



## **The Labour Court**

### **Workplace Relations Act 2015**

## **Labour Court (Employment Rights Enactments) Rules 2016**

These Rules are made pursuant to section 20 of the Industrial Relations Act 1946 as amended by section 50 of the Workplace Relations Act 2015. The Labour Court (Employment Rights Enactments) Rules 2015 are hereby revoked.

### **Interpretation**

In these Rules-

“ the Act” means the Workplace Relations Act 2015;

“Adjudication Officer” has the same meaning as in the Act;

“Appellant” means a person who initiated an appeal under the Act or on whose behalf an appeal is initiated;

“Chairman” means the person who stands appointed as Chairman of the Labour Court under section 10 of the Industrial Relations Act 1946 and, where the context requires, a Deputy Chairman of the Labour Court standing appointed under section 4 of the Industrial Relations Act 1969 while acting as Chairman of a Division of the Court or while exercising a function authorised by regulations made under section 78 of the Act;

“Court” means the Labour Court;

“Court secretary” means a member of the staff of the Court appointed to act in that capacity;

“employment enactment” has the same meaning as in the Act;

“Inspector” has the same meaning as in the Act;

“Respondent” means a party to an appeal who is not the Appellant;

A word or expression used in these Rules which is also used in the Act has the same meaning in these Rules as it has in the Act unless a contrary intention appears.

The Interpretation Act 2005 applies to these Rules.

These Rules may be cited as “Labour Court (Employment Rights Enactments) Rules 2016.”

## Part 1

### **Unfair Dismissals Acts 1977 -2015 and Employment Equality Acts 1998 -2015**

The provisions of this Part of the Rules relate to the procedure to be used in appeals against the Decision of an Adjudication Officer under the Unfair Dismissals Acts 1977 – 2015 and the Employment Equality Acts 1998 -2015.

1. The appeal shall be initiated by notice in writing delivered to the Court within 42 days from the date of the Decision being appealed. In accordance with the provisions of the Interpretation Act 2005 the date of the decision is day 1 of the 42 day period.
2. The notice shall be given on a form provided by the Court for that purpose.
3. The notice shall contain the following particulars: -
  - (a) The name, phone number, address and email address of the Appellant;
  - (b) The name, phone number, address and email address of the Appellant's representative if any;
  - (c) The name, phone number, address and email address of the Respondent;
  - (d) The name, phone number, address and email address of the Respondent's representative if any;
  - (e) The grounds of appeal.
4. The notice of appeal shall be accompanied by a copy of the decision of the Adjudication Officer to which the appeal relates.
5. The Court shall send a copy of the notice of appeal to the Respondent.
6. Not later than three weeks from the date on which the notice of appeal is delivered to the Court the Appellant shall furnish the Court with a

written submission setting out the factual and legal issues upon which they intend to rely in the appeal.

7. The Court shall send a copy of the Appellant's submission to the Respondent.
8. The Respondent shall send a replying submission to the Court within three weeks of the date on which a copy of the Appellant's submission was sent to the Respondent in accordance with Rule 7.
9. Where a submission is sent to the Court in accordance with Rule 6 or in accordance with Rule 8 , six copies of the submission shall be furnished to the Court by the party concerned.
10. The Court shall send a copy of the Respondent's submission to the Appellant.
11. The submission and replying submission shall contain: -
  - (a) A concise statement of the factual background to the claim giving rise to the appeal;
  - (b) A summary of the evidence to be adduced by, or on behalf of, the party making the submission;
  - (c) A summary of any legal arguments that will be relied upon in the course of the appeal;
  - (d) The number of witnesses, if any, that the party proposes to call at the hearing of the appeal.
12. The Court may extend the time for filing submissions on application on that behalf where exceptional circumstances are shown for the delay.
13. An application to extend time for bringing an appeal in accordance with section 44(4) of the Act shall be made in writing to the Chairman giving the grounds upon which the extension is sought.

14. As soon as may be after the receipt of submissions from all parties the Court shall fix the date and place for the hearing of the appeal.
15. Notwithstanding Rule 14, the Court may, in its discretion, require the parties to attend a case management conference before a date for the hearing of the appeal is fixed.
16. A notice of the date, time and place of hearing shall be notified to the parties at their address notified to the Court.
17. A notice or document required to be served or sent by these rules may be served or sent by electronic means, in a case in which the person has given notice in writing of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.
18. Not later than seven days before the date fixed for the hearing of the appeal the Appellant and the Respondent shall send to the Court statements in writing containing : -
  - (a) The names of the witnesses who will be called to give evidence at the appeal;
  - (b) A summary of the evidence that each witness is expected to give; and
  - (c) Any document that they intend to rely upon in the course of the appeal.
19. An Appellant may withdraw an appeal by sending a notice of withdrawal to the Court in writing before the commencement of the hearing of the appeal.
20. An Appellant may withdraw an appeal after the commencement of the hearing of the appeal with leave of the Court.

## Part II

### Compliance Notices

The provisions of this Part relate to appeals against the serving of a compliance notice in accordance with section 28 of the Act.

21. An appeal against the decision of an Inspector to issue a compliance notice under section 28 of the Workplace Relations Act 2015 shall be initiated within 42 days of the date on which the compliance notice was served using a form provided for that purpose. The notice of appeal shall contain a statement of the grounds of appeal.
22. The notice of appeal shall be accompanied by a copy of the compliance notice and a statement containing the following particulars:
  - (a) The basis on which the compliance notice is opposed;
  - (b) The evidence that will be adduced in advancing the appeal;
  - (c) The number of witnesses (if any) that the employer proposes to call in support of the appeal;
  - (d) An outline of the evidence that the proposed witnesses are expected to give.
23. Where a statement is sent to the Court in accordance with Rule 22, six copies of the statement shall be furnished to the Court by the party concerned.
24. A copy of the notice of appeal and of the statement referred to at Rule 22 shall be sent by the Court to the Inspector.
25. Within three weeks from the date of the aforementioned notification the Inspector will submit a replying statement.
26. A replying statement shall include the following particulars: -

- (a) The basis upon which the Inspector formed the opinion that the provision in issue had been contravened;
  - (b) The evidence that the Inspector proposes to adduce at the appeal;
  - (c) The number of witnesses (if any) that the Inspector proposes to call to give evidence at the appeal;
  - (d) An outline of the evidence that the proposed witnesses are expected to give.
27. On receipt of the replying statement the appeal will be set down for hearing.
28. The Inspector who issued the compliance notice may appear in person or may be represented at the hearing of the appeal.
29. The Inspector shall be entitled to be heard by the Court and may adduce evidence.
30. Subject to the discretion of the Court, witnesses may give evidence and be cross-examined.
31. As soon as may be after the close of the hearing the Court shall issue its determination and shall do one of the following: -
- (a) Affirm the compliance notice;
  - (b) Withdraw the compliance notice;
  - (c) Withdraw the compliance notice and require the employer to whom the notice applies to comply with such directions as may be given by the Court.

## **Part III**

### **Other Employment Enactments**

The provisions of this Part of the Rules relate to the procedure to be used in appeals against the decision of an Adjudication Officer under all employment enactments other than the Unfair Dismissals Acts 1977 to 2015 and the Employment Equality Acts 1998 -2015. In accordance with the provisions of the Interpretation Act 2005 the date of the decision is day 1 of the 42 day period.

32. The appeal shall be initiated by notice in writing delivered to the Court within 42 days from the date of the decision being appealed.
33. The notice shall be given on a form provided by the Court for that purpose.
34. The notice shall contain the following particulars: -
  - (a) The name, phone number, address and email address of the Appellant;
  - (b) The name, phone number, address and email address of the Appellant's representative if any;
  - (c) The name, phone number, address and email address of the Respondent;
  - (d) The name, phone number, address and email address of the Respondents representative if any;
  - (e) The grounds of appeal.
35. The notice of appeal shall be accompanied by a copy of the decision of the Adjudication Officer to which the appeal relates.
36. The Court shall send a copy of the notice of appeal to the Respondent.
37. The Court will fix the time date and place at which the hearing of the appeal will be held as soon as may be after the notice of appeal is received and a notice thereof shall be sent to the parties.



38. Not later than seven working days before the date fixed for the hearing of an appeal each party to the appeal shall furnish the Court with a written submission setting out the factual and legal issues upon which they intend to rely in the appeal.
39. The submissions shall contain: -
- (a) A concise statement of the factual background to the claim giving rise to the appeal;
  - (b) A summary of the evidence to be adduced by, or on behalf of, the party making the submission;
  - (c) A summary of any legal arguments that will be relied upon;
  - (d) The number of witnesses, if any, that the party proposes to call at the hearing of the appeal.
40. Where a submission is sent to the Court in accordance with Rule 38, six copies of the submission shall be furnished to the Court by the party concerned.
41. Notwithstanding Rule 37, the Court may, in its discretion, require the parties to attend a case management conference before a date for the hearing of the appeal is fixed.
42. A notice of the date, time and place of hearing shall be notified to the parties at the address notified to the Court.
43. A notice or document required to be served or sent by these rules may be served or sent by electronic means, in a case in which the person has given notice in writing of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.

44. Not later than seven days before the date fixed for the hearing of the appeal the Appellant and the Respondent shall send to the Court statements in writing containing: -

- (a) the names of the witnesses who will be called to give evidence;
- (b) a summary of the evidence that each witness is expected to give; and
- (c) any document that they intend to rely upon in the course of the appeal.

45. An Appellant may withdraw an appeal by sending a notice of withdrawal to the Court in writing before the commencement of the hearing of the appeal.

46. An Appellant may withdraw an appeal after the commencement of the hearing of the appeal with leave of the Court.

## Part IV

### Procedure at hearings

47. The conduct of the hearing of an appeal will be regulated by the Chairman of the division of the Court before which the appeal is being heard.
48. An appeal shall be by way of a *de novo* hearing of the complaint to which the appeal relates.
49. A party to an appeal may be represented by: -
- (a) A Trade Union Representative;
  - (b) An official of a body that, in the opinion of the Court, represents the interests of employers;
  - (c) A practising Solicitor or Barrister;
  - (d) With the consent of the Court, any other person of their choosing.
50. Witnesses who intend to give evidence in the course of the appeal will be sworn (or may make an affirmation) before the commencement of the hearing.
51. The Court Secretary or any member of the Court may administer the oath or affirmation.
52. The Court Secretary shall announce the case and the parties shall stand when the Court enters and leaves the Court.
53. Except in such cases as the Court considers it convenient to take the written submissions as read, each party shall read their submission and the other party will be afforded an opportunity to comment on the submission presented by the other party.
54. Witnesses may give evidence and can be cross-examined by the party opposite or their representative.

55. The Court may curtail the examination of a witness which it considers repetitive or irrelevant and may curtail cross-examination which it considers oppressive.
56. A member of the Court may address questions to a witness for the purpose of clarifying any incomplete or unclear part of his or her evidence. The reference in this Rule to a member of the Court includes the Chairman of the division of the Court before which the case is being heard and the ordinary members of that division.
57. The Court may, in its discretion, give a preliminary ruling on any aspect of the case where it is satisfied that time and expense may be saved by the giving of such a ruling.
58. Whenever it considers it necessary to do so the Court may direct a party to furnish it with further or better information in writing on any matter arising in an appeal and may prescribe the time within which the information is to be provided.
59. Where a party provides further or better information in accordance with a direction given by the Court under Rule 58, a copy of the document containing the information shall be sent by that party to the other parties to the appeal and the other parties shall be entitled to furnish a response within such time as the Court may direct.
60. Where a party who is directed to furnish further or better information in accordance with Rule 58 fails to comply with the direction, or where a party fails to respond to information provided to that party in accordance with Rule 59, the Court may draw such inferences from that failure as it considers appropriate.
61. The Court may postpone or adjourn the hearing of an appeal either generally or from time to time on such terms as it considers appropriate.

62. The Court may admit any duly authenticated written statement as prima facie evidence of any fact whenever it thinks it just and proper to do so.
63. The Court will give a decision in writing as soon as practicable after the close of the hearing. A single decision shall be issued and the existing of affirming or dissenting decisions shall not be disclosed.