading, or

(*e*) fails or refuses to comply with a lawful requirement of an inspector under *subsection (3)*,

is guilty of an offence.

(9) Every inspector shall be furnished by the Minister with a certificate of his or her appointment and, on applying for admission to any premises or place for the purposes of this Act, shall, if requested by a person affected, produce the certificate or a copy of the certificate to that person.

Offences.

19.— (1) A person who fails to comply with *section 7*, *8*, *9*, *10* or *13* is guilty of an offence.

(2) It is an offence for an employer to refuse to provide the information referred to in *section 5* or to unreasonably or wilfully obstruct or delay the provision of such information.

(3) It is an offence for an employer to fail to arrange for the election or appointment of one or more than one employees' representative under *section 6(2)*.

(4) It is an offence for an employer to fail to put in place a system of representation through employees' representatives where one has been requested and approved by employees under *section 11*.

(5) It is an offence for an individual to whom *section 14(1)* applies to disclose information to employees or third parties not subject to a duty of confidentiality under this Act where that information is expressly provided in confidence to the individual concerned.

Penalties.

20.— (1) A person guilty of an offence under *section 18* or *19* shall be liable—

(*a*) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €30,000 or imprisonment for a term not exceeding 3 years or both.

(2) If the offence under *section 18* or *19* of which a person was convicted is continued after conviction, that person shall be guilty of a further offence on every day on which the act or omission constituting the offence continues, and for each such further offence the person shall be liable on summary conviction to a fine not exceeding €500 or on conviction on indictment to a fine not exceeding €5,000.

(3) Proceedings for an offence under *section 18* or *19* may be brought and prosecuted by the Minister.

Notification obligations of transferor to transferee in the event of transfer of an undertaking.

21.— (1) For the purposes of this section—

"Council Directive" means Council Directive No. 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses;

"Regulations" means the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003);

"transfer" means the transfer of an economic entity that retains its identity;

"transferee" means any natural or legal person who, by reason of a transfer within the meaning of the Regulations, becomes the employer in respect of the undertaking, business or part of the undertaking or business;

"transferor" means any natural or legal person who, by reason of a transfer within the meaning of the Regulations, ceases to be the employer in respect of the undertaking, business or part of the undertaking or business.

(2) A word or expression that is used in this section, and which is also used in the Council Directive or the Regulations, as appropriate, has the same meaning in this section as it has in the Council Directive or the Regulations, as appropriate.

(3) The transferor shall notify the transferee of all the rights and obligations, arising from a contract of employment existing on the date of a transfer, which will be transferred to the transferee, so far as those rights and obligations are, or ought to have been, known to the transferor at the time of transfer.

(4) A failure by the transferor to notify the transferee of any such right or obligation shall not affect the transfer of that right or obligation and the rights of any employees against the transferee or transferor in respect of that right or obligation.

(5) If—

(*a*) a failure of the foregoing kind consists of a failure to provide information or documents to the transferee the provision of which is necessary in order for the transferee to fulfil an obligation of the transferee owed to an employee,

(*b*) the transferee is, in proceedings finally determined under the Regulations, required by a decision of a rights commissioner or a determination of the Employment Appeals Tribunal to pay an amount of compensation to that employee in respect of a complaint that the transferee has not fulfilled that obligation, and

(*c*) the transferee has paid that amount of compensation to that employee,

then, subject to *subsection (6)*, the transferee has a right of action in any court of competent jurisdiction to recover from the transferor such proportion of that amount of compensation as the court determines to be attributable to the failure of the transferor to provide the information or documents concerned.

(6) An action under *subsection (5)* shall not lie unless it has been preceded by—

(*a*) service of a notice in writing on the transferor—

(i) indicating, in everyday language—

(I) the particular obligation the transferee considers he or she owes to one or more employees of the transferee, and

(II) the class of information or documents that the transferee believes may be in the possession or under the control of the transferor (and which is not also in the possession or under the control of any of the employees of the transferee), being information or documents of a class which the transferee considers an employer must possess in order to fulfil the obligation concerned,

and

(ii) requesting the transferor to provide to the transferee, within a specified period (not being less than 21 days beginning on the date of the service of the notice), information or documents falling within that class of information or documents,

and

(*b*) compliance by the transferee with any reasonable request in writing of the transferor for further details to be furnished to the transferor as to the particular items of information or documents that are being referred to in that notice (and any period which elapses before that request is complied with shall not be reckoned in calculating the period specified in that notice).

(7) An action under *subsection (5)* shall, for the purposes of this section and any other enactment, be regarded as an action founded on quasi-contract.

Short title and commencement.

22.— (1) This Act may be cited as the Employees (Provision of Information and Consultation) Act 2006.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Section 10.

SCHEDULE 1

Standard Rules on Information and Consultation

Size and structure of Forum.

1. (1) The Information and Consultation Forum (in this Schedule referred to as the "Forum") shall be composed of employees' representatives who shall be employees of the undertaking.

(2) Employees' representatives shall be elected in accordance with *Schedule 2*. In the absence of elections, the representatives shall be appointed by the employees and the basis on which any such appointment is made may, if the employees so determine, be such as is agreed by them with the employer.

(3) The employer shall arrange for the election process referred to in *subparagraph (2)*.

(4) The Forum shall have at least 3 but not more than 30 members and may agree its own internal structures.

Rules of Procedure.

2. (1) The Forum shall adopt its own rules of procedure subject to the following:

(*a*) the arrangements for the meetings of the Forum shall be agreed by the employer in consultation with employees or their representatives but the employer may not unreasonably withhold consent to proposals made by employees or their representatives;

(*b*) the minutes of the Forum meetings with the employer shall be approved by both the employer and employees' representatives;

(*c*) before any meeting with the employer, the Forum shall be entitled to meet without the employer concerned being present;

(*d*) without prejudice to *section 14(1)*, *(2)* and *(3)*, the members of the Forum shall inform the employees of the content and outcome of the meetings of the Forum carried out in accordance with this Schedule;

(*e*) the Forum shall have the right to meet with the employer twice a year. Where there are exceptional circumstances, the Forum shall have the right to request a meeting with the employer and consent to this meeting shall not be unreasonably withheld.

Competence.

3. For the purposes of these Rules, "information and consultation" includes:

(*a*) information on the recent and probable development of the undertaking's activities and economic situation;

(*b*) information and consultation on the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular where there is a threat to employment;

(*c*) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations, including those covered by the European (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and the Protection of Employment Act 1977 (as amended by the Protection of Employment Order 1996 (S.I. No.

370 of 1996) and the European Communities (Protection of Employment) Regulations 2000 (S.I. No. 488 of 2000)).

Practical arrangements for Information and Consultation.

4. (1) Information shall be given by the employer at the time, in the fashion and with the content appropriate to enable, in particular, the Forum to conduct an adequate study and, where necessary, prepare for consultation.

(2) Consultation shall take place:

(*a*) while ensuring that the method, content and timeframe thereof are appropriate;

(*b*) at the relevant level of management and representation, depending on the subject under discussion;

(*c*) on the basis of information supplied by the employer and of the opinion which the employees' representatives are entitled to formulate;

(*d*) in such a way as to enable the Forum to meet the employer and obtain a response, and the reasons for that response, to any opinion they might form;

(*e*) with a view to reaching an agreement on decisions referred to in *paragraph 3(c)* that are within the scope of the employer's powers.

Expenses.

5. (1) The expenses incurred in the operation of the Forum shall be borne by the employer.

(2) The employer shall provide the members of the Forum with any financial resources that are necessary and reasonable to enable them to perform their duties in an appropriate manner.

Section 10.

SCHEDULE 2

ELECTION OF EMPLOYEES' REPRESENTATIVES

1. An employee who is employed in the State by the relevant undertaking on the day the date or dates for an election of members of the Information and Consultation Forum (in this Schedule referred to as the "Forum") is fixed and who is, on the election day or days, an employee of the undertaking, shall be entitled to vote in such an election.

2. An employee who is employed in the State by the undertaking for a continuous period of not less than one year on the nomination day shall be eligible to stand as a candidate for election as a member of the Forum, provided that he or she is nominated by—

(*a*) at least 2 employees, or

(*b*) a trade union or excepted body with whom it is the practice of the employer to conduct collective bargaining negotiations.

3. Where the number of candidates on the nomination day exceeds the number of members to be elected to the Forum, a poll shall be taken by the returning officer and voting in the poll shall take place by secret ballot on a day or days to be decided by the returning officer and according to the principle of proportional representation.

4. The employer in consultation with existing employees shall appoint a returning officer whose duties shall include the organisation and conduct of nominations and elections and that officer may authorise other persons to assist in the performance of the duties of returning officer.

5. The returning officer shall perform his or her duties in a fair and reasonable manner and in the interests of an orderly and proper conduct of nomination and election procedures.

6. The cost of the nomination and election procedure shall be borne by the employer.

Section 13.

SCHEDULE 3

Redress for Contravention of Section 13(1)

F3**[***Decision of adjudication officer under section 41 of Workplace Relations Act 2015*

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 13 shall do one or more of the following, namely—

(a) declare that the complaint was or, as the case may be, was not well founded,

(b) require the employer to take a specified course of action, or

(c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances but not exceeding 2 years' remuneration in respect of the employee's employment.

Decision of Labour Court on appeal from decision referred to in paragraph 1

2. 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 paragraph 1 shall affirm, vary or set aside the decision of the adjudication officer.**]**

Paragraphs 1 and 2: supplemental provisions.

3. F4**[**...**]**

Number 9 *of* 2006

EMPLOYEES (PROVISION OF INFORMATION AND CONSULTATION) ACT 2006

REVISED

Updated to 1 February 2019

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

This Act is not collectively cited with any other legislation, but forms part of the body of employment legislation. It has its origins in Directive 2002/14/EC, which provides for the establishment of arrangements for informing and consulting employees in undertakings.

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 1974, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.