



Number 26 of 1946

INDUSTRIAL RELATIONS ACT 1946

REVISED

Updated to 1 July 2024

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All Acts up to and including the *Health (Assisted Human Reproduction) Act 2024* (18/2024), enacted 2 July 2024, and all statutory instruments up to and including the *Employment Regulation Order (Security Industry Joint Labour Committee) 2024* (S.I. No. 319 of 2024), made 26 June 2024, were considered in the preparation of this Revised Act.

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AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR PROMOTING HARMONIOUS RELATIONS BETWEEN WORKERS AND THEIR EMPLOYERS AND FOR THIS PURPOSE TO ESTABLISH MACHINERY FOR REGULATING RATES OF REMUNERATION AND CONDITIONS OF EMPLOYMENT AND FOR THE PREVENTION AND SETTLEMENT OF TRADE DISPUTES, AND TO PROVIDE FOR CERTAIN OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [27th August, 1946.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

- Short title. **1.**—This Act may be cited as the Industrial Relations Act, 1946.
- Commencement. **2.**—This Act shall come into operation on the day appointed for the purpose by order of the Minister.
- Definitions generally. **3.**—In this Act—
the expression “the Court” means the Labour Court;
the expression “the Minister” means the Minister for Industry and Commerce;
the word “prescribed” means prescribed by regulations made by the Minister under this Act;
the expression “registered joint industrial council” has the meaning given to it by [section 59](#) of this Act;
the expression “trade dispute” means any dispute or difference between employers and workers or between workers and workers connected with the employment or non-employment, or the terms of the employment, or with the conditions of employment, of any person F1[[and includes any such dispute or difference between employers and workers where the employment has ceased,](#)];
the expression “trade union” means a trade union which is the holder of a negotiation licence granted under the [Trade Union Act, 1941](#) (No. 22 of 1941).
- “worker”. **4.**—F2[...]

- Regulations. **5.**—The Minister may make regulations in relation to anything referred to in this Act as prescribed.
- Laying of regulations before Houses of the Oireachtas. **6.**—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 House, within the next twenty-one days on which that House has sat after the regulation has been laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- Prosecutions by the Minister. **7.**—An offence under any section or subsection contained in this Act may be prosecuted by the Minister.
- Repeals. **8.**—The enactments specified in the second column of the **First Schedule** to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- Expenses. **9.**—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II.

THE LABOUR COURT.

- Establishment of the Labour Court. **10.**—(1) There shall be a body, to be known as the Labour Court, to fulfil the functions assigned to it by this Act.
- (2) F3[...]
- F4[(3) Subject to subsection (3A) (inserted by section 75(1)(b) of the Workplace Relations Act 2015), the chairman shall—
- (a) except in the case of a person reappointed to be chairman under subsection (3B) (inserted by that section), be appointed by the Minister from among persons in respect of whom a recommendation for the purposes of this section has been made by the Public Appointments Service consequent upon the holding of a competition in accordance with the **Public Service Management (Recruitment and Appointments) Act 2004**, and
- (b) hold office subject to such terms and conditions as the Minister, with the consent of the Minister for Public Expenditure and Reform determines.]
- F5[(3A) The person who immediately before the commencement of section 75 of the Workplace Relations Act 2015 stood appointed as chairman shall, from such commencement, continue to be chairman for the unexpired period of the term of his appointment subject to the same terms and conditions as applied to his appointment immediately before such commencement.]
- F6[(3B) The Minister may reappoint a person whose term of office as chairman expires by the efflux of time to be the chairman.]
- F7[(4) (a) The Minister shall—
- (i) in respect of each workers' member, designate an organisation (in this section referred to as a "designated body") representative of trade unions of workers to nominate persons for the purposes of this section, and

- (ii) in respect of each employers' member, designate a trade union (in this section also referred to as a "designated body") of employers to nominate persons for the purposes of this section,
- and each such designated body shall nominate 3 persons for those purposes.
- (b) The Minister shall—
- (i) from among persons nominated under this subsection by a designated body referred to in subparagraph (i) of paragraph (a) appoint a person to be a workers' member of the Court, and
- (ii) from among persons nominated under this subsection by a designated body referred to in subparagraph (ii) of paragraph (a) appoint a person to be an employers' member of the Court.]
- F8[(4A) (a) A person who, immediately before the commencement of section 75 of the Workplace Relations Act 2015, stood appointed as a workers' member of the Court shall, from such commencement, continue to be a workers' member of the Court for the unexpired period of the term of his appointment subject to the same terms and conditions as applied to his appointment immediately before such commencement.
- (b) A person who, immediately before the commencement of section 75 of the Workplace Relations Act 2015, stood appointed as an employers' member of the Court shall, from such commencement, continue to be an employers' member of the Court for the unexpired period of the term of his appointment subject to the same terms and conditions as applied to his appointment immediately before such commencement.
- (4B) (a) The Minister may, after consultation with the designated body concerned, reappoint a person whose term of office as a workers' member of the Court expires by the efflux of time to be a workers' member of the Court.
- (b) The Minister may, after consultation with the designated body concerned, reappoint a person whose term of office as an employers' member of the Court expires by the efflux of time to be an employers' member of the Court.
- (4C) Where a person—
- (a) appointed under subsection (4) to be a member of the Court,
- (b) who continues to be a member of the Court by virtue of subsection (4A), or
- (c) reappointed in accordance with subsection (4B) to be a member of the Court,
- is, for whatever reason, unable to perform his functions as such member and the Minister is of the opinion that his inability to so perform his functions would unduly disrupt the performance by the Court or a division of the Court of its functions, a temporary vacancy in the membership of the Court shall be deemed to exist and the Minister may, after consultation with the designated body that nominated the person under that subsection, appoint a person to fill that temporary vacancy subject to such terms and conditions as the Minister shall determine.]
- (5) If, when a particular appointment of workers' members (or, in the event of a casual vacancy, a workers' member) is to be made—
- (a) more than one organisation representative of trade unions of workers is in being, and
- (b) the Minister is of opinion that it is undesirable that the appointment should be made under subsection (4) of this section,

he may, by regulations, declare that the appointment, instead of being made under the said subsection (4), shall be made under this subsection, and thereupon the following provisions shall have effect—

(i) the Minister shall invite trade unions of workers and organisations representative of trade unions of workers to nominate persons for appointment, and

(ii) he shall make the appointment from amongst the persons so nominated.

(6) The Civil Service Regulation Acts, 1924 and 1926, shall not apply to the office of chairman or ordinary member of the Court.

(7) An ordinary member shall, unless he dies, resigns or is removed, hold office—

(a) if appointed under subsection (4) of this section, for such period, not exceeding five years, as shall be fixed by the Minister when appointing him,

(b) if appointed under subsection (5) of this section, for five years or, if the regulations, by virtue of which he was appointed, are sooner revoked or annulled, until such revocation or annulment.

(8) An ordinary member may be removed from office by the Minister for stated reasons but, if the organisation by which he was nominated is in being, only with the consent of that organisation.

(9) The chairman and the ordinary members shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Finance, determines.

(10) The Chairman shall devote the whole of his time to the work of the Court.

(11) An ordinary member shall not hold the office of trustee, treasurer, secretary or any other office in, or be a member of any committee of, a trade union, or hold any office or employment which would prevent him from being at all times available for the work of the Court.

(12) A person shall not be appointed to be chairman or a member of the court unless he is ordinarily resident in the State.

F9[(13) The chairman and the ordinary members shall be independent in the performance of their functions.]

Divisions of the Court. **11.—**F10[...]

Deputy Chairman **12.—**F11[...]

Registrar and officers and servants of the Court. **13.—**(1) (a) The Minister shall appoint to be registrar of the Court a practising barrister or practising solicitor of not less than ten years' standing.

(b) For the purposes of paragraph (a) of this subsection, service in a situation in the Civil Service, for appointment to which only barristers and solicitors were eligible, shall be treated as practice as a barrister or solicitor.

(2) The Minister, after consultation with the Court and with the consent of the Minister for Finance, may appoint such officers and servants of the Court as he thinks necessary to assist the Court in the performance of its functions.

(3) The registrar, officers and servants of the Court shall hold office on such terms and receive such remuneration as the Minister for Finance determines.

Technical assessors.

14.—(1) The Court may appoint technical assessors to assist it on any matter relating to proceedings before the Court.

(2) Technical assessors shall be paid such fees as the Minister, with the consent of the Minister for Finance, determines.

Places for sittings of the Court and lodgment of documents.

15.—(1) The headquarters of the Court shall be at Dublin, but sittings of the Court may be held elsewhere in the State.

(2) The Court may designate suitable places at which documents for the Court may be lodged.

Conciliation officers.

16.—F12[...]

Finality of decisions of the Court.

17.—No appeal shall lie from the decision of the Court on any matter within its jurisdiction to a court of law.

Seal of the Court.

18.—(1) The Court shall have an official seal which shall be judicially noticed.

(2) The seal of the Court shall, when affixed to any document, be authenticated by the signature of the chairman or the registrar of the Court or of a person authorised by the Court to authenticate it.

(3) Every document purporting to express an order, award or other decision of the Court and to be sealed with the seal of the Court authenticated in accordance with this section shall, unless the contrary is proved, be deemed to have been duly and lawfully so sealed and shall, unless as aforesaid, be received in evidence as such order, award or decision without further proof and, in particular, without proof of any signature affixed to such document for the purpose of such authentication and without proof of the office or authority of the person whose signature such signature purports to be.

Proof of orders of the Court.

19.—(1) [Section 4](#) of the [Documentary Evidence Act, 1925](#) (No. 24 of 1925), shall apply to every order of the Court.

(2) Subsection (1) of [section 6](#) of the [Documentary Evidence Act, 1925](#), is hereby amended by adding to the official documents mentioned in that subsection orders of the Court, and the said [section 6](#) shall have effect accordingly.

Procedure of the Court.

20.—(1) Subject to [section 11](#) of this Act and subsection (2) of this section, the quorum for a meeting or sitting of the Court shall be five.

(2) The chairman may direct that, for the consideration of a particular matter, the Court shall consist of the chairman and two ordinary members selected by him, namely, a workers' member and an employers' member, and, if the chairman so directs, no other member shall act as a member of the Court in respect of that matter.

(3) Where—

(a) any question arises under this Act at a meeting or sitting of the Court, and

(b) the members of the Court are unable to agree upon the determination of the question,

the following provisions shall have effect—

(i) if the majority of the ordinary members agree upon the determination of the question, the question shall be determined accordingly,

(ii) if a majority of the ordinary members do not agree, but a majority of all the members agree, the question shall be determined, accordingly,

(iii) otherwise, the question shall be determined in accordance with the opinion of the chairman.

(4) The decision of the Court shall be pronounced by the chairman or such other member as the chairman shall authorise for the purpose, and no other opinion, whether assenting or dissenting, shall be pronounced nor shall the existence of any such other opinion be disclosed.

(5) Subject to this section, the Court may make rules for the regulation of its proceedings.

F13[(5A) Without prejudice to the generality of subsection (5), rules under that subsection may make provision in relation to any or all of the following matters:

(a) the bringing of appeals to the Court under Part 4 of the Workplace Relations Act 2015;

(b) the hearing of appeals by the Court under section 28 of that Act or the said Part 4;

(c) the times and places of hearings of such appeals;

(d) the representation of the parties at the hearing of such appeals;

(e) the notification and publication of decisions of the Labour Court on the hearing of such appeals;

(f) the giving of notice of appeal from decisions of adjudication officers;

(g) any matters consequential on, or incidental to, any of the foregoing matters.]

(6) Rules under this section may provide for the cases in which persons may appear before the Court by counsel or solicitor and, except as so provided, no person shall be entitled to appear by counsel or solicitor before the Court.

(7) The Court may hold any sitting or part of a sitting in private.

Power of Court to
summon
witnesses, etc.

21.—(1) F14[The Court may, for the purposes of any proceedings before it under F15[this Act, the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Protection of Employees (Employers' Insolvency) Act 1984 or Part 4 of the Workplace Relations Act 2015, or any investigation under the Employment Equality Act 1998 or the Industrial Relations (Amendment) Act 2001,] do all or any of the following things]—

(a) summon witnesses to attend before it,

F16[(b) take evidence on oath and, for that purpose, cause to be administered oaths to persons attending as witnesses before it,]

(c) require any such witness to produce to the Court any document in his power or control.

(2) A witness before the Court shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(3) If any person—

(a) on being duly summoned as a witness before the Court makes default in attending, or

- (b) being in attendance as a witness refuses to take an oath legally required by the Court to be taken, or to produce any document in his power or control legally required by the Court to be produced by him, or to answer any question to which the Court may legally require an answer,

he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

F17[(3A) A person who, in or for the purpose of proceedings before the Court, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.]

F18[(4) A document purporting to be signed by the chairman or the registrar of the Labour Court stating that—

- (a) a person named in the document was, by summons under subsection (1), required to attend before the Labour Court on a day and at a time and place specified in the document, and

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

shall, in proceedings for an offence under this section, be evidence of the matters so stated unless the contrary is shown.]

F19[(5) A document purporting to be signed by the chairman or the registrar of the Court stating that—

- (a) a person named in the document was, by summons under subsection (1), required to attend before the Court on a day and at a time and place specified in the document, and

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

shall, in proceedings for an offence under this section, be evidence of the matters so stated unless the contrary is shown.]

Prohibition on disclosure of information.

22.—The Court shall not include in any report any information obtained by it in the course of any proceedings before it under this Act as to any trade union or as to the business carried on by any person which is not available otherwise than through evidence given at the proceedings, without the consent of the trade union or persons concerned, nor shall any member of the Court or the registrar or any officer or servant of the Court or any person concerned in the proceedings, without such consent, disclose any such information.

Reports, etc., by Court.

23.—(1) The Court shall, as soon as may be after the expiration of each year, make to F20[the Minister] a general report (in this section referred to as an annual report) of its proceedings under this Act during that year.

(2) F21[...]

(3) An annual report shall contain particulars, of each registered joint industrial council together with the name of the secretary of the council and the address of its principal office.

(4) A copy of each annual report shall be laid before each House of the Oireachtas.

(5) The Court shall furnish to the Minister a copy of each order, recommendation and award made by the Court under this Act as soon as may be after it is made.

Duty of Court to consider certain matters with regard to employment conditions referred to it by the Minister.

24.—The Court shall consider any matter referred to it by the Minister concerning the employment conditions prevailing as regards the workers of any class and their employers and shall furnish a report thereon to the Minister together with such recommendations (if any) as it thinks proper, and the Minister shall consider any report and recommendation so made.

PART III.

AGREEMENTS RELATING TO WAGES AND CONDITIONS OF EMPLOYMENT.

Definitions for purposes of Part III.

25.—In this Part—

the expression “employment agreement” means an agreement relating to the remuneration or the conditions of employment of workers of any class, type or group made between a trade union of workers and an employer or trade union of employers or made, at a meeting of a registered joint industrial council, between members of the council representative of workers and members of the council representative of employers;

the expression “the register” means the Register of Employment Agreements;

F22[...]

F23[the expression “registered employment agreement” means—

(a) in the case of an agreement registered before the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012, an employment agreement for the time being registered in the register, and

(b) in the case of an agreement registered after the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012, an employment agreement for the time being registered in the register, the terms of which have been confirmed by order of the Minister under section 27,

and the word “registered” shall be construed accordingly.]

Register of Employment Agreements.

26.—The Court shall maintain a register to be known as the Register of Employment Agreements.

Registration of employment agreements.

27.—(1) Any party to an employment agreement may apply to the Court to register the agreement in the register.

F24[(2) Every application to register an employment agreement shall be accompanied by—

(a) a copy of the agreement, and

(b) confirmation, in such form and accompanied by such documentation as the Court may specify, that the parties to the agreement are substantially representative of the workers and employers in the class, type or group to which the agreement is expressed to apply,]

(3) Where an application is duly made to the Court to register in the register an employment agreement, the Court shall, subject to the provisions of this section, register the agreement in the register if it is satisfied—

- (a) that, in the case of an agreement to which there are two parties only, both parties consent to its registration and, in the case of an agreement to which there are more than two parties, there is substantial agreement amongst the parties representing the interests of workers and employers, respectively, that it should be registered,

F25[(aa) that it is appropriate to do so having regard to the matters specified in subsections (3A) and (3B),]

- (b) that the agreement is expressed to apply to all workers of a particular class, type or group and their employers where the Court is satisfied that it is a normal and desirable practice or that it is expedient to have a separate agreement for that class, type or group,
- (c) that the parties to the agreement are substantially representative of such workers and employers,
- (d) that the agreement is not intended to restrict unduly employment generally or the employment of workers of a particular class, type or group or to ensure or protect the retention in use of inefficient or unduly costly machinery or methods of working,
- (e) that the agreement provides that if a trade dispute occurs between workers to whom the agreement relates and their employers a strike or lock-out shall not take place until the dispute has been submitted for settlement by negotiation in the manner specified in the agreement, and
- (f) that the agreement is in a form suitable for registration.

F25[(3A) The Court shall not register an agreement under subsection (3) unless it is satisfied that—

- (a) the parties to the agreement are substantially representative of the workers and employers in the sector in question, and in satisfying itself in that regard the Court shall take into consideration—

- (i) the number of workers represented by the trade union party, and
 - (ii) the number of workers employed by the employer or the number of workers employed by employers represented by a trade union of employers,

in the class, type or group of workers to which the agreement is expressed to apply, and

- (b) registration of the agreement is likely to promote—

- (i) harmonious relations between workers and employers, and
 - (ii) the avoidance of industrial unrest.

(3B) When considering whether it is appropriate to register an agreement under subsection (3), other than an agreement applying to a single employer, the Court shall have regard to the following:

- (a) that the agreement will be binding on all workers and employers in the sector in question;
- (b) the desirability of maintaining established arrangements for collective bargaining;
- (c) the benefits of consultation between worker and employer representatives at enterprise and sectoral level;

- (d) the experience of registration and variation of employment agreements in the sector in question;
- (e) the potential impact on employment levels in the sector in question of registering an employment agreement;
- (f) the desirability of agreeing and maintaining fair and sustainable rates of remuneration in the sector in question;
- (g) the desirability of maintaining competitiveness in the sector in question;
- (h) the levels of employment and unemployment in the sector in question;
- (i) the terms of any relevant national agreement relating to pay and conditions for the time being in existence;
- (j) the general level of wages in comparable sectors;
- (k) where enterprises in the sector in question are in competition with enterprises in another Member State, the general level of wages in the enterprises in that other Member State taking into account the cost of living in the Member State concerned.,]

(4) Where an application is made to the Court to register an employment agreement, the Court shall direct such parties thereto as the Court shall specify to publish specified particulars of the agreement in such manner as, in the opinion of the Court, is best calculated to bring the application to the notice of all persons concerned.

- (5) (a) The Court shall not register an employment agreement until the lapse of fourteen days after publication of particulars of the agreement in accordance with subsection (4) of this section.
- (b) If within that period the Court receives notice of an objection to the agreement being registered, the Court shall, unless it considers the objection frivolous, consider the objection and shall hear all parties appearing to the Court to be interested and desiring to be heard, and if, after such consideration, the Court is satisfied that the agreement does not comply with the requirements specified in subsection (3) of this section, the Court shall refuse to register the agreement.

F25[(5A) (a) Where, after the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012, the Court registers an employment agreement, the Court shall forward a copy of the agreement to the Minister.

- (b) As soon as practicable after receipt of a copy of the agreement, the Minister shall, where he or she is satisfied that subsections (1) to (5) have been complied with, and where he or she considers it appropriate to do so, by order confirm the terms of the agreement, from such date (on or after the date of the order) as the Minister shall specify in the order.
- (c) Where the Minister is not satisfied that subsections (1) to (5) have been complied with, or where he or she considers that it is not appropriate to confirm the terms of the agreement, he or she shall—
 - (i) refuse to make an order to confirm the terms of the agreement, and
 - (ii) notify the Court in writing of his or her decision and the reasons for the decision.
- (d) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled

accordingly, but without prejudice to the validity of anything previously done thereunder.

(e) Nothing in this subsection shall affect the validity of an employment agreement registered before the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012.]

(6) A registered employment agreement shall not prejudice any rights as to rates of remuneration or conditions of employment conferred on any worker by another Part of this Act or by any other Act.

F25[(7) A registered employment agreement may provide that an employer may apply to the Court under section 33A for an exemption from the obligation to pay the rate of remuneration provided by the agreement.]

Variation of
registered
employment
agreement.

F26[28.— (1) Subject to this section, any party to a registered employment agreement may apply to the Court to vary the agreement in its application to any worker or workers to whom it applies.

(2) Where all parties to the registered employment agreement agree to vary the agreement in the terms of the proposed application, the Court shall within 6 weeks of receipt of an application under subsection (1) consider the application and shall hear all persons appearing to the Court to be interested and desiring to be heard.

(3) Not later than 4 weeks after considering an application under subsection (2) and where it is satisfied that it is appropriate to do so having regard to the matters specified in subsections (3A) and (3B) of section 27, the Court shall, as it thinks fit, refuse the application or make an order varying the agreement in such manner as it thinks proper.

(4) Where a party to a registered employment agreement wishes to apply to the Court to vary the agreement, and the other party or parties to the agreement do not agree with the proposed variation, a party to the agreement may invoke the dispute resolution procedures contained in the agreement.

(5) Where the parties to the registered employment agreement have complied with subsection (4) and have failed to reach agreement, a party to the agreement may refer the dispute to the Labour Relations Commission for conciliation.

(6) Following a referral of a dispute to the Labour Relations Commission under subsection (5), where the parties to the dispute have failed to arrive at a settlement of the dispute through conciliation, the Commission shall, within 6 weeks of referral of the dispute, forward a report to the Court stating that it is satisfied that no further efforts on its part will advance the resolution of the dispute and, notwithstanding section 26 of the Industrial Relations Act 1990, the Commission shall request the Court to investigate the dispute.

(7) On receipt of a report under subsection (6), the Court shall consider the application and shall hear all persons appearing to the Court to be interested and desiring to be heard, and the Court shall, within 6 weeks of receipt of the report, issue a recommendation to the parties to the registered employment agreement setting out its opinion on the merits of the dispute and the terms on which it should be settled.

(8) Where, 6 weeks after the date on which a recommendation under subsection (7) has issued, the dispute has not been resolved, a party to the agreement may apply to the Court to vary the agreement in the terms of the Court's recommendation.

(9) The Court shall consider an application under subsection (8) and shall hear all persons appearing to the Court to be interested and desiring to be heard, and after such consideration, where it is satisfied that it is appropriate to do so having regard to the matters set out in subsections (3A) and (3B) of section 27, the Court may, within

6 weeks of receipt of the application, as it thinks fit, refuse the application or make an order varying the agreement in such manner as it thinks proper.

- (10) (a) An employer to whom a registered employment agreement applies who is not a party to the agreement may, subject to this subsection, apply to the Court to vary the agreement in its application to any worker or workers to whom it applies.
- (b) The Court shall not hear an application under paragraph (a) unless the applicant satisfies the Court that since the date on which the employment agreement was registered or last varied under this section there has been a substantial adverse change in the economic circumstances of the sector to which it relates.
- (c) Where the Court is satisfied pursuant to paragraph (b) it shall notify the parties to the agreement of the application.
- (d) The Court shall, within 6 weeks of notification of the parties pursuant to paragraph (c), hear all persons appearing to the Court to be interested and desiring to be heard, and where it is satisfied that it is appropriate to do so having regard to subsections (3A)(b) and (3B) of section 27, the Court shall, not later than 4 weeks after hearing the relevant persons, as it thinks fit, refuse the application or make an order varying the agreement in such manner as it thinks proper.
- (e) An employer may not make an application under paragraph (a) in respect of a registered employment agreement until at least 12 months after—
- (i) the date on which the agreement was registered or last varied under this section, or
 - (ii) the date on which any previous application under paragraph (a) in respect of the agreement was refused by the Court,
- whichever is the later.
- (11) (a) Where, after the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012, the Court makes an order varying an agreement (in this subsection referred to as a "variation order") the Court shall forward a copy of the variation order to the Minister.
- (b) As soon as practicable after receipt of a copy of a variation order, the Minister shall, where he or she is satisfied that this section has been complied with, and where he or she considers it appropriate to do so, by order confirm the terms of the variation order, and the order shall have effect from such date (on or after the date of the order) as the Minister shall specify in the order.
- (c) Where the Minister is not satisfied that this section has been complied with, or where he or she considers that it is not appropriate to confirm the terms of the variation order, he or she shall—
- (i) refuse to make an order to confirm the terms of the variation order, and
 - (ii) notify the Court in writing of his or her decision and the reasons for the decision.
- (d) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

- (e) Nothing in this subsection shall affect the validity of an order varying a registered employment agreement made before the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012.]

Cancellation of registration.

29.—(1) The registration of an employment agreement may be cancelled by the Court on the joint application of all parties thereto if the Court is satisfied that the consent of all such parties to its cancellation has been given voluntarily.

F27[(2) The Court may on its own initiative or on written application to it by an interested party and shall, at the request of the Minister, review a trade or business to which a registered employment agreement relates.

(2A) For the purposes of a review under subsection (2), the Court may commission a report in relation to the circumstances of the trade or business concerned and shall hear all persons appearing to the Court to be interested and desiring to be heard.

(2B) Following a review under subsection (2), the Court may where it is satisfied that it is appropriate to do so—

- (a) having regard to the matters specified in subsection (3A) of section 27 and the findings contained in any report commissioned under subsection (2A), and

- (b) having considered any submissions made by interested persons,

cancel the registration of an employment agreement if satisfied that there has been such substantial change in the circumstances of the trade or business to which it relates that it is undesirable to maintain registration.]

(3) Where a registered employment agreement does not provide for its duration or termination, the Court may, after the lapse of twelve months from the date of registration, cancel the registration on the application, made after six months' notice to the Court, of all parties thereto representative of workers or of employers.

- (4) (a) Where a registered employment agreement is expressed to be for a specified period, it shall, if in force at the end of that period, and notwithstanding any provision that it shall cease to have effect at the expiration of such period, continue in force until its registration is cancelled in accordance with this Part.

- (b) The registration of an employment agreement continued in force under paragraph (a) of this subsection may be cancelled by the Court on the application of any party thereto, made after three months' notice to the Court, and consented to by all parties thereto representative of workers or of employers.

(5) Where a registered employment agreement is terminated by any party thereto in accordance with its terms, the Court shall, on receiving notice of the termination, cancel the registration.

F28[(6) The Court may cancel the registration of an employment agreement if it is satisfied, having regard to section 27(3A)(a), that the trade union of workers or employers or trade union of employers who were parties to the agreement are no longer substantially representative of the workers or employers concerned.

- (7) (a) Where, after the commencement of Part 2 of the Industrial Relations (Amendment) Act 2012, the Court cancels the registration of an employment agreement, the Court shall forward a copy of the cancellation to the Minister.

- (b) As soon as practicable after receipt of a copy of the cancellation, the Minister shall, where he or she is satisfied that the relevant provisions of this section have been complied with, and where he or she considers it appropriate to

do so, by order confirm the terms of the cancellation, from such date (on or after the date of the order) as the Minister shall specify in the order.

(c) Where the Minister is not satisfied that the relevant provisions of this section have been complied with, or where he or she considers that it is not appropriate to confirm the terms of the cancellation, he or she shall—

(i) refuse to make an order to confirm the terms of the cancellation, and

(ii) notify the Court in writing of his or her decision and the reasons for the decision.

(d) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.]

Adaptation of contracts of service consequential upon registration of employment agreement.

30.—(1) A registered employment agreement shall, so long as it continues to be registered, apply, for the purposes of this section, to every worker of the class, type or group to which it is expressed to apply, and his employer, notwithstanding that such worker or employer is not a party to the agreement or would not, apart from this subsection, be bound thereby.

(2) If a contract between a worker of a class, type or group to which a registered employment agreement applies and his employer provides for the payment of remuneration at a rate (in this subsection referred to as the contract rate) less than the rate (in this subsection referred to as the agreement rate) provided by such agreement and applicable to such worker, the contract shall, in respect of any period during which the agreement is registered, have effect as if the agreement rate were substituted for the contract rate.

(3) If a contract between a worker of a class, type or group to which a registered employment agreement applies and his employer provides for conditions of employment (in this subsection referred to as the contract conditions) less favourable than the conditions (in this subsection referred to as the agreement conditions) fixed by the agreement and applicable to such worker, the contract shall in respect of any period during which the agreement is registered, have effect as if the agreement conditions were substituted for the contract conditions.

Publication of particulars in relation to employment agreements and right to obtain copies thereof.

31.—(1) When an employment agreement is registered the Court shall publish in such manner as it thinks fit notice of the registration together with such particulars of the agreement as the Court considers necessary.

(2) When a registered employment agreement is varied the Court shall publish in such manner as it thinks fit notice of the variation together with such particulars of the variation as the Court considers necessary.

(3) When the registration of an employment agreement is cancelled the Court shall publish in such manner as it thinks fit notice of the cancellation.

(4) The Court may from time to time publish in such manner as it thinks fit lists of registered employment agreements together with such particulars of the agreements as the Court considers necessary.

(5) The Court shall cause to be supplied to any person who applies therefor and pays the prescribed fee a copy of a registered employment agreement.

Breaches of
registered
employment
agreements.

32.—(1) If a trade union representative of workers affected by a registered employment agreement complains to the Court that any employer of any class to which the agreement relates has failed or neglected to comply with the agreement, the following provisions shall have effect—

- (a) the Court shall consider the complaint, and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (b) if, after such consideration, the Court is satisfied that the complaint is well-founded, the Court may by order direct the said employer to do such things (including the payment of any sum due to a worker for remuneration in accordance with the agreement) as will in the opinion of the Court result in the said agreement being complied with by the said employer.

(2) If an employer or a trade union representative of employers affected by a registered employment agreement complains to the Court that a trade union representative of workers affected by the agreement is promoting or assisting out of its funds in the maintenance of a strike which to the knowledge of the general committee of management of the trade union of workers is in contravention of the agreement and which has for its object the enforcement of a demand on an employer to grant to a worker remuneration or conditions other than those fixed by the agreement, the following provisions shall have effect—

- (a) the Court shall consider the complaint and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (b) if, after such consideration, the Court is satisfied that the complaint is well-founded—
 - (i) the Court may, by order, direct the said trade union of workers to refrain from assisting out of its funds in the maintenance of the said strike;
 - (ii) the Court may cancel the registration of the agreement.

(3) Where—

- (a) a strike continues after the Court has made an order under subsection (2) of this section in respect of the strike, and
- (b) members of a trade union of workers, whose rates of remuneration or conditions of employment are not the subject of the strike, are unable or decline to work while the strike continues,

then, the payment to those members of strike benefit in accordance with the rules of the trade union shall not be regarded, for the purposes of this section, as assisting in the maintenance of the strike.

F29[(4) If an employer fails to comply with an order under paragraph (b) of subsection (1) within 28 days from the date on which the terms of the order are communicated to the parties, the Circuit Court shall, on application to it in that behalf by—

- (a) the worker concerned (or, in the case of a worker who has not reached the age of 18 years, the worker's parent or guardian with his or her consent),
- (b) with the consent of the worker, any trade union of which the worker is a member, or
- (c) the Minister, if the Minister considers it appropriate to make the application having regard to all the circumstances,

without hearing the employer or any evidence (other than in relation to the matters aforesaid), make an order directing the employer to comply with the terms of the order.]

F30[(5) The reference in subsection (4) to an order of the Labour Court is a reference to such order in relation to which, at the expiration 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 terms of the order are communicated to the parties shall, in a case where such an appeal is abandoned, be construed as references to the date of such abandonment.

(6) The Circuit Court may, in an order under this section, if in all the circumstances it considers it appropriate to do so, where the order relates to the payment of compensation, direct the employer concerned to pay to the worker concerned interest on the compensation at the rate specified for the time being in section 26 of the Debtors (Ireland) Act 1840, in respect of the whole or any part of the period beginning 6 weeks after the date on which the order of the Labour Court is communicated to the parties and ending on the date of the order under this section.

(7) 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, trade, business or occupation.]

Interpretation of registered employment agreements.

33.—(1) The Court may at any time, on the application of any person, give its decision on any question as to the interpretation of a registered employment agreement or its application to a particular person.

(2) A court of law, in determining any question arising in proceedings before it as to the interpretation of a registered employment agreement or its application to a particular person, shall have regard to any decision of the Court on the said agreement referred to it in the course of the proceedings.

(3) If any question arises in proceedings before a court of law as to the interpretation of a registered employment agreement or its application to a particular person, the court of law may, if it thinks proper, refer the question to the Court for its decision, and the decision of the Court thereon shall be final.

F31[Exemption from obligation to pay rate of remuneration provided by registered employment agreement.

33A.— (1) Where a registered employment agreement provides that an employer may apply to the Court under this section, the Court may in accordance with this section exempt an employer from the obligation to pay the rate of remuneration provided by a registered employment agreement in respect of a worker or number of workers.

(2) An exemption under subsection (1) shall remain in force for such period, being not less than 3 months and not more than 24 months from the date on which the exemption is granted, as is specified in the exemption.

(3) (a) Subject to paragraph (b) the Court shall not grant an exemption to an employer under subsection (1) if the employer has been granted an exemption in respect of the same worker or workers under that subsection within the previous 5 years.

(b) Where an exemption under subsection (1) has been granted for a period of less than 24 months, an employer or employer's representative with the employer's consent may, prior to the date on which the exemption is due to expire, apply to the Court to extend the period of the exemption for an additional period.

(c) Where an application is made under paragraph (b) the Court shall not extend the period of the exemption for more than 24 months from the date on which the exemption was granted.

(d) Where the period of the exemption has been extended by the Court under paragraph (b), the Court shall not further extend the period.

(4) An employer or employer's representative with the employer's consent may, in the manner and form approved by the Court, apply to the Court for an exemption under subsection (1).

(5) An application under subsection (4) shall be accompanied by—

(a) a current tax clearance certificate under section 1095 (inserted by section 127 of the Finance Act 2002) of the Taxes Consolidation Act 1997 in respect of the employer concerned, and

(b) such information, particulars and documentation as the Court may reasonably require for the purpose of determining whether an exemption under subsection (1) should be granted, in particular such information in relation to the employer, his or her business and the potential impact of an exemption, as the Court may direct.

(6) On receiving an application under subsection (4) the Court shall convene a hearing of parties to the application and shall give its decision on the application in writing to the parties.

(7) Subject to subsection (8) the Court shall not grant an exemption under subsection (1) unless it is satisfied that—

(a) where the employer makes an application he or she has entered into an agreement with—

(i) the majority of the workers,

(ii) the representative of the majority of the workers, or

(iii) a trade union representing the majority of the workers,

in respect of whom the exemption is sought, whereby the workers, the representative of the workers or the trade union, consents to the employer making the application, and to abide by any decision on the application that the Court may make, and

(b) the employer's business is experiencing severe economic difficulties.

(8) Notwithstanding subsection (7), where the Court is not satisfied that the majority of the workers, their representatives or a trade union representing the majority of the workers consent to an application under that subsection, the Court may grant an exemption under subsection (1), provided the Court is satisfied that:

(a) the employer has informed the workers concerned of the financial difficulties of the business and has attempted to come to an agreement with the workers concerned in relation to a reduction of the rate of remuneration provided by the registered employment agreement,

(b) the employer is unable to maintain the terms of the registered employment agreement, and

(c) were the employer compelled to comply with the terms of the registered employment agreement concerned there would be a substantial risk that—

(i) a significant number of the workers concerned would be laid off or made redundant, or

(ii) the sustainability of the employer's business would be significantly adversely affected.

(9) In considering whether to grant an exemption under subsection (1), the Court shall have regard to the following:

- (a) whether, if an exemption was granted, it would have an adverse effect on employment levels and distort competition in the sector to the detriment of employers not party to the application, who are also subject to the registered employment agreement concerned,
 - (b) the long term sustainability of the employer's business, were such an exemption to be granted, and
 - (c) any other matters the Court considers relevant.
- (10) An exemption under subsection (1) shall specify:
- (a) the names and employment positions occupied by the workers to whom the exemption applies;
 - (b) the duration of the exemption; and
 - (c) the minimum rates of remuneration to be paid to the worker or workers during the period of the exemption and the worker or workers shall be entitled to be paid at not less than that rate accordingly.
- (11) Notwithstanding anything in this section, an exemption under subsection (1) shall not—
- (a) specify an hourly rate of pay which is less than that declared by order for the time being in force under [section 11](#) of the [National Minimum Wage Act 2000](#), or
 - (b) reduce pension contributions paid by the employer on behalf of the worker or workers concerned.
- (12) Where during the period of an exemption under this section a new worker replaces a worker to whom the exemption relates, the employer may pay the new worker the hourly rate of pay specified by the Court in respect of the former worker and shall, as soon as practicable, notify the Court in writing of the employment of the new worker.
- (13) Where a contract between an employer and a worker specified in an exemption under subsection (1), provides for the payment of remuneration at more than the rate provided by such exemption, the contract shall, in respect of any period during which the exemption is in force, have effect as if the rate provided for by such exemption and applicable to such worker were substituted for the rate provided for by the contract.
- (14) The Court shall establish its own procedures for the hearing of applications, and in relation to incidental matters to be dealt with, under this section.
- (15) The Court shall establish and maintain a register of all exemptions under this section and shall make the register available for examination by members of the public at such place and during such reasonable times as it thinks fit.
- (16) No appeal shall lie from a decision of the Court under this section except to the High Court on a point of law.]

PART IV.

REGULATION BY THE COURT OF REMUNERATION AND CONDITIONS OF EMPLOYMENT OF CERTAIN WORKERS.

Definitions.

Definitions for purposes of Part IV.

34.—In this Part—

F32[the expression “employment regulation order” means an order made under section 42C (inserted by *section 12* of the Industrial Relations (Amendment) Act 2012) of this Act;]

the expression “establishment order” means an order made under *section 35* of this Act;

the word “inspector” means a person appointed an inspector under *section 51* of this Act;

the expression “joint labour committee” means a committee established under *section 35* of this Act;

the expression “statutory conditions of employment” means, in relation to a worker to whom an employment regulation order, which fixes conditions of employment, applies, the conditions of employment fixed by the order in respect of that worker;

the expression “statutory minimum remuneration” means, in relation to a worker to whom an employment regulation order, which fixes remuneration, applies, the remuneration fixed by the order in respect of that worker.

Joint Labour Committees.

Power of the Court to establish joint labour committees.

35.—Subject to the provisions of this Part, the Court may by order establish a committee to perform, in relation to the class, type or group of workers described in the order and their employers, the functions assigned to it by this Part.

Applications for establishment orders.

36.—An application for the establishment of a joint labour committee with respect to any workers and their employers may be made to the Court by—

- (a) the Minister, or
- (b) a trade union, or
- (c) any organisation or group of persons claiming to be representative of such workers or of such employers.

Restrictions on making establishment orders.

37.—The Court shall not make an establishment order in respect of any workers and their employers unless the Court is satisfied—

- (a) in case the application is made by an organisation or a group of persons claiming to be representative of such workers or such employers, that the claim is well-founded, and
- (b) that either—
 - (i) there is substantial agreement between such workers and their employers to the establishment of a joint labour committee, or
 - (ii) the existing machinery for effective regulation of remuneration and other conditions of employment of such workers is inadequate or is likely to cease or to cease to be adequate, or
 - (iii) having regard to the existing rates of remuneration or conditions of employment of such workers or any of them, it is expedient that a joint labour committee should be established

Inquiry into application for an establishment order.

38.—Where an application is duly made to the Court for an establishment order, the Court shall consider such application and, subject to [section 37](#) of this Act, the following provisions shall have effect—

- (a) the Court shall, after consultation with such parties as it thinks necessary, prepare a draft establishment order (in this section referred to as the draft),
- (b) the Court shall publish in the prescribed manner a notice setting out—
 - (i) that the Court proposes to hold an inquiry into the application,
 - (ii) the day (which [F33](#) [shall be not less than thirty days from the date of publication of the notice or later than sixty days from the receipt of the application by the Court]) and time and place at which the inquiry will be held,
 - (iii) the place where copies of the draft may be obtained,
- (c) objections to the draft may, before the date for the holding of the inquiry, be submitted to the Court, and every such objection shall be in writing and state the grounds of objections and the omissions, additions or modifications asked for,
- (d) the Court shall hold the inquiry on the day so specified in the notice and consider any objections to the draft which have been submitted in accordance with paragraph (c) of this section.

Making of establishment orders.

[F34](#) **[39.** (1) Where the Court has held, in pursuance of section 38 of this Act, an inquiry into an application for an establishment order, the Court may, subject to section 37 of this Act, if it is satisfied that to do so would promote harmonious industrial relations between workers and employers and assist in the avoidance of industrial unrest, make a recommendation to the Minister in either the terms of the draft establishment order prepared in accordance with section 38 or with such modifications of those terms as it considers necessary.

(2) Where the Court makes a recommendation under subsection (1), it shall forward a copy of the recommendation to the Minister.

(3) As soon as practicable after receipt of a copy of a recommendation under subsection (2), the Minister shall, where he or she is satisfied that subsection (1) has been complied with, and where he or she considers it appropriate to do so, make an order in the terms of the recommendation.

(4) Where the Minister is not satisfied that subsection (1) has been complied with, or where he or she considers that it is not appropriate to make an order in the terms of the recommendation, he or she shall—

- (a) refuse to make an order in the terms of the recommendation, and
- (b) notify the Court in writing of his or her decision and the reasons for the decision.

(5) An order under subsection (3) may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the order including, where the order abolishes a joint labour committee pursuant to a recommendation of the Court, the revocation of an employment regulation order made pursuant to proposals made by the joint labour committee concerned.

(6) Every order under subsection (3) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the

order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.]

Revocation and variation of establishment orders.

40.—Where an establishment order in respect of any workers and their employers is in force, the Court, on the application (which shall specify the grounds on which it is made) of—

(a) the Minister, or

(b) any trade union, or

(c) any organisation or group of persons which claims to be and is, in the opinion of the Court, representative of such workers or of such employers,

F35[may make a recommendation to the Minister to abolish the joint labour committee established by such establishment order or amend such establishment order, and the provisions of section 38 and section 39 (amended by section 41 of the Industrial Relations (Amendment) Act 2015) of this Act shall apply in relation to such application as if the application were an application under section 36.]

Constitution, officers and proceedings of joint labour committees.

41.—F36[...]

Employment Regulation Orders.

Review of joint labour committees.

F37[**41A.**— (1) As soon as practicable after the commencement of section 11 of the Industrial Relations (Amendment) Act 2012, and at least once every 5 years thereafter the Court shall carry out a review of each joint labour committee.

(2) Before carrying out a review under subsection (1), the Court shall publish in the prescribed manner a notice setting out—

(a) that the Court proposes to carry out a review of a joint labour committee, and

(b) that submissions in respect of the review may, before a date specified in the notice, be made to the Court in writing setting out the grounds on which the joint labour committee concerned should be retained, abolished or amalgamated with another joint labour committee,

and the Court shall consider any submissions made in accordance with paragraph (b) and carry out the review within 6 weeks of the date specified in the notice for receipt of submissions.

(3) When carrying out a review under subsection (1), the Court shall have regard to the following:

(a) a review by the Labour Relations Commission made under section 39 of the Industrial Relations Act 1990 in respect of the joint labour committee concerned;

(b) the class or classes of workers to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since—

(i) the committee was established, or

(ii) the last review under this section was carried out;

(c) the type or types of enterprises to which the joint labour committee applies, and the Court shall have particular regard to changes in the trade or business to which the joint labour committee applies, since—

- (i) the committee was established, or
 - (ii) the last review under this section was carried out;
 - (d) the experience of the enforcement of statutory minimum remuneration and statutory conditions of employment within the sector;
 - (e) the experience of any adjustments made to the rates of statutory minimum remuneration and statutory conditions of employment;
 - (f) the impact on employment levels, especially at entry level, of fixing statutory minimum remuneration and statutory conditions of employment;
 - (g) whether the fixing of statutory minimum remuneration and of statutory conditions of employment by the joint labour committee has been prejudicial to the exercise of collective bargaining as a means of achieving the legitimate interests of employers and workers in the sector;
 - (h) in the case of a joint labour committee that represents workers and employers in a particular region in the State, whether the basis for the continuation of such regional representation is justified;
 - (i) any submissions made in accordance with subsection (2)(b).
- (4) Following a review under subsection (1)—
- (a) where the Court is satisfied that to do so would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest, the Court may recommend that—
 - (i) the joint labour committee is maintained in its current form,
 - (ii) the joint labour committee is amalgamated with another joint labour committee, or
 - (iii) the establishment order pursuant to which the joint labour committee was established is amended,or
 - (b) where the Court is satisfied that it is no longer appropriate to maintain a joint labour committee the Court may recommend that the joint labour committee is abolished.
- (5) Where the Court makes a recommendation under subsection (4), it shall forward a copy of the recommendation to the Minister.
- (6) As soon as practicable after receipt of a copy of a recommendation under subsection (5), the Minister shall, where he or she is satisfied that subsection (3) has been complied with, and where he or she considers it appropriate to do so, make an order in the terms of the recommendation.
- (7) Where the Minister is not satisfied that subsection (3) has been complied with, or where he or she considers that it is not appropriate to make an order in the terms of the recommendation, he or she shall—
- (a) refuse to make an order in the terms of the recommendation, and
 - (b) notify the Court in writing of his or her decision and the reasons for the decision.
- (8) An order under subsection (6) may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the order including, where the order abolishes a joint labour committee pursuant to a recommendation of the Court, the revocation of an employment

regulation order made pursuant to proposals made by the joint labour committee concerned.

(9) Every order under subsection (6) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.]

Proposals by joint labour committees in relation to remuneration and conditions of employment.

42.—(1) Subject to the provisions of this section, a joint labour committee may submit to the Court proposals for fixing the minimum rates of remuneration to be paid either generally or for any particular work to all or any of the workers in relation to whom the committee operates, and such proposals may provide for a minimum weekly remuneration for all or any of such workers.

(2) Subject to the provisions of this section, a joint labour committee may submit to the Court proposals for regulating the conditions of employment of all or any of the workers in relation to whom the committee operates.

(3) A joint labour committee shall not submit proposals under this section for revoking or amending an employment regulation order unless the order has been in force for at least six months.

F38[Proposals by joint labour committees in relation to remuneration and conditions of employment.

42A.— (1) Subject to this section and section 42B, a joint labour committee may, where it is satisfied that such proposals would promote harmonious relations between workers and employers and avoid industrial unrest, submit proposals for an employment regulation order to the Court.

(2) Subject to subsection (3), proposals under subsection (1) may include proposals to amend or revoke an employment regulation order.

(3) Where an employment regulation order has been in force for less than 6 months a joint labour committee shall not submit proposals for amending or revoking such order unless the committee is satisfied that—

(a) the order contains an error, or

(b) exceptional circumstances exist which warrant the revocation or amendment of the order.

(4) Subject to subsection (5) proposals under subsection (1) may include proposals to—

(a) fix the minimum rates of remuneration to be paid generally, and

(b) regulate the conditions of employment,

in relation to all or any of the workers in relation to whom the joint labour committee operates, and such proposals may provide for a minimum hourly rate of remuneration and not more than 2 higher hourly rates of remuneration based on length of service in the sector or enterprise concerned, or the attainment of recognised standards or skills in the sector concerned, for all or any such workers.

(5) Proposals under subsection (1) to fix remuneration shall provide that a worker to whom the proposals are intended to apply who—

(a) has not attained the age of 18 years,

(b) enters employment for the first time after attaining the age of 18 years,

(c) having entered into employment before attaining the age of 18 years continues in employment on attaining that age, or

- (d) has attained the age of 18 years and, during normal working hours, undergoes a course of study or training prescribed in regulations made by the Minister under [section 16](#) of the [National Minimum Wage Act 2000](#),

shall be remunerated at an hourly rate reduced to the percentage set out in section 14, 15 or 16 of that Act for the category of worker concerned and those sections shall apply with the necessary modifications, as if such workers were employees for the purposes of that Act.

(6) When formulating proposals to submit to the Court under subsection (1), a joint labour committee shall have regard to the following matters:

- (a) the legitimate interests of employers and workers likely to be affected by the proposals, including—
- (i) the legitimate financial and commercial interests of the employers in the sector in question,
 - (ii) the desirability of agreeing and maintaining efficient and sustainable work practices appropriate to the sector in question,
 - (iii) the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration appropriate to the sector in question,
 - (iv) the desirability of maintaining harmonious industrial relations in the sector in question,
 - (v) the desirability of maintaining competitiveness in the sector in question, and
 - (vi) the levels of employment and unemployment in the sector in question;
- (b) the general level of wages in comparable sectors;
- (c) where enterprises in the sector in question are in competition with enterprises in another Member State, the general level of wages in the enterprises in that other Member State taking into account the cost of living in the Member State concerned;
- (d) the national minimum hourly rate of pay declared by order for the time being in force under [section 11](#) of the [National Minimum Wage Act 2000](#), and the appropriateness or otherwise of fixing a statutory minimum hourly rate of pay above that rate; and
- (e) the terms of any relevant national agreement relating to pay and conditions for the time being in existence.

(7) In this section "remuneration" means consideration, whether in cash or in kind, which a worker receives from his or her employer in respect of his or her employment but does not include:

- (a) pay or time off from work in lieu of public holidays;
- (b) compensation under [section 14](#) of the [Organisation of Working Time Act 1997](#) resulting from the requirement to work on a Sunday;
- (c) payments in lieu of notice; or
- (d) payments referable to a worker's redundancy.]

F39[Proposals by joint labour committee for employment regulation orders.

42B.— (1) Where a joint labour committee has formulated proposals for an employment regulation order, the committee shall publish a notice stating—

- (a) the place where copies of the proposals may be obtained,
- (b) that representations with respect to the proposals may be made to the committee not later than 21 days after the date of such publication.

(2) A joint labour committee shall consider any representations made in accordance with subsection (1) and may, subject to any amendments it considers appropriate following such consideration, adopt the proposals.

(3) The chairman of a joint labour committee shall facilitate the parties in reaching agreement in relation to the formulation of proposals for an employment regulation order and the adoption of such proposals, and for that purpose the chairman may adjourn a meeting of a joint labour committee.

(4) Notwithstanding section 26 of the *Industrial Relations Act 1990*, where a joint labour committee has failed to formulate proposals or where it has formulated proposals and has failed to adopt such proposals, and the chairman is satisfied that no further efforts on his or her part will advance the committee in reaching agreement, the chairman may, and shall if requested by a member of the committee, submit the outstanding issues to the Court for its recommendation.

(5) The Court shall, not later than 21 days after receipt of a submission under subsection (4), hear the members of the joint labour committee.

(6) The Court shall, not later than 14 days after a hearing under subsection (5), make a recommendation to the joint labour committee.

(7) When making a recommendation under subsection (6), the Court shall—

- (a) be satisfied that the terms of the recommendation would promote harmonious relations between workers and employers and avoid industrial unrest, and
- (b) have regard to the following:
 - (i) the representations made by the parties at the hearing;
 - (ii) any relevant code of practice for the purposes of the *Industrial Relations Act 1990*;
 - (iii) the economic and commercial circumstances in relation to the sector to which the joint labour committee relates;
 - (iv) the rates of remuneration and conditions of employment of workers in similar employment sectors, including workers in a sector to which another joint labour committee relates;
 - (v) the merits of the dispute and the terms upon which it should be settled.

(8) Not later than 14 days after the Court makes a recommendation under subsection (6), the joint labour committee shall hold a meeting to consider the recommendation.

(9) Where, at a meeting held under subsection (8), the joint labour committee fails to formulate or adopt proposals for an employment regulation order, the issues in dispute shall be determined by a majority of the votes of the members present and voting on the issue and, notwithstanding subparagraph (1) of paragraph 6 of the Fifth Schedule to the *Industrial Relations Act 1990*, if there is an equal division of votes the chairman shall cast his or her vote having regard to the recommendation of the Court.

(10) Where the committee adopts proposals for an employment regulation order, it shall submit such proposals to the Court.

(11) When proposals for an employment regulation order are submitted to the Court, the chairman of the committee shall submit—

- (a) a report to the Court on the circumstances surrounding their adoption, including confirmation that in considering the proposals the joint labour committee has had regard to the matters set out in subsection (6) of section 42A,
- (b) a copy of all written submissions considered by the committee when formulating and adopting the proposals, and
- (c) a copy of any other documentation considered by the committee when formulating the proposals.

(12) (a) When considering whether or not to adopt the proposals of a joint labour committee, the Court shall consider any reports, submissions or other documentation submitted under subsection (11).

(b) Where the Court has not made a recommendation under subsection (6), the Court may, where it considers it appropriate to do so, hear all parties appearing to the Court to be interested and desiring to be heard.

(c) The Court may, as it thinks proper and where the proposals are in a suitable form for adoption, adopt the proposals of a joint labour committee.

(d) The Court shall not adopt the proposals of a joint labour committee unless the Court is satisfied that, when considering the proposals, the committee has had regard to the matters set out in subsection (6) of section 42A.

(13) (a) Where the Court is not satisfied that it should adopt the proposals of a joint labour committee, it may submit to the committee amended proposals which the Court is willing to adopt.

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

(c) The Court may, as it thinks proper, adopt the proposals submitted under paragraph (b) or refuse to adopt the proposals.]

F40[Making of employment regulation orders.

42C.— (1) Where the Court adopts the proposals of a joint labour committee it shall forward a copy of the proposals to the Minister.

(2) As soon as practicable after receipt of a copy of proposals under *subsection (1)*, the Minister shall, where he or she is satisfied that *sections 42A and 42B* have been complied with, and where he or she considers it appropriate to do so, make an employment regulation order giving effect to such proposals.

(3) Where the Minister is not satisfied that *sections 42A and 42B* have been complied with, or where he or she considers that it is not appropriate to make an employment regulation order to give effect to the proposals adopted by the Court, he or she shall—

- (a) refuse to make an employment regulation order giving effect to such proposals, and
- (b) notify the Court in writing of his or her decision and the reasons for the decision.

(4) An employment regulation order shall not prejudice any rights as to rates of remuneration or conditions of employment conferred on any worker by this or any other Act.

(5) An employment regulation order may amend or revoke any previous employment regulation order.

(6) Every order under *subsection (2)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudiceto the validity of anything previously done thereunder.]

Making of
employment
regulation orders.

43.—(1) F41[...]

(2) As soon as the Court makes an employment regulation order, it shall publish notice of the making of the order and the contents thereof in the prescribed manner.

(3) An employment regulation order shall not prejudice any rights as to rates of remuneration or conditions of employment conferred on any worker by another Part of this Act or by any other Act.

(4) An employment regulation order may amend or revoke any previous employment regulation order.

(5) An employment regulation order may contain different provisions for different descriptions of workers.

Adaptation of
contracts of
service
consequential
upon employment
regulation orders.

44.—(1) The employer of a worker to whom an employment regulation order applies, shall—

(a) in case the order fixes remuneration, pay to such worker remuneration not less than the statutory minimum remuneration,

(b) in case the order fixes conditions of employment, grant to such worker conditions of employment not less favourable than the statutory conditions of employment.

(2) If a contract between a worker (being a worker to whom an employment regulation order, which fixes remuneration, applies) and his employer provides for the payment of less remuneration than the statutory minimum remuneration, the contract shall have effect as if the statutory minimum remuneration were substituted for the less remuneration.

(3) If a contract between a worker (being a worker to whom an employment regulation order, which fixes conditions of employment, applies) and his employer provides for conditions of employment (in this subsection referred to as the contract conditions) less favourable than the statutory conditions of employment, the contract shall have effect as if the statutory conditions of employment were substituted for the contract conditions.

Enforcement of
employment
regulation orders.

45.—(1) If an employer fails to pay to a worker (being a worker to whom an employment regulation order, which fixes remuneration, applies) remuneration not less than the statutory minimum remuneration, the employer shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

(2) Where the employer or any other person charged, in accordance with [section 50](#) of this Act, as a person to whose act or default the offence was due has been found guilty of an offence under subsection (1) of this section consisting of a failure to pay to a worker remuneration not less than the statutory minimum remuneration, the court by which he is convicted may order the employer to pay to the worker such sum as is found by the said court to represent the difference between the statutory minimum remuneration and the remuneration actually paid.

(3) If, in respect of any worker (being a worker to whom an employment regulation order, which fixes conditions of employment, applies), the statutory conditions of employment are not complied with by the employer—

(a) the employer shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds,

(b) the court by which the employer is convicted may order the employer to pay to the worker such compensation as it considers fair and reasonable in respect of such non-compliance.

(4) Where proceedings are taken under subsection (1) of this section in respect of an offence consisting of a failure to pay to a worker remuneration not less than the statutory minimum remuneration, and notice of intention to avail of paragraph (a) of this subsection has been served with the summons, warrant or complaint—

(a) evidence may, if the employer or any other person charged, in accordance with [section 50](#) of this Act, as a person to whose act or default the offence was due is found guilty of the offence, be given of any like contravention on the part of the employer in respect of any period during the three years immediately preceding the date of the offence, and

(b) on proof of such contravention, the court before which the proceedings are taken may order the employer to pay to the worker such sum as is found by the said court to represent the difference between the amount which ought to have been paid during that period to the worker by way of remuneration, if the worker were paid remuneration in accordance with the statutory minimum remuneration, and the amount actually so paid.

(5) In any proceedings against a person under subsection (1) of this section it shall lie with such person to prove that he has paid remuneration not less than the statutory minimum remuneration.

(6) In any proceedings against a person under subsection (3) of this section it shall lie with such person to prove that he has complied with the statutory conditions of employment.

(7) The powers given by this section for the recovery of sums due by an employer to a worker shall not be in derogation of any right of the worker to recover such sums in civil proceedings.

F42[Decision of adjudication officer under [section 41](#) of Workplace Relations Act 2015]

45A.— A decision of an adjudication officer under [section 41](#) of the Workplace Relations Act 2015 in relation to a complaint of a contravention of an employment regulation order in relation to a worker 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 comply with the employment regulation order, or

(c) require the employer to pay to the worker 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 worker's employment calculated in accordance with regulations under [section 17](#) of the [Unfair Dismissals Act 1977](#).]

F43[Decision of Labour Court on appeal from decision referred to in section 45A]

45B.— 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 45A, shall affirm, vary or set aside the decision of the adjudication officer.]

F44[Enforcement of determinations of Labour Court.

45C.— F45[...]]

F46[Provisions relating to winding up and bankruptcy.

45D.—F47[...]]

F48[References to rights commissioner by Minister.

45E.— F49[...]]

Permits authorising employment of infirm and incapacitated persons at less than the statutory minimum remuneration.

46.—(1) If, as respects any worker employed or desiring to be employed in such circumstances that an employment regulation order which fixes remuneration applies or will apply to him, the appropriate joint labour committee is satisfied, on application being made to it for a permit under this section either by the worker or the employer or a prospective employer, that the worker is affected by infirmity or physical incapacity which renders him incapable of earning the statutory minimum remuneration, the committee may, if it thinks fit, grant, subject to such conditions (if any) as it may determine, a permit authorising his employment at less than the statutory minimum remuneration, and while the permit is in force the remuneration authorised to be paid to him by the permit shall, if those conditions are complied with, be deemed, for the purposes of this Act, to be the statutory minimum remuneration.

(2) Where an employer employs any worker in reliance on any document purporting to be a permit granted under subsection (1) of this section authorising the employment of that worker at less than the statutory minimum remuneration, then, if the employer has notified the joint labour committee in question that, relying on that document, he is employing or proposing to employ that worker at a specified remuneration, the document shall, notwithstanding that it is not or is no longer a valid permit relating to that worker, be deemed, subject to the terms thereof and as respects only any period after the notification, to be such a permit until notice to the contrary is received by the employer from the committee.

Computation of remuneration.

47.—(1) Subject to subsection (2) of this section, any reference in this Part to remuneration shall be construed as a reference to the amount obtained or to be obtained in cash by the worker from his employer clear of all deductions in respect of any matter whatsoever, except any deductions lawfully made under any enactment for the time being in force requiring or authorising deductions to be made from remuneration.

(2) Subject to any enactment for the time being in force, an employment regulation order may authorise specified benefits or advantages, provided for a worker by or on behalf of his employer, to be reckoned as payment of remuneration by the employer in lieu, of payment in cash and such order shall define the monetary value at which every such benefit and advantage is to be reckoned.

Employers not to receive premiums from apprentices or learners.

48.—(1) (a) Where a worker (being a worker to whom an employment regulation order, which fixes remuneration, applies) is an apprentice or a learner, it shall not be lawful for his employer to receive directly or indirectly from him, or on his behalf or on his account, any payment by way of premium.

(b) Nothing in paragraph (a) of this subsection shall apply to any such payment as is referred to therein duly made in pursuance of any instrument of apprenticeship approved for the purpose of this subsection by a joint labour committee.

(2) If any employer receives any payment by way of premium in contravention of this section he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, and the court by which he is convicted may, in addition to the fine, order him to pay to the worker or other person by whom the payment was made the sum received by way of premium.

F50[Exemption from obligation to pay statutory minimum remuneration.

48A.— (1) The Court may in accordance with this section exempt an employer from the obligation to pay the statutory minimum remuneration in respect of a worker or number of workers.

(2) An exemption under subsection (1) shall remain in force for such period, being not less than 3 months and not more than 24 months from the date on which the exemption is granted, as is specified in the exemption.

(3) (a) Subject to paragraph (b) the Court shall not grant an exemption to an employer under subsection (1) if the employer has been granted an exemption in respect of the same worker or workers under that subsection within the previous 5 years.

(b) Where an exemption under subsection (1) has been granted for a period of less than 24 months, an employer or employer's representative with the employer's consent may, prior to the date on which the exemption is due to expire, apply to the Court to extend the period of the exemption for an additional period.

(c) Where an application is made under paragraph (b) the Court shall not extend the period of the exemption for more than 24 months from the date on which the exemption was granted.

(d) Where the period of the exemption has been extended by the Court under paragraph (b), the Court shall not further extend the period.

(4) An employer or employer's representative with the employer's consent may, in the manner and form approved by the Court, apply to the Court for an exemption under subsection (1).

(5) An application under subsection (4) shall be accompanied by—

(a) a current tax clearance certificate under section 1095 (inserted by [section 127 of the Finance Act 2002](#)) of the [Taxes Consolidation Act 1997](#) in respect of the employer concerned, and

(b) such information, particulars and documentation as the Court may reasonably require for the purpose of determining whether an exemption under subsection (1) should be granted, in particular such information in relation to the employer, his or her business and the potential impact of an exemption, as the Court may direct.

(6) On receiving an application under subsection (4) the Court shall convene a hearing of parties to the application and shall give its decision on the application in writing to the parties.

(7) Subject to subsection (8) the Court shall not grant an exemption under subsection (1) unless it is satisfied that—

(a) where the employer makes an application he or she has entered into an agreement with—

(i) the majority of the workers,

(ii) the representative of the majority of the workers, or

(iii) a trade union representing the majority of the workers,

in respect of whom the exemption is sought, whereby the workers, the representative of the workers or the trade union, consents to the employer making the application, and to abide by any decision on the application that the Court may make, and

(b) the employer's business is experiencing severe economic difficulties.

(8) Notwithstanding subsection (7), where the Court is not satisfied that the majority of the workers, their representatives or a trade union representing the majority of the workers consent to an application under that subsection, the Court may grant an exemption under subsection (1), provided the Court is satisfied that:

- (a) the employer has informed the workers concerned of the financial difficulties of the business and has attempted to come to an agreement with the workers concerned in relation to a reduction of the statutory minimum remuneration,
- (b) the employer is unable to maintain the terms of the employment regulation order concerned, and
- (c) were the employer compelled to comply with the terms of the employment regulation order concerned there would be a substantial risk that—
 - (i) a significant number of the workers concerned would be laid off or made redundant, or
 - (ii) the sustainability of the employer's business would be significantly adversely affected.

(9) In considering whether to grant an exemption under subsection (1), the Court shall have regard to the following:

- (a) whether, if an exemption was granted, it would have an adverse effect on employment levels and distort competition in the sector to the detriment of employers not party to the application, who are also subject to the employment regulation order concerned,
- (b) the long term sustainability of the employer's business, were such an exemption to be granted, and
- (c) any other matters the Court considers relevant.

(10) An exemption under subsection (1) shall specify:

- (a) the names and employment positions occupied by the workers to whom the exemption applies;
- (b) the duration of the exemption; and
- (c) the minimum rates of remuneration to be paid to the worker or workers during the period of the exemption and the worker or workers shall be entitled to be paid at not less than that rate accordingly.

(11) Notwithstanding anything in this section, an exemption under subsection (1) shall not—

- (a) specify an hourly rate of pay which is less than that declared by order for the time being in force under [section 11](#) of the [National Minimum Wage Act 2000](#), or
- (b) reduce pension contributions paid by the employer on behalf of the worker or workers concerned.

(12) Where during the period of an exemption under this section a new worker replaces a worker to whom the exemption relates, the employer may pay the new worker the hourly rate of pay specified by the Court in respect of the former worker and shall, as soon as practicable, notify the Court in writing of the employment of the new worker.

(13) Where a contract between an employer and a worker specified in an exemption under subsection (1), provides for the payment of remuneration at more than the rate provided by such exemption, the contract shall, in respect of any period during which the exemption is in force, have effect as if the rate provided for by such

exemption and applicable to such worker were substituted for the rate provided for by the contract.

(14) The Court shall establish its own procedures for the hearing of applications, and in relation to incidental matters to be dealt with, under this section.

(15) The Court shall establish and maintain a register of all exemptions under this section and shall make the register available for examination by members of the public at such place and during such reasonable times as it thinks fit.

(16) No appeal shall lie from a decision of the Court under this section except to the High Court on a point of law.]

Records and notices.

49.—(1) The employer of any workers to whom an employment regulation order applies shall keep such records as are necessary to show whether or not the provisions of this Part are being complied with as respects them, and the records shall be retained by the employer for three years.

(2) F51[...]

(3) If an employer fails to comply with any of the requirements of this section, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.

Criminal liability of agent and superior employer and special defence open to employer.

50.—(1) Where the immediate employer of any worker is himself in the employment of some other person and the worker is employed on the premises of that other person, that other person shall for the purposes of this Part be deemed to be the employer of the worker jointly with the immediate employer.

(2) Where an employer is charged with an offence under any section or subsection contained in this Part, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice of his intention, to have any other person to whose act or default he alleges that the offence was due brought before the court hearing the charge at the time appointed for the hearing of the charge, and thereupon the following provisions shall have effect—

(a) if, after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence,

(b) if the employer further proves that he has used all due diligence to secure that this Part and any relevant regulation or order made thereunder were complied with, he shall be acquitted of the offence.

(3) Where a defendant seeks to avail himself of subsection (2) of this section—

(a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witnesses called by him in support of his pleas and to call rebutting evidence,

(b) the court hearing the charge may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(4) Where—

(a) it appears to an inspector that an offence has been committed in respect of which proceedings might be taken under this Part against an employer, and

(b) the inspector is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person, and that the employer could establish a defence under subsection (2) of this section,

the following provisions shall have effect—

- (i) the inspector may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer,
- (ii) if such proceedings are so taken, that other person may therein be charged with and, on proof that the offence was due to his act or default, be convicted of the offence with which the employer might have been charged.

Inspectors.

51.—(1) The Minister may appoint such and so many persons as he thinks fit to be inspectors for the purposes of this Part.

(2) Every inspector shall be furnished by the Minister with a certificate of his appointment and when exercising any of the powers conferred on him by this Part shall, if so required by any person affected, produce such certificate to him.

Powers of inspectors.

52.—(1) An inspector may, for the purpose of enforcing the provisions of this Part, do all or any of the following things, that is to say:—

- (a) enter at all reasonable times any premises where he has reasonable grounds for believing that any workers to whom an employment regulation order applies are employed,
- (b) require the production of wages sheets or other records of remuneration kept by an employer and any such records as are required by this Part to be kept by employers, and inspect and examine those sheets or records and copy any material part thereof,
- (c) examine with respect to any matters under this Part any person whom he has reasonable grounds for believing to be or have been a worker to whom, an employment regulation order applies or the employer of any such worker and require such person or employer to answer such questions (other than questions tending to incriminate such person) as such inspector may put touching such matters and to sign a declaration of the truth of the answers to such questions.

(2) If any person—

- (a) obstructs or impedes an inspector in the exercise of any of the powers conferred on such inspector by this section, or
- (b) refuses to produce any record which an inspector lawfully requires him to produce, or
- (c) prevents, or attempts to prevent any person from appearing before or being questioned by an inspector, or
- (d) F52[...] fails or refuses to comply with any lawful requirement of an inspector under paragraph (b) of subsection (1) of this section,

such person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.

(3) If any person required by this Part to keep records keeps or causes to be kept, or produces or causes to be produced or knowingly allows to be produced to an inspector, any record which is false in any material respect knowing it to be false, he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds or imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(4) An inspector may institute proceedings for an offence under any section or subsection contained in this Part.

- (5) (a) Any inspector may, if it appears to him that a sum is due from an employer to a worker (being a worker to whom an employment regulation order, which fixes remuneration, applies) on account of the payment to him of remuneration less than the statutory minimum remuneration, institute on behalf of and in the name of that worker civil proceedings for the recovery of that sum and in any such proceedings an order may be made for the payment of costs by the inspector as if he were a party to the proceedings.
- (b) The power given by paragraph (a) of this subsection for the recovery of sums due by an employer to a worker shall not be in derogation of any right of the worker to recover such sums in civil proceedings.

Provisions in relation to trade boards.

Existing trade boards to become joint labour committees.

53.—Any trade board which exists immediately before the commencement of this Act shall, upon such commencement, by virtue of this section be deemed to be a joint labour committee established under this Part by an establishment order (notwithstanding that its constitution is not in all respects in accordance with the provisions of this Act) and operating in relation to the workers and employers in relation to whom it operated immediately before such commencement.

Existing orders under the Trade Boards Acts, 1909 and 1918.

54.—Any order in force immediately before the commencement of this Act confirming, varying or cancelling any rate under the Trade Boards Acts, 1909 and 1918, shall continue in force and be deemed to be an employment regulation order.

Pending notices of proposals varying minimum rates of wages under the Trade Boards Acts, 1909 and 1918.

55.—If any notice of proposals for varying minimum rates of wages under the Trade Boards Acts, 1909 and 1918, has been duly given by a trade board before the commencement of this Act, the like proceedings may be had on those proposals as might have been had thereon if the said Acts had not been repealed by this Act, and if an order is made confirming the proposals that order shall be deemed to be an employment regulation order.

Adaptation of references to trade boards.

56.—References in any document (other than an enactment repealed by this Act) to a trade board shall be construed as references to a joint labour committee.

Determination of certain questions.

Determination of certain questions.

57.—(1) The Court may at any time, on the application of any person, give its decision on the question whether a particular joint labour committee operates as respects a particular person or whether a particular employment regulation order applies to a particular person.

(2) A court of law, in determining any question arising in proceedings before it whether a particular joint labour committee operates as respects a particular person or whether a particular employment regulation order applies to a particular person, shall have regard to any decision of the Court referred to it in the course of the proceedings.

(3) If any question arises in proceedings before a court of law whether a particular joint labour committee operates as respects a particular person or whether a particular employment regulation order applies to a particular person, the court of law may, if it thinks proper, refer the question to the Court for its decision, and the decision of the Court thereon shall be final.

Standard wages for areas.

Standard wages
for areas. **58.—**F53[...]

PART V.

REGISTERED JOINT INDUSTRIAL COUNCILS.

Definitions for
purposes of Part
V.

59.—In this Part—

the expression “qualified joint industrial council” means an association of persons which complies with the following conditions—

- (a) that it is substantially representative of workers of a particular class, type or group and their employers,
- (b) that its object is the promotion of harmonious relations between such employers and such workers,
- (c) that its rules provide that, if a trade dispute arises between such workers and their employers a lock-out or strike will not be undertaken in support of the dispute until the dispute has been referred to the association and considered by it;

the expression “the register” means the Register of Joint Industrial Councils;

the word “registered” means registered in the register;

the expression “registered joint industrial council” means an association which is for the time being registered in the register.

Register of Joint
Industrial
Councils.

60.—The Court shall maintain a register to be known as the Register of Joint Industrial Councils.

Registration of
joint industrial
councils.

61.—(1) Where an association claiming to be a qualified joint industrial council applies to the Court to be registered in the register, the Court shall, if satisfied that the claim is well-founded, register the association in the register.

(2) An application by an association for registration in the register shall be accompanied by copies of its rules and such other information with respect to the association as the Court may require.

(3) Where the Court registers an association in the register, it shall cause to be entered therein the name of the association, its principal office and the name of its secretary.

Cancellation of
registration.

62.—The Court shall cancel the registration in the register of any association if—

- (a) the association applies to the Court to do so, or
- (b) the Court is of opinion that the association has ceased to be a qualified joint industrial council, or has ceased to act.

Inspection of
rules of
registered joint
industrial council.

63.—The rules of a registered joint industrial council shall be open for public inspection at the offices of the Court at such times as may be fixed by the Court.

Appointment of chairman and secretary of a joint industrial council.

64.—F54[...]

Registered joint industrial council to be a body in respect, of which [section 3](#) of the [Trade Union Act, 1942](#), is applicable.

65.—A registered joint industrial council shall be a board in relation to which [section 3](#) of the [Trade Union Act, 1942](#) (No. 23 of 1942), is applicable.

PART VI.

TRADE DISPUTES.

“Worker” for the purposes of Part VI.

66.—F55[...]

Power of Court to investigate trade dispute.

67.—F56[...]

Recommendation by Court on trade dispute.

68.—F57[(1) The Court, having investigated a trade dispute, may make a recommendation setting forth its opinion on the merits of the dispute and the terms on which it should be settled.]

(2) The Court shall communicate a recommendation under this section to all the parties to the dispute and to such other persons as the Court thinks fit, and the Court may also publish the recommendation in such manner as it thinks fit.

Mediation in trade dispute by conciliation officer.

69.—F58[...]

Reference of trade dispute to arbitration.

70.—Where a trade dispute has occurred or is apprehended, the Court, with the consent of all the parties concerned in the dispute, may refer the dispute to the arbitration of one or more persons (who shall be paid such fees as the Minister, with the consent of the Minister for Finance, determines) or may itself arbitrate upon the dispute.

Investigation by the Court of certain trade disputes resulting in stoppage of work and power to make awards in relation thereto.

71.—F59[...]

Effect of awards under [section 71](#).

72.—F60[...]

PART VII.

TRANSITORY PROVISIONS IN RELATION TO WAGES (STANDARD RATE) ORDERS AND BONUS
ORDERS UNDER EMERGENCY POWERS (No. 166) ORDER, 1942, AND EMERGENCY
POWERS (No. 260) ORDER, 1943.

Definitions for
purposes of Part
VII.

73.—In this Part—

the expression “bonus order” means an order made under Article 11 or Article 11A or Article 11AA of Order 166 or under Article 11 of the Emergency Powers (No. 166) Order, 1942 (Fifth Amendment) Order, 1942 (S. R. & O., No. 444 of 1942) or under Article 18 or Article 19 or Article 20 or paragraph (4) of Article 21 of Order 260, which is in force immediately before the commencement of this Act;

the expression “Order 166” means the Emergency Powers (No. 166) Order, 1942 (S. R. & O., No. 121 of 1942);

the expression “Order 260” means the Emergency Powers (No. 260) Order, 1943 (S. R. & O., No. 50 of 1943);

the word “recorded” means, in relation to a wages (standard rate) order or a bonus order, recorded under [section 76](#) of this Act;

the expression “wages (standard rate) order” means an order made under Article 10 or Article 10A of Order 166 or under Article 16 or Article 17 or paragraph (3) of Article 21 of Order 260 which is in force immediately before the commencement of this Act.

Duration of Part
VII.

74.—(1) This Part shall continue in force for one year from the commencement of this Act and shall then expire unless further continued by regulations of the Minister under subsection (2) of this section.

(2) The Minister, after consultation with organisations representative of trade unions of workers and trade unions representative of employers, may, if he thinks fit, by regulations, made before the expiration of one year from the commencement of this Act, continue this Part for such further period as he thinks fit and specifies in the order, and in that case this Part shall continue in force until the end of the period so specified and shall then expire.

Restriction on
operation of Part
VII.

75.—This Part does not apply to workers whose remuneration is fixed by a Minister of State under any enactment for the time being in force.

Recording of
wages (standard
rate) orders and
bonus orders.

76.—(1) Where an application is made to the Court by a trade union or any body of persons, which appears to the Court to be representative of workers to whom a wages (standard rate) order and a bonus order apply, to record such orders under this section, the Court shall, subject to subsection (2) of this section, cause the said orders to be recorded.

(2) The Court shall not cause a wages (standard rate) order or a bonus order to be recorded under this section unless the application to record the order is made within the period of four months beginning on the commencement of this Act.

(3) An application under this section to record a wages (standard rate) order and a bonus order may be made by registered post and shall be accompanied by copies of the orders.

(4) The Court may appoint one of its officers to receive applications under this section and record wages (standard rate) orders and bonus orders.

Court wages
order.

77.—(1) An application may be made to the Court by a trade union or other body for an order fixing rates of remuneration for a class of workers to whom, immediately before the commencement of this Act, no wages (standard rate) order applied.

(2) Where an application is made to the Court under this section in respect of a class of workers, the following provisions shall have effect—

- (a) if the applicant appears to the Court to be representative of workers of that class, the Court shall publish notice of the application in such manner as, in the opinion of the Court, is best calculated to bring the application to the notice of all persons concerned;
- (b) the Court shall consider the application and shall hear all persons appearing to the Court to be concerned and desiring to be heard;
- (c) the Court may, as it thinks fit, refuse the application or make an order providing for such rates of remuneration for the said class of workers as the Court thinks fit;
- (d) where the Court makes such order—
 - (i) if the applicant notifies the Court, within sixteen days after the making of the order, that the order is not acceptable, the Court shall thereupon revoke the order,
 - (ii) if the applicant does not so notify the Court the order shall, as on and from the expiration of the said sixteen days, have the like effect as if it were a recorded wages (standard rate) order and bonus order, and
 - (iii) references in the subsequent sections of this Part to wages (standard rate) orders and bonus orders shall be construed as including references to orders under this section, with the modifications that references to recording shall, in relation to an order under this section, have effect as references to the making of the order, and references to cancellation of a recording shall have effect as references to the revocation of the order.

Effect of
recording of
orders.

78.—(1) Where a wages (standard rate) order and a bonus order are recorded, the following provisions shall, during the period during which the said orders continue to be recorded, have effect, that is to say:—

- (a) the employer of any worker to whom the said orders relate shall pay to such worker remuneration at a rate not less than the appropriate rate specified in the wages (standard rate) order, together with the bonus specified in the bonus order;
- (b) if a contract between any worker to whom the said orders relate and his employer provides for payment of remuneration at a rate (in this paragraph referred to as the contract rate) less than the rate specified in the wages (standard rate) order, together with the bonus specified in the bonus order, the contract shall, in respect of the said period have effect as if it provided for payment of remuneration at the rate specified in the wages (standard rate) order together with the said bonus in lieu of the contract rate;
- (c) if a trade union of workers complains to the Court that an employer has, in respect of any worker to whom the said orders relate, failed or neglected to comply with paragraph (a) of this subsection—
 - (i) the Court shall consider the complaint, and shall hear all persons appearing to the court to be interested and desiring to be heard,
 - (ii) if, after such consideration, the Court is satisfied that the complaint is well-founded, the Court may by order direct the said employer to pay any sum due to the worker for remuneration in accordance with the orders;
- (d) if an employer to whom the said orders relate or a trade union representative of such employers complains to the Court that a trade union of workers is promoting or assisting out of its funds in the maintenance of a strike which

to the knowledge of the general committee of management of the trade union of workers has for its object the enforcement of a demand on an employer to pay to a worker to whom the orders relate remuneration other than that provided by the orders, the following provisions shall have effect:—

- (i) the Court shall consider the complaint and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (ii) if, after such consideration, the Court is satisfied that the complaint is well-founded—
 - (I) the Court may, by order, direct the said trade union of workers to refrain from assisting out of its funds in the maintenance of the said strike;
 - (II) the Court may cancel the recording of the orders.

(2) Where—

- (a) a strike continues after the Court has made an order under subsection (1) of this section in respect of the strike, and
- (b) members of a trade union of workers, whose rates of remuneration are not the subject of the strike, are unable or decline to work while the strike continues,

then, the payment to those members of strike benefit in accordance with the rules of the trade union shall not be regarded, for the purposes of this section, as assisting in the maintenance of the strike.

(3) If, where an order is made by the Court under subparagraph (ii) of paragraph (c) of subsection (1) of this section or under clause (I) of subparagraph (ii) of paragraph (d) of subsection (1) of this section, the direction contained in the order is not carried out, the person to whom the direction is given shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds and, in the case of a continuing offence, a further fine not exceeding ten pounds for every day during which the offence is continued.

Applications for variation of recorded wages (standard rate) orders and bonus orders.

79.—Where a wages (standard rate) order and bonus order have been recorded, the following provisions shall have effect—

- (a) application may be made from time to time by trade unions and other bodies for an increase in the rates of remuneration specified in the orders;
- (b) if any such applicant appears to the Court to be representative of workers to whom the orders relate, the Court shall publish notice of the application in such manner as, in the opinion of the Court, is best calculated to bring the application to the notice of all persons concerned;
- (c) the Court shall consider the application and shall hear all persons appearing to the Court to be concerned and desiring to be heard;
- (d) the Court may, as it thinks fit, refuse the application or make an order providing for such increased rates of remuneration as it thinks fit;
- (e) if the Court makes such order, it shall specify in the order the trade unions of workers or bodies representative of workers (in this section referred to as interested parties) who shall be entitled to require the revocation of the order or the cancellation of the recording of the wages (standard rate) order and the bonus order in accordance with this section;
- (f) if any interested party, within sixteen days after the making of the order, notifies the Court either—
 - (i) that it requires the order to be revoked, or

- (ii) that it requires the order to be revoked and the recording to be cancelled, the Court shall comply with the requirement;
- (g) if an interested party does not so notify the Court, the wages (standard rate) order and the bonus order shall, as on and from the expiration of the said sixteen days, have, for the purposes of [section 78](#) of this Act, effect as if they were amended in accordance with the terms of the order so made by the Court;
- (h) if the Court refuses the application it shall specify the trade unions or bodies who shall be entitled to reject the refusal, and, if within sixteen days after the refusal, any such trade union or body notifies the Court that it rejects the refusal, the Court shall thereupon cancel the recording of the wages (standard rate) order and the bonus order.

Cancellation of recording of wages (standard rate) order and bonus order.

80.—(1) Where an employment agreement, within the meaning of [Part III](#) of this Act, relating to remuneration is registered under the said Part III, the Court shall thereupon cancel the recording of any wages (standard rate) order and bonus order which in the opinion of the Court relate to the same class of workers as that to which the said agreement applies.

(2) The Court, if satisfied, on the complaint of any person, that the recording of a wages (standard rate) order and bonus order was obtained on the application of a trade union or body which did not represent the majority of the workers to whom the said orders relate, may cancel the recording.

Publication of particulars.

81.—(1) When a wages (standard rate) order and a bonus order are recorded the Court shall publish in such manner as it thinks fit notice of the recording together with such particulars of the orders as the Court considers necessary.

(2) When a wages (standard rate) order and bonus order are varied by order under [section 79](#) of this Act the Court shall publish in such manner as it thinks fit notice of the variation together with such particulars of the variation as the Court considers necessary.

(3) When the recording of a wages (standard rate) order and bonus order is cancelled the Court shall publish in such manner as it thinks fit notice of the cancellation.

Determination or certain questions.

82.—(1) The Court may at any time, on the application of any person, give its decision on any question as to the interpretation of a wages (standard rate) order and bonus order or their application to a particular person.

(2) A court of law, in determining any question arising in proceedings before it as to the interpretation of a wages (standard rate) order and bonus order or their application to a particular person shall have regard to any decision of the Court on the said orders referred to it in the course of the proceedings.

(3) If any question arises in proceedings before a court of law as to the interpretation of a wages (standard rate) order and bonus order or their application to a particular person, the court of law may, if it thinks proper, refer the question to the Court for its decision, and the decision of the Court thereon shall be final.

Section 8.

FIRST SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter or Number and Year	Short title	Extent of Repeal
59 & 60 Vic., c. 30.	The Conciliation Act, 1896.	The whole Act.
9 Ed. VII, c. 22.	The Trade Boards Act, 1909.	The whole Act.
3 & 4 Geo. V, c. clxii.	The Trade Boards Provisional Orders Confirmation Act, 1913.	The whole Act.
8 & 9 Geo. V, c. 32.	The Trade Boards Act, 1918.	The whole Act.
9 & 10 Geo. V, c. 69.	The Industrial Courts Act, 1919.	The whole Act.
No. 2 of 1936.	The <i>Conditions of Employment Act, 1936.</i>	<i>Section 50.</i>
No. 4 of 1938.	The <i>Shops (Conditions of Employment) Act, 1938.</i>	<i>Part V.</i>

Section 41.

SECOND SCHEDULE.

CONSTITUTION, OFFICERS AND PROCEEDINGS OF JOINT LABOUR COMMITTEES.

F61[...]



Number 26 of 1946

INDUSTRIAL RELATIONS ACT 1946

REVISED

Updated to 1 July 2024

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

Industrial Relations Acts 1946 to 2019: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Industrial Relations (Amendment) Act 2019*, s. 5(2)). The Acts in the group are:

- *Industrial Relations Act 1946* (26/1946)
- *Industrial Relations (Amendment) Act 1955* (19/1955) (repealed)
- *Industrial Relations Act 1969* (14/1969)
- *Industrial Relations Act 1976* (15/1976)
- *Industrial Relations Act 1990* (19/1990), other than Part II (ss. 8-22)
- *Industrial Relations (Amendment) Act 2001* (11/2001)
- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), in so far as it relates to the *Industrial Relations Acts 1946 to 2001*
- *Industrial Relations (Amendment) Act 2012* (32/2012), other than ss. 16, 17 and 18
- *Industrial Relations (Amendment) Act 2015* (27/2015), other than ss. 24 and 36 (collectively cited *Industrial Relations Acts 1946 to 2015* and Part 3, other than s. 36, to be construed as one)
- *Industrial Relations (Amendment) Act 2019* (21/2019)

Annotations

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

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.