**Extract from the IR (Amendment) Act 2015**

**Definitions (*Chapter 3*)**

**13.** In this Chapter—

“Act of 2000” means the [**National Minimum Wage Act 2000**](http://www.irishstatutebook.ie/eli/2000/act/5/enacted/en/html);

“economic sector” means a sector of the economy concerned with a specific economic activity requiring specific qualifications, skills or knowledge;

“overtime” means any hours worked in excess of normal working hours;

“remuneration” means basic pay and may include pay in excess of basic pay in respect of—

(a) shift work,

(b) piece work,

(c) overtime,

(d) unsocial hours worked,

(e) hours worked on a Sunday, or

(f) travelling time (when working away from base),

but shall not include remuneration paid by an employer to his or her spouse, civil partner within the meaning of the [**Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**](http://www.irishstatutebook.ie/eli/2010/act/24/enacted/en/html), father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, step-son, step-daughter, grandson, grand-daughter, brother, sister, half-brother or half-sister;

“sectoral employment order” has the meaning assigned to it by [***section 17***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC17).

**Submission of request to Court**

**14.** (1) Subject to *subsection (3)* —

(a) a trade union of workers,

(b) a trade union or an organisation of employers, or

(c) a trade union of workers jointly with a trade union or an organisation of employers,

may request the Court to examine the terms and conditions relating to the remuneration and any sick pay scheme or pension scheme, of the workers of a particular class, type or group in the economic sector in respect of which the request is expressed to apply.

(2) A request under this section shall include confirmation, in such form and accompanied by such documentation as the Court may specify that—

(a) where the request is made by a trade union of workers or jointly with the trade union of workers, the trade union of workers is substantially representative of the workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and

(b) where the request is made by a trade union or an organisation of employers or jointly with a trade union or an organisation of employers, the trade union or organisation concerned is substantially representative of the employers of the workers specified in *paragraph (a)*.

(3) Where the Minister has made a sectoral employment order in relation to a class, type or group of workers in a particular economic sector, the Court shall not consider a request under *subsection (1)* in relation to the same class, type or group of workers in that sector, until at least 12 months after the date of the order, unless the Court is satisfied that exceptional and compelling circumstances exist which justify consideration of an earlier request.

(4) A request under *subsection (1)* shall be in a form prescribed by the Court.

**Section 15**

**Examination by Court**

**15.** (1) Where the Court receives a request under [***section 14***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC14) it shall not undertake an examination in accordance with this section unless it is satisfied that—

(a) following consideration of any documentation submitted under *subsection (2)* of [***section 14***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC14)—

(i) the trade union of workers is substantially representative of the workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and in satisfying itself in that regard, the Court shall take into consideration the number of workers in that class, type or group represented by the trade union of workers, and

(ii) where the request is made by a trade union or organisation of employers or jointly with a trade union or organisation of employers, the trade union or organisation concerned is substantially representative of the employers in the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and in satisfying itself in that regard, the Court shall take into consideration the number of workers employed in the particular class, type or group in the economic sector concerned by employers represented by the trade union or organisation of employers concerned,

(b) the request is expressed to apply to all workers of the particular class, type or group and their employers in the economic sector in respect of which the request is expressed to apply,

(c) it is a normal and desirable practice, or that it is expedient, to have separate terms and conditions relating to remuneration, sick pay schemes or pension schemes in respect of workers of the particular class, type or group in the economic sector in respect of which the request is expressed to apply, and

(d) any recommendation is likely to promote harmonious relations between workers of the particular class, type or group and their employers in the economic sector in respect of which the request is expressed to apply.

(2) Prior to undertaking an examination under this section, the Court shall publish in such manner as, in the opinion of the Court, is best calculated to bring the request to the notice of all interested persons concerned, notice of its intention to undertake an examination under this section.

(3) A notice under *subsection (2)* shall invite representations to be made to the Court from any interested parties not later than 28 days after the date of the notice.

(4) Not earlier than 28 days after the date of a notice under *subsection (2)*, the Court may hear all parties appearing to the Court to be interested and desiring to be heard.

**Section 16**

**Court recommendation to Minister**

**16.** (1) Subject to this section, the Court shall, where it considers it appropriate to do so, having heard all parties appearing to the Court to be interested and desiring to be heard, and having regard to the submissions concerned and the matters specified in *subsection (2)*, make a recommendation to the Minister.

(2) When making a recommendation under this section, the Court shall have regard to the following matters:

(a) the potential impact on levels of employment and unemployment in the identified economic sector concerned;

(b) the terms of any relevant national agreement relating to pay and conditions for the time being in existence;

(c) the potential impact on competitiveness in the economic sector concerned;

(d) the general level of remuneration in other economic sectors in which workers of the same class, type or group are employed;

(e) that the sectoral employment order shall be binding on all workers and employers in the economic sector concerned.

(3) A recommendation under this section shall—

(a) specify the class, type or group of workers and the economic sector in relation to which the recommendation shall apply,

(b) be accompanied by a report on the circumstances surrounding the making of the recommendation, including confirmation that the Court has had regard to the matters set out in *subsection (2)*, and

(c) be made not later than 6 weeks after a hearing under [***section 15***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC15).

(4) The Court shall not make a recommendation under this section unless it is satisfied that to do so—

(a) would promote harmonious relations between workers and employers and assist in the avoidance of industrial unrest in the economic sector concerned, and

(b) is reasonably necessary to—

(i) promote and preserve high standards of training and qualification, and

(ii) ensure fair and sustainable rates of remuneration,

in the economic sector concerned.

(5) A recommendation under this section may provide for all or any of the following in respect of the workers of the class, type or group in the economic sector concerned:

(a) a minimum hourly rate of basic pay that is greater than the minimum hourly rate of pay declared by order for the time being in force under the Act of 2000;

(b) not more than 2 higher hourly rates of basic pay based on—

(i) length of service in the economic sector concerned, or

(ii) the attainment of recognised standards or skills;

(c) minimum hourly rates of basic pay for persons who—

(i) have not attained the age of 18 years,

(ii) enter employment for the first time after attaining the age of 18 years,

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

(iv) have attained the age of 18 years and, during normal working hours, undergo a course of study or training prescribed by regulations made by the Minister under section 16 of the Act of 2000, reduced to the percentage set out in section 14, 15 or 16 of that Act for the category of worker concerned;

(d) minimum hourly rates of basic pay for apprentices;

(e) any pay in excess of basic pay in respect of shift work, piece work, overtime, unsocial hours worked, hours worked on a Sunday, or travelling time (when working away from base);

(f) the requirements of a pension scheme, including a minimum daily rate of contribution to the scheme by a worker and an employer; and

(g) the requirements of a sick pay scheme.

(6) A recommendation under this section shall include procedures that shall apply in relation to the resolution of a dispute concerning the terms of a sectoral employment order.

(7) Subject to [***sections 14***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC14) and [***15***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC15), a recommendation under this section may provide for the amendment or cancellation of a recommendation previously made under this section and confirmed by the Minister by a sectoral employment order.

(8) In this section “apprentice” has the same meaning as it has in the [**Industrial Training Act 1967**](http://www.irishstatutebook.ie/eli/1967/act/5/enacted/en/html).

**Section 17**

**Sectoral employment orders**

**17.** (1) Subject to *subsection (4)*, the Minister shall, not later than 6 weeks after receiving a recommendation of the Court under *section 16*, where he or she is satisfied, having regard to the report referred to in [***section 16***](https://revisedacts.lawreform.ie/eli/2015/act/27/revised/en/html#SEC16)*(3)(b)*, that the Court has complied with the provisions of this Chapter, accept the recommendation and by order confirm the terms of the recommendation, from such date, (on or after the date of the order) as the Minister shall specify in the order.

(2) An order under this section shall, in this Chapter, be referred to as a sectoral employment order.

(3) Where the Minister is not satisfied that the Court has complied with the provisions of this Chapter, he or she shall—

(a) refuse to make a sectoral employment order confirming the terms of the recommendation, and

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

(4) Where it is proposed to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House.