



Number 45 of 2001

PROTECTION OF EMPLOYEES (PART-TIME WORK) ACT 2001

REVISED

Updated to 1 September 2017

This Revised Act is an administrative consolidation of the *Protection of Employees (Part-Time Work) Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *National Shared Services Office Act 2017* (26/2017), enacted 26 July 2017, and all statutory instruments up to and including *Education Support Centres (Appointment and Secondment of Directors) Regulations 2017* (S.I. No. 394 of 2017), made 1 September 2017, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Minimum Notice and Terms of Employment Acts 1973 to 2005: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 1(4)). The Acts in the group are:

- *Minimum Notice and Terms of Employment Act 1973* (4/1973)
- *Protection Of Employees (Employers' Insolvency) Act 1984* (21/1984), s. 18(3) and s.13
- *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 8(3) (repealed)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 1(2)
- *Civil Service Regulation (Amendment) Act 2005* (18/2005), Part 7

Protection of Employees (Employers' Insolvency) Acts 1984 to 2012: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Industrial Relations (Amendment) Act 2012* (32/2012), s. 1(4)). The Acts in the group are:

- *Protection of Employees (Employers' Insolvency) Act 1984* (21/1984)
- *Social Welfare Act 1990* (5/1990), s. 1(5) and s. 28
- *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 8(8) (repealed)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 1(3)
- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), ss. 15 and 17(3)
- *Industrial Relations (Amendment) Act 2012* (32/2012), ss. 1(4) and 17

Protection of Employment Acts 1977 to 2014: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014* (1/2014), s. 1(17)). The Acts in the group are:

- *Protection of Employment Act 1977* (7/1977)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it applies to the *Protection of Employment Act 1977*

- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (27/2007)*, in so far as it applies to the *Protection of Employment Act 1977*
- *Local Government Reform Act 2014 (1/2014)*, s. 1(17) and the amendments to the *Protection of Employees (Part-Time Work) Act 2001* and the *Protection of Employment Act 1977* provided for in s. 5(6) and sch. 2 part 6 (Note: the reference to s. 5(6) appears to refer to s. 5(8))

Redundancy Payments Acts 1967 to 2014: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014 (1/2014)*, s. 1(19)). The Acts in the group are:

- *Redundancy Payments Act 1967 (21/1967)*
- *Redundancy Payments Act 1971 (20/1971)*
- *Redundancy Payments Act 1973 (11/1973)*
- *Redundancy Payments Act 1979 (7/1979)*
- *Protection of Employees (Employers' Insolvency) Act 1984 (21/1984)*, s. 12 (citation only)
- *Social Welfare Act 1990 (5/1990)*, ss. 26, 27 and 29
- *Social Welfare Act 1991 (7/1991)*, s. 39 other than subs. (2)
- *Worker Protection (Regular Part-Time Employees) Act 1991 (5/1991)*, s. 8(2) in so far as it relates to the *Redundancy Payments Acts 1967 to 1990* (repealed)
- *Protection of Employees (Part-Time Work) Act 2001 (45/2001)*, in so far as it relates to the *Redundancy Payments Acts 1967 to 1990*
- *Redundancy Payments Act 2003 (14/2003)* s. 17(3)
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (27/2007)*, in so far as it relates to *Redundancy Payments Acts 1967 to 2003*
- *Social Welfare Act 2011 (37/2011)*, s. 1(3) and Part 3
- *Social Welfare Act 2012 (43/2012)*, s. 1(3) and Part 3
- *Local Government Reform Act 2014 (1/2014)*, s. 1(19) and the amendment to the *Redundancy Payments Act 1967* provided for in section 5(6) and sch. 2 part 6 (Note: the reference to s. 5(6) appears to refer to s. 5(8))

Terms of Employment (Information) Acts 1994 to 2014: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014 (1/2014)*, s. 1(21)). The Acts in the group are:

- *Unfair Dismissals Acts 1977 to 2007*
- *Terms of Employment (Information) Act 1994 (5/1994)*
- *Protection of Employees (Part-Time Work) Act 2001 (45/2001)*, in so far as it relates to *Terms of Employment (Information) Act 1994*
- *Industrial Relations (Amendment) Act 2012 (32/2012)*, s. 1(5) and s. 18
- *Local Government Reform Act 2014 (1/2014)*, s. 1(21) and the amendment to the *Terms of Employment (Information) Act 1994* provided for in section 5(6) and sch. 2 part 6 (Note: the reference to s. 5(6) appears to refer to s. 5(8))

Unfair Dismissals Acts 1977 to 2015: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Industrial Relations (Amendment) Act 2015 (27/2015)*, s. 1(4)). The Acts in the group are:

- *Unfair Dismissals Act 1977 (10/1977)*
- *Worker Protection (Regular Part-Time Employees) Act 1991 (5/1991)*, in so far as it relates to the *Unfair Dismissals Act 1977* (repealed)
- *Unfair Dismissals (Amendment) Act 1993 (22/1993)*
- *Protection of Employees (Part-Time Work) Act 2001 (45/2001)*, in so far as it relates to *Unfair Dismissals Acts 1977 to 1993*
- *Civil Service Regulation (Amendment) Act 2005 (18/2005)*, Part 6
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (27/2007)*, in so far as it relates to *Unfair Dismissals Acts 1977 to 2005*
- *Industrial Relations (Amendment) Act 2015 (27/2015)*, s. 39

Worker Participation (State Enterprises) Acts 1977 to 2001: in so far as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Protection of Employees (Part-Time Work) Act 2001* (45/2001), s. 1(7)). The Acts in the group are:

- *Worker Participation (State Enterprises) Act 1977* (6/1977)
- *Worker Participation (State Enterprises) Act 1988* (13/1988)
- *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991), s. 8(5) (repealed)
- *Air Companies (Amendment) Act 1993* 38/1993), ss. 8(2) and (3), 13 and 19(2)(b) (repealed)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it relates to *Worker Participation (State Enterprises) Acts 1977 to 1993*

Annotations

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

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

Material not updated in this revision

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

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

A list of legislative changes to any Act, and to statutory instruments from 1994, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Industrial Relations (Amendment) Act 2015* (27/2015)
- *Workplace Relations Act 2015* (16/2015)
- *Local Government Reform Act 2014* (1/2014)
- *Central Bank (Supervision and Enforcement) Act 2013* (26/2013)
- *Education and Training Boards Act 2013* (11/2013)
- *Industrial Relations (Amendment) Act 2012* (32/2012)
- *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012)
- *Property Services (Regulation) Act 2011* (40/2011)
- *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011)
- *Criminal Justice Act 2011* (22/2011)
- *Credit Institutions (Stabilisation) Act 2011* (36/2010)
- *Prevention of Corruption (Amendment) Act 2010* (33/2010)
- *Inland Fisheries Act 2010* (10/2010)
- *Labour Services (Amendment) Act 2009* (38/2009)
- *National Asset Management Agency Act 2009* (34/2009)
- *Charities Act 2009* (6/2009)
- *Anglo Irish Bank Corporation Act 2009* (1/2009)
- *Chemicals Act 2008* (13/2008)
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007)
- *Health Act 2007* (23/2007)
- *Consumer Protection Act 2007* (19/2007)
- *Employment Permits Act 2006* (16/2006)
- *Parental Leave (Amendment) Act 2006* (13/2006)
- *Employees (Provision of Information and Consultation) Act 2006* (9/2006)

- *Social Welfare Consolidation Act 2005 (26/2005)*
- *Civil Service Regulation (Amendment) Act 2005 (18/2005)*
- *Safety, Health and Welfare at Work Act 2005 (10/2005)*
- *Health Act 2004 (42/2004)*
- *Equality Act 2004 (24/2004)*
- *Aer Lingus Act 2004 (10/2004)*
- *Social Welfare (Miscellaneous Provisions) Act 2004 (9/2004)*
- *Industrial Relations (Miscellaneous Provisions) Act 2004 (4/2004)*
- *Protection of Employees (Fixed-Term Work) Act 2003 (29/2003)*
- *Redundancy Payments Act 2003 (14/2003)*
- *Pensions (Amendment) Act 2002 (18/2002)*
- *Competition Act 2002 (14/2002)*
- *Prevention of Corruption (Amendment) Act 2001 (27/2001)*
- *Nitrigin Eireann Teoranta Act 2001 (21/2001)*
- *Carer's Leave Act 2001 (19/2001)*
- *National Minimum Wage Act 2000 (5/2000)*
- *Postal and Telecommunications Services (Amendment) Act 1999 (5/1999)*
- *Protections For Persons Reporting Child Abuse Act 1998 (49/1998)*
- *Parental Leave Act 1998 (30/1998)*
- *Turf Development Act, 1998 (26/1998)*
- *Employment Equality Act 1998 (21/1998)*
- *Organisation of Working Time Act 1997 (20/1997)*
- *Telecommunications (Miscellaneous Provisions) Act 1996 (34/1996)*
- *Maternity Protection Act 1994 (34/1994)*
- *Terms of Employment (Information) Act 1994 (5/1994)*
- *Air Companies (Amendment) Act 1993 (38/1993)*
- *Irish Aviation Authority Act 1993 (29/1993)*
- *Unfair Dismissals (Amendment) Act 1993 (22/1993)*
- *B & I Line Act 1991 (29/1991)*
- *Social Welfare Act 1991 (7/1991)*
- *Worker Protection (Regular Part-Time Employees) Act 1991 (5/1991)*
- *Pensions Act 1990 (25/1990)*
- *Social Welfare Act 1990 (5/1990)*
- *Worker Participation (State Enterprises) Act 1988 (13/1988)*
- *Labour Services Act 1987 (15/1987)*
- *Protection of Employees (Employers' Insolvency) Act 1984 (21/1984)*
- *Redundancy Payments Act 1979 (7/1979)*
- *Protection of Employment Act 1977 (11/1977)*
- *Unfair Dismissals Act 1977 (10/1977)*
- *Worker Participation (State Enterprises) Act 1977 (6/1977)*
- *Redundancy Payments Act 1973 (11/1973)*
- *Minimum Notice and Terms of Employment Act 1973 (4/1973)*
- *Redundancy Payments Act 1971 (20/1971)*
- *Redundancy Payments Act 1967 (21/1967)*

All Acts up to and including *National Shared Services Office Act 2017 (26/2017)*, enacted 26 July 2017, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017 (S.I. No. 361 of 2017)*
- *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011)*
- *Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 185 of 2010)*
- *European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008)*
- *European Communities (European Aviation Safety Agency) (Amendment) Regulations 2008 (S.I. No. 95 of 2008)*
- *European Communities (European Public Limited-Liability Company)(Employee Involvement) Regulations 2006 (S.I. No. 623 of 2006)*
- *Industrial Relations Act 1990 (Code of Practice on Access to Part-Time Working) (Declaration) Order 2006 (S.I. No. 8 of 2006)*

- *European Communities (European Aviation Safety Agency) Regulations 2003* (S.I. No. 469 of 2003)
- *European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003* (S.I. No. 131 of 2003)
- *Protection of Employees (Part-Time Work) Act, 2001 (Commencement) Order 2001* (S.I. No. 636 of 2001)
- *Industrial Relations Act, 1990, Code of Practice on Employee Representatives (Declaration) Order 1993* (S.I. No. 169 of 1993)

All statutory instruments up to and including *Education Support Centres (Appointment and Secondment of Directors) Regulations 2017* (S.I. No. 394 of 2017), made 1 September 2017, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and construction.
2. Commencement.
3. Interpretation (generally).
4. Regulations and orders.
5. Repeal.
6. Expenses.

PART 2

PART-TIME WORK AND THE RIGHTS OF PART-TIME EMPLOYEES

7. Interpretation (*Part 2*).
8. Application of relevant enactments.
9. Conditions of employment for part-time employees.
10. Proportionate provision of certain conditions of employment.
11. Part-time employees who work on a casual basis.
12. Objective grounds for less favourable treatment.
13. Review of obstacles to the performance of part-time work.
14. Voidance of certain provisions.
15. Prohibition of penalisation of employee by employer.
16. [Decision of adjudication officer under section 41 of the Workplace Relations Act 2015.]
17. [Decision of Labour Court on appeal from a decision referred to in section 16.]
18. Enforcement of determinations of Labour Court.

19. Non-application of *sections 16 to 18*.

PART 3

MISCELLANEOUS

20. Clarification of effect of certain enactments in relation to posted workers and other persons having an employment relationship in the State.
21. Amendment of section 14(2) of Protection of Employment Act, 1977.

SCHEDULE

 ACTS REFERRED TO

Carer's Leave Act, 2001	2001, No. 19
Civil Service Regulation Act, 1956	1956, No. 46
Courts Act, 1981	1981, No. 11
Employment Agency Act, 1971	1971, No. 27
Local Government Act, 1941	1941, No. 23
Minimum Notice and Terms of Employment Acts, 1973 and 1984	
Organisation of Working Time Act, 1997	1997, No. 20
Protection of Employees (Employers' Insolvency) Acts, 1984 and 1990	
Protection of Employment Act, 1977	1977, No. 7
Redundancy Payments Act, 1967	1967, No. 21
Redundancy Payments Acts, 1967 to 1990	
Terms of Employment (Information) Act, 1994	1994, No. 5
Trade Union Act, 1941	1941, No. 22
Unfair Dismissals Acts, 1977 to 1993	
Worker Participation (State Enterprises) Acts, 1977 to 1993	
Worker Protection (Regular Part-Time Employees) Act, 1991	1991, No. 5



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AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF DIRECTIVE 97/81/EC OF 15 DECEMBER, 1997, OF THE COUNCIL OF THE EUROPEAN COMMUNITIES CONCERNING THE FRAMEWORK AGREEMENT ON PART-TIME WORK CONCLUDED BY UNICE, CEEP AND THE ETUC¹, TO CLARIFY THE EFFECT CERTAIN ENACTMENTS RELATING TO EMPLOYEES HAVE IN CASES WHERE THE EMPLOYEE CONCERNED IS A POSTED WORKER (WITHIN THE MEANING OF DIRECTIVE 96/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 16 DECEMBER, 1996, CONCERNING THE POSTING OF WORKERS IN THE FRAMEWORK OF THE PROVISION OF SERVICES²) OR OTHERWISE HAS AN EMPLOYMENT RELATIONSHIP IN THE STATE, TO AMEND SECTION 14(2) OF THE PROTECTION OF EMPLOYMENT ACT, 1977, AND TO PROVIDE FOR RELATED MATTERS. [15th December, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and “Minister for” and “Department of Jobs, Enterprise and Innovation” construed (1.09.2017) by *Labour Affairs and Labour Law (Transfer of Departmental Administration and Ministerial Functions) Order 2017* (S.I. No. 361 of 2017), arts. 2, 3, 6-8, in effect as per art. 1(2), subject to transitional provisions in arts. 4, 5. Note that the name of the Minister for and Department of Enterprise, Trade and Employment was changed:

- to the Minister for and Department of Enterprise, Trade and Innovation (2.05.2010) by *Enterprise, Trade and Employment (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 185 of 2010); and
- to the Minister for and Department of Jobs, Enterprise and Innovation (2.06.2011) by *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 245 of 2011).

...

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

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

¹ O.J. No. L14, 20.1.1998, p. 9

² O.J. No. L018, 21.1.1997, p. 1

3. (1) The functions vested in the Minister for Jobs, Enterprise and Innovation—

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

(b) under the Regulations specified in Part 3 of the Schedule,

are transferred to the Minister for Social Protection.

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

SCHEDULE

PART 1

ACTS OF THE OIREACHTAS

...

Protection of Employees (Part-Time Work) Act 2001

...

C2 Application of collectively cited *Unfair Dismissals Acts 1977 to 2007* restricted:

- (15.07.2015) by *European Union (Bank Recovery and Resolution) Regulations 2015* (S.I. No. 289 of 2015), reg. 40(4)(b), in effect as per reg. 1(2).
- (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011) s. 70(3)(b), S.I. No. 548 of 2011.
- (21.12.2010) by *Credit Institutions (Stabilisation) Act 2010* (36/2010) s. 23(3)(b), S.I. No. 623 of 2010.
- (21.12.2010) by *Credit Institutions (Stabilisation) Act 2010* (36/2010) s. 44(6)(b), S.I. No. 623 of 2010.
- (21.01.2009) by *Anglo Irish Bank Corporation Act 2009* (1/2009), s. 19(5)(b), commenced on enactment.

The following is one version of the wording used but there are several:

Power of special manager to remove officers, employees and others

70.—...

(3) Nothing in *subsection (1) or (2)* deprives a person of any right to claim compensation or damages from that credit institution for the loss of his or her office or appointment. However—

(a) a court, tribunal or rights commissioner may not grant any remedy that would have the effect of preventing or restraining the special manager from exercising the special manager's powers under this section, and

(b) a court, tribunal or rights commissioner may not make an order under the *Unfair Dismissals Acts 1977 to 2007* for the reinstatement or re-engagement of such a person.

C3 Application of collectively cited *Unfair Dismissals Acts 1977 to 2007* potentially restricted:

- (1.08.2015) by *Industrial Relations (Amendment) Act 2015* (27/2015), s. 20(4), S.I. No. 329 of 2015.
- (1.08.2013) by *Central Bank (Supervision and Enforcement) Act 2013* (26/2013), s. 41(5), S.I. No. 287 of 2013.
- (6.07.2012) by *Property Services (Regulation) Act 2011* (40/2011), s. 67(5) and sch. 4, S.I. No. 198 of 2012.
- by *Charities Act 2009* (6/2009), s. 62(3), not commenced as of date of revision.
- (9.08.2011) by *Criminal Justice Act 2011* (22/2011), s. 20(4), S.I. No. 411 of 2011.

- by *Prevention of Corruption (Amendment) Act 2001* (27/2001), s. 8A(5), (6) and sch. 1 para. 3(8), as inserted (15.12.2010) by *Prevention of Corruption (Amendment) Act 2010* (33/2010), ss. 4 and 6, commenced on enactment.
- (1.06.2010) by *Inland Fisheries Act 2010* (10/2010), s. 38(3), commenced on enactment.
- by *Labour Services Act 1987* (15/1987), s. 13B(3), as inserted (20.01.2010) by *Labour Services (Amendment) Act 2009* (38/2009), s. 7, S.I. No. 12 of 2010.
- (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 223(5), S.I. No. 545 of 2009.
- by *Health Act 2004* (42/2004), s. 55M(4), as inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.
- (15.07.2008) by *Chemicals Act 2008* (13/2008), s. 26(3), S.I. No. 273 of 2008.
- (27.05.2008) by *European Communities (Cross-Border Mergers) Regulations 2008* (S.I. No. 157 of 2008), reg. 39(9).
- by *European Communities (European Aviation Safety Agency) Regulations 2003* (S.I. No. 469 of 2003), reg. 10(4), as inserted (8.04.2008) by *European Communities (European Aviation Safety Agency) (Amendment) Regulations 2008* (S.I. No. 95 of 2008), regs. 3(d).
- (13.06.2007) by *European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007* (S.I. No. 285 of 2007), reg. 9(7).
- (29.05.2007) by *European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007* (S.I. No. 259 of 2007), reg. 20(8).
- (1.05.2007) by *Consumer Protection Act 2007* (19/2007), s. 87(3), (4) and sch. 6, para. 4(2), S.I. No. 178 of 2007.
- (1.01.2007) by *Employment Permits Act 2006* (16/2006), s. 26(5), S.I. No. 682 of 2006.
- (14.12.2006) by *European Communities (European Public Limited-Liability Company) (Employee Involvement) Regulations 2006* (S.I. No. 623 of 2006), reg. 19(8).
- (24.07.2006) by *Employees (Provision of Information and Consultation) Act 2006* (9/2006), s. 13(7), S.I. No. 382 of 2006.
- by *Parental Leave Act 1998* (30/1998), s. 16A(3) as inserted (18.05.2006) by *Parental Leave (Amendment) Act 2006* (13/2006), s. 11, commenced on enactment.
- (1.09.2005) by *Safety, Health and Welfare at Work Act 2005* (10/2005), s. 27(5), S.I. No. 328 of 2005.
- (14.07.2003) by *Protection of Employees (Fixed-Term Work) Act 2003* (29/2003), s. 18(1), commenced on enactment.
- (11.04.2003) by *European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003* (S.I. No. 131 of 2003), reg. 5(4).
- (1.07.2002) by *Competition Act 2002* (14/2002), s. 50(3), (4) and sch. 3, para. 3, S.I. No. 199 of 2002.
- (2.07.2001) by *Carers' Leave Act 2001* (19/2001), s. 16(3), commenced on enactment.
- (23.01.1999) by *Protections for Persons Reporting Child Abuse Act 1998* (49/1998), s. 4(3), commenced as per s. 7(2).
- (30.09.1997) by *Organisation of Working Time Act 1997* (20/1997), s. 26(2), S.I. No. 392 of 1997

The following is one version of the wording used, but there are many variations.

Prohibition on penalisation.

38.— ...

(3) If the penalisation of an employee, in contravention of subsection (1), constitutes a dismissal of the employee (within the meaning of the Unfair Dismissals Acts 1977 to 2007), relief may not be granted to the employee in respect of that penalisation both under Schedule 4 of this Act and under the Unfair Dismissals Acts 1977 to 2007.

- C4** Application of collectively cited *Worker Participation (State Enterprises) Acts 1977 to 2001* restricted (27.09.2006) by *Aer Lingus Act 2004* (10/2004), s. 6(2), S.I. No. 476 of 2006.

Number of directors of company and of worker directors under Worker Participation (State Enterprises) Acts 1977 to 2001

6.— ...

(2) Notwithstanding anything contained in the Worker Participation (State Enterprises) Acts 1977 to 2001, or any order or warrant made under those Acts, with effect from the commencement of this subsection those Acts shall cease to apply to the Company, and any person appointed a director of the Company under section 15 of the Worker Participation (State Enterprises) Act 1977 and holding such office immediately prior to such commencement shall thereupon cease to hold such office.

- C5** Application of collectively cited *Unfair Dismissals Acts 1977 to 1993* potentially restricted by *Employment Equality Act 1998* (21/1998), s. 101(2)(b), (4), (5) and sch. (as amended) and s. 101A as inserted (18.07.2004) by *Equality Act 2004* (24/2004), ss. 43, 46 and 66(3)(f)(vii), commenced on enactment. The application of the above sections was previously extended with modification by *Pensions Act 1990* (25/1990), s. 81J and sch. 4 as inserted (5.04.2004) by *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), s. 22, S.I. No. 141 of 2004, listing alternative provisions for the purposes of Part VII of *Pensions Act 1990* and amending *Pensions Act 1990*, sch. 4.

Alternative avenues of redress

101.— ...

[(2) Where an individual has referred a case to the Director under section 77(1) and either a settlement has been reached by mediation or the Director has begun an investigation under section 79, the individual— ...

(b) if he or she was dismissed before so referring the case, shall not be entitled to seek redress (or to exercise, or continue to exercise, any other power) under the Unfair Dismissals Acts 1977 to 1993 in respect of the dismissal [, unless the Director, having completed the investigation and in an appropriate case, directs otherwise and so notifies the complainant and respondent.]]

...

(4) [An employee who has been dismissed shall not be entitled to seek redress under this Part in respect of the dismissal if—]

(a) the employee has instituted proceedings for damages at common law for wrongful dismissal and the hearing of the case has begun,

(b) in the exercise of powers under the Unfair Dismissals Acts, 1977 to 1993, a rights commissioner has issued a recommendation in respect of the dismissal, or

(c) the Employment Appeals Tribunal has begun a hearing into the matter of the dismissal.

[(5) Where the Director issues a direction under subsection (2)(b), the resulting entitlement of the employee under that subsection is deemed to have effect from the date of the direction.]

Parallel claims.

101A.—Where the conduct of an employer constitutes both a contravention of Part III or IV and a contravention of either the Protection of Employees (Part-Time Work) Act 2001 or the Protection of Employees (Fixed-Term Work) Act 2003, relief may not be granted to the employee concerned in respect of the conduct under both this Act and either of the said Acts.

Table heading: Substituted words for the purposes of Part VII

(2) Where the conduct of an employer constitutes both a contravention of Part VII of the Pensions Act 1990 and a contravention of either the Protection of Employees (Part-Time Work) Act 2001 or the Protection of Employees (Fixed-Term Work) Act 2003, relief may not be granted to the employee concerned in respect of the conduct under both this Act as it applies to Part VII of the Pensions Act 1990 and either of the said Acts.

- C6** Application of collectively cited *Worker Participation (State Enterprises) Acts 1977 to 2001* restricted (24.08.2004) by *Aer Lingus Act 2004* (10/2004), s. 6(4), S.I. No. 455 of 2006.

Number of directors of Company and of worker directors under Worker Participation (State Enterprises) Acts 1977 to 2001.

6.— ...

(4) Notwithstanding anything contained in the *Worker Participation (State Enterprises) Acts 1977 to 2001*, or any order or warrant made under those Acts, the Minister may by order reduce the number of directors of the Company appointed pursuant to those Acts.

...

- C7** Power to make regulations in relation to Act provided by *Pensions Act 1990* (25/1990), s. 5(5), as inserted (1.06.2002) by *Pensions (Amendment) Act 2002* (18/2002), s. 10, S.I. No. 276 of 2002.

Regulations generally

5.— ...

(5) The Minister may, after consultation with the Minister for Enterprise, Trade and Employment and with the consent of the Minister for Finance, make regulations prescribing any matter or thing in relation to a scheme or PRSA for the purpose of enabling any provision of the *Protection of Employees (Part-Time Work) Act, 2001* to have full effect.

- C8** Application of collectively cited *Worker Participation (State Enterprise) Acts* excluded

- (3.07.2001) by *Nitrigin Eireann Teoranta Act 2001* (21/2001) s. 5(1), commenced on enactment.
- (8.12.1993) by *Irish Aviation Authority Act 1993* (29/1993), s. 71, S.I. No. 355 of 1993
- (31.01.1992) by *B & I Line Act 1991* (29/1991), s. 7, S.I. No. 25 of 1992 .

The following is one of similar versions of the wording used.

Non-application

5.—(1) Notwithstanding any provision of the *Worker Participation (State Enterprises) Acts, 1977 and 1988*, those Acts shall cease to apply to the Company and accordingly the directors of the Company appointed under section 15 of the *Worker Participation (State Enterprises) Act, 1977*, shall cease to hold office.

(2) This section shall come into operation on such day as the Minister may by order appoint.

- C9** Application of collectively cited *Worker Participation (State Enterprise) Acts 1977 to 1993* restricted (9.04.1999) by *Postal and Telecommunications Services (Amendment) Act 1999* (5/1999) s. 6(1), S.I. No. 87 of 1999, subject to transitional provision in subs. (2).

Employee directors

6.—(1) The *Worker Participation (State Enterprises) Acts, 1977 to 1993*, shall not apply to Bord Telecom Éireann p.l.c.

(2) Notwithstanding *subsection (1)* and the repeal by this Act of section 10 of the Act of 1996, the term of office of any employee director appointed in accordance with the *Worker Participation (State Enterprises) Acts, 1977 to 1993*, or of any director or alternate director appointed under the said section 10 and servicing upon the commencement of this section shall continue until such date as may be specified by the Minister.

- C10** Power to make order in relation to collectively cited *Worker Participation (State Enterprises) Acts 1977 and 2001* provided (12.06.1998) by *Worker Participation (State Enterprises) Act 1988* (13/1988), s. 9(2), commenced on enactment.

Power to extend Worker Participation (State Enterprises) Acts, 1977 and 1988 to certain subsidiaries.

9.— ...

(2) Subject to subsection (3) of this section, the Minister may as regards a particular subsidiary to which this section applies, by order provide that any employee of the subsidiary shall, for the

purpose of the Worker Participation (State Enterprises) Acts, 1977 and 1988, be regarded as an employee of the designated body (which shall be named in the order).

- C11** Application of collectively cited *Worker Participation (State Enterprises) Act 1977 to 1993* extended to Bord na Móna (7.07.1998) by *Turf Development Act 1998* (26/1998), s. 59, commenced on enactment.

Application of Worker Participation (State Enterprises) Acts, 1977 to 1993.

59.—The Worker Participation (State Enterprises) Acts, 1977 to 1993, shall apply to the Company as if it were a designated body (within the meaning of those Acts).

- C12** Application of collectively cited *Redundancy Payments Acts 1967 to 1991*, *Minimum Notice and Terms of Employment Acts 1973 to 1991* and *Unfair Dismissals Acts 1977 to 1993* extended
- (3.12.1998) by *Parental Leave Act 1998* (30/1998), s. 25(3), commenced as per s. 1(2).
 - (30.1.1995) by *Maternity Protection Act 1994* (34/1994), s. 40(2) and (3), S.I. No. 16 of 1995.

The following is one of similar versions of the wording used.

Amendment of enactments.

25.— ...

(3) An employee who is entitled to return to work in the employment concerned in accordance with section 15 but is not permitted by his or her employer to do so—

(a) shall be deemed to have been dismissed on the date on which he or she was entitled to return to work as aforesaid and the dismissal shall be deemed, for the purposes of the Unfair Dismissal Acts, 1977 to 1993, to have been an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal,

(b) shall be deemed for the purposes of the Redundancy Payments Acts, 1967 to 1991, to have been dismissed by reason of redundancy on the date aforesaid, and

(c) shall be deemed for the purposes of the Minimum Notice and Terms of Employment Acts, 1973 to 1991, to have had his or her contract of employment with his or her employer terminated on the date aforesaid.

- C13** Power to amend decision under Act and other Acts with which it is collectively cited provided (30.09.1997) by *Organisation of Working Time Act 1997* (20/1997), s. 39(2) (as amended), S.I. No. 392 of 1997.

Powers of rights commissioner, Employment Appeals Tribunal or Labour Court in certain cases.

39.—(1) In this section “relevant authority” means a rights commissioner, the Employment Appeals Tribunal or the Labour Court.

(2) A decision (by whatever name called) of a relevant authority under this Act or an enactment [or statutory instrument] referred to in the Table to this subsection that does not state correctly the name of the employer concerned or any other material particular may, on application being made in that behalf to the authority by any party concerned, be amended by the authority so as to state correctly the name of the employer concerned or the other material particular.

TABLE

...

Minimum Notice and Terms of Employment Acts, 1973 to 1991

...

Protection of Employees (Employers’ Insolvency) Acts, 1984 to 1991

...

Redundancy Payments Acts, 1967 to 1991

Terms of Employment (Information) Act, 1994

Unfair Dismissals Acts, 1977 to 1993

...

[Protection of Employees (Part-Time Work) Act 2001]

...

...

Editorial Notes:

- E1** Act and collectively cited *Minimum Notice and Terms of Employment Acts 1973 to 2005*, *Protection of Employees (Employers' Insolvency) Acts 1984 to 2012*, *Redundancy Payments Acts 1967 to 2014*, *Terms of Employment (Information) Acts 1994 to 2014*, *Unfair Dismissals Acts 1977 to 2007* and *Protection of Employment Acts 1977 to 2014* included in definitions of "employment enactment" and "relevant enactment" (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 2 items 12, 16, 18, 20, 14, 19, S.I. No. 338 of 2015, with the following effects:
- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
 - Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.
 - Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer's registered number or employee's PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
 - Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
 - Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
 - Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
 - Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2), not commenced as of date of revision.
- E2** Funding for expenses in giving effect to collectively cited *Protection of Employees (Employers' Insolvency) Acts 1984 to 2004* and *Redundancy Payments Acts 1967 to 2003* provided (1.12.2005) by *Social Welfare Consolidation Act 2005* (26/2005), ss. 5(6) and 6(1), S.I. No. 923 of 2005.
- E3** Previous affecting provision: application of collectively cited *Worker Participation (State Enterprises) Acts* potentially excluded with savings (16.12.1996 and 19.12.1996) by *Telecommunications (Miscellaneous Provisions) Act 1996* (34/1996), s. 10, S.I. No. 385 of 1996; repealed (9.04.1999) by *Postal and Telecommunications Services (Amendment) Act 1999* (5/1999), s. 3 and sch.

PART 1**PRELIMINARY AND GENERAL**

Short title,
collective citation
and construction.

1.—(1) This Act may be cited as the Protection of Employees (Part-Time Work) Act, 2001.

(2) In so far as it relates to the Minimum Notice and Terms of Employment Acts, 1973 and 1984, this Act and those Acts shall be construed together as one and may be cited together as the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

(3) In so far as it relates to the Protection of Employees (Employers' Insolvency) Acts, 1984 and 1990, this Act and those Acts shall be construed together as one and

may be cited together as the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001.

(4) In so far as it relates to the Redundancy Payments Acts, 1967 to 1990, this Act and those Acts shall be construed together as one and may be cited together as the Redundancy Payments Acts, 1967 to 2001.

(5) In so far as it relates to the Terms of Employment (Information) Act, 1994, this Act and that Act shall be construed together as one and may be cited together as the Terms of Employment (Information) Acts, 1994 and 2001.

(6) In so far as it relates to the Unfair Dismissals Acts, 1977 to 1993, this Act and those Acts shall be construed together as one and may be cited together as the Unfair Dismissals Acts, 1977 to 2001.

(7) In so far as it relates to the Worker Participation (State Enterprises) Acts, 1977 to 1993, this Act and those Acts shall be construed together as one and may be cited together as the Worker Participation (State Enterprises) Acts, 1977 to 2001.

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

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (20.12.2001) by *Protection of Employees (Part-Time Work) Act 2001 (Commencement) Order 2001* (S.I. No. 636 of 2001).

2. The 20th day of December, 2001, is appointed as the day on which the Protection of Employees (Part-Time Work) Act, 2001 (No. 45 of 2001), shall come into operation.

Interpretation (generally).

3.—(1) In this Act, unless the context otherwise requires—

“collective agreement” means an agreement by or on behalf of an employer on the one hand, and by or on behalf of a body or bodies representative of the employees to whom the agreement relates on the other hand;

“conditions of employment” includes conditions in respect of remuneration and matters related thereto (and, in relation to any pension scheme or arrangement, includes conditions for membership of the scheme or arrangement and entitlement to rights thereunder and conditions related to the making of contributions to the scheme or arrangement);

“contract of employment” means—

(a) a contract of service or apprenticeship, and

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act, 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing;

“employee” means a person of any age who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of

employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer; and for the purposes of this Act, a person holding office under, or in the service of, the State (including a civil servant within the meaning of the Civil Service Regulation Act, 1956) shall be deemed to be an employee employed by the State or Government, as the case may be, and an officer or servant of a local authority for the purposes of the F1[Local Government Act 2001 (as amended by the Local Government Reform Act 2014),], or of a harbour authority, F2[or health board, or a member of staff of an education and training board] shall be deemed to be an employee employed by the authority F2[or board], as the case may be;

“employer” means, in relation to an employee, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment” is liable to pay the wages of the individual concerned in respect of the work or service concerned shall be deemed to be the individual’s employer;

“Framework Agreement” means the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC annexed to Directive 97/81/EC of 15 December, 1997 of the Council of the European Communities;

“Minister” means the Minister for Enterprise, Trade and Employment;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“relevant enactment” means—

- (a) the Carer’s Leave Act, 2001,
- (b) the Minimum Notice and Terms of Employment Acts, 1973 and 1984,
- (c) the Protection of Employees (Employers’ Insolvency) Acts, 1984 and 1990,
- (d) the Redundancy Payments Acts, 1967 to 1990,
- (e) the Terms of Employment (Information) Act, 1994,
- (f) the Unfair Dismissals Acts, 1977 to 1993, or
- (g) the Worker Participation (State Enterprises) Acts, 1977 to 1993;

“remuneration”, in relation to an employee, includes—

- (a) any consideration, whether in cash or in kind, which the employee receives, directly or indirectly, from the employer in respect of the employment, and
- (b) any amounts the employee will be entitled to receive on foot of any pension scheme or arrangement.

(2) In this Act—

- (a) a reference to a Part or section is a reference to a Part or section of this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment (including this Act).

Annotations**Amendments:**

- F1** Substituted (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 5(8) and sch. 2 part 6, S.I. No. 214 of 2014.
- F2** Substituted (1.07.2013) by *Education and Training Boards Act 2013* (11/2013), s. 72 and sch. 6 item 39, S.I. No. 211 of 2013.

Regulations and orders.

4.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purpose of enabling any provision of this Act to have full effect.

(2) Regulations under this Act may make different provisions in relation to different classes of employees or employers, different areas or otherwise by reference to the different circumstances of the matter.

(3) A regulation or order under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient.

(4) The Minister may by order amend or revoke an order under this Act (including an order under this subsection).

(5) A regulation or order under this Act (other than an order under *section 2*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling that regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Repeal.

5.—The Worker Protection (Regular Part-Time Employees) Act, 1991, is repealed.

Expenses.

6.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART 2

PART-TIME WORK AND THE RIGHTS OF PART-TIME EMPLOYEES

Interpretation
(Part 2).

7.—(1) In this Part—

“agency worker” means an employee whose contract of employment is of the kind mentioned in *paragraph (b)* of the definition of “contract of employment” in *section 3*;

“associated employer” shall be construed in accordance with *subsection (5)*;

“comparable employee” shall be construed in accordance with *subsection (2)*;

“full-time employee” means an employee who is not a part-time employee;

“normal hours of work” means, in relation to an employee, the average number of hours worked by the employee each day during a reference period;

“part-time employee” means an employee whose normal hours of work are less than the normal hours of work of an employee who is a comparable employee in relation to him or her;

“reference period” means a period which complies with the following conditions:

- (a) the period is of not less than 7 days nor more than 12 months duration,
- (b) the period is the same period by reference to which the normal hours of work of the other employee referred to in the definition of “part-time employee” in this section is determined, and
- (c) the number of hours worked by the employee concerned in the period constitutes the normal number of hours worked by the employee in a period of that duration;

“relevant part-time employee” shall be construed in accordance with *subsection (2)*.

(2) For the purposes of this Part, an employee is a comparable employee in relation to the employee firstly mentioned in the definition of “part-time employee” in this section (the “relevant part-time employee”) if—

- (a) the employee and the relevant part-time employee are employed by the same employer or associated employers and one of the conditions referred to in *subsection (3)* is satisfied in respect of those employees,
- (b) in case *paragraph (a)* does not apply (including a case where the relevant part-time employee is the sole employee of the employer), the employee is specified in a collective agreement, being an agreement that for the time being has effect in relation to the relevant part-time employee, to be a type of employee who is to be regarded for the purposes of this Part as a comparable employee in relation to the relevant part-time employee, or
- (c) in case neither *paragraph (a)* nor *(b)* applies, the employee is employed in the same industry or sector of employment as the relevant part-time employee is employed in and one of the conditions referred to in *subsection (3)* is satisfied in respect of those employees,

and references in this Part to a comparable full-time employee in relation to a part-time employee shall be construed accordingly.

(3) The following are the conditions mentioned in *subsection (2)*—

- (a) both of the employees concerned perform the same work under the same or similar conditions or each is interchangeable with the other in relation to the work,
- (b) the work performed by one of the employees concerned is of the same or a similar nature to that performed by the other and any differences between the work performed or the conditions under which it is performed by each, either are of small importance in relation to the work as a whole or occur with such irregularity as not to be significant, and
- (c) the work performed by the relevant part-time employee is equal or greater in value to the work performed by the other employee concerned, having regard to such matters as skill, physical or mental requirements, responsibility and working conditions.

(4) If the relevant part-time employee is an agency worker then the application of *subsection (3)* shall not result in any employee, other than another agency worker, being regarded, for the purposes of this Part, as a comparable employee in relation to him or her (and likewise, if the relevant part-time employee is a non-agency worker, the application of that subsection shall not result in an agency worker being

regarded, for the purposes of this Part, as a comparable employee in relation to the relevant part-time employee).

(5) For the purposes of this Part, 2 employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control.

Annotations

Modifications (not altering text):

- C14** Application of subsection (4) restricted (5.12.2011) by *Protection of Employees (Temporary Agency Work) Act 2012* (13/2012), s. 9(b), commenced as per. s. 1(2).

Restriction of certain enactments.

9.—The following provisions shall, in so far only as they are inconsistent with this Act, not apply to an agency worker to whom this Act applies: ...

(b) subsection (4) of section 7 of the Protection of Employees (Part-Time Work) Act 2001.

Application of relevant enactments.

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

Conditions of employment for part-time employees.

9.—(1) Subject to *subsection (2) and (4) and section 11(2)*, a part-time employee shall not, in respect of his or her conditions of employment, be treated in a less favourable manner than a comparable full-time employee.

(2) Without prejudice to *section 11(2)*, if treating a part-time employee, in respect of a particular condition of employment, in a less favourable manner than a comparable full-time employee can be justified on objective grounds then that employee may, notwithstanding *subsection (1)*, be so treated.

(3) Nothing in *subsection (2)* shall be construed as affecting the application of a relevant enactment, by virtue of *section 8*, to a part-time employee.

(4) *Subsection (1)* shall, in so far, but only in so far, as it relates to any pension scheme or arrangement, not apply to a part-time employee whose normal hours of work constitute less than 20 per cent of the normal hours of work of a comparable full-time employee.

(5) For the avoidance of doubt, the reference in this section to a comparable full-time employee is a reference to such an employee either of the opposite sex to the part-time employee concerned or of the same sex as him or her.

Annotations

Editorial Notes:

- E5** Redress and appeal procedures in respect of requirements under section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 10, sch. 6 part 1 item 16, sch. 6 part 2 item 16, S.I. No. 410 of 2015.

Proportionate provision of certain conditions of employment.

10.—(1) The extent to which any condition of employment referred to in *subsection (2)* is provided to a part-time employee for the purposes of complying with *section 9(1)* shall be related to the proportion which the normal hours of work of that

employee bears to the normal hours of work of the comparable full-time employee concerned.

(2) The condition of employment mentioned in *subsection (1)* is a condition of employment the amount of the benefit of which (in case the condition is of a monetary nature) or the scope of the benefit of which (in any other case) is dependent on the number of hours worked by the employee.

(3) For the avoidance of doubt, neither this section nor any other provision of this Act affects the operation of Part III of the Organisation of Working Time Act, 1997.

Part-time employees who work on a casual basis.

11.—(1) This section applies to a part-time employee who—

(a) works on a casual basis, and

(b) does not fall within a class of employee prescribed under *subsection (7)*.

(2) Notwithstanding *section 9(1)*, a part-time employee to whom this section applies may, if such less favourable treatment can be justified on objective grounds, be treated, in respect of a particular condition of employment, in a less favourable manner than a comparable full-time employee.

(3) Nothing in *subsection (2)* shall be construed as affecting the application of a relevant enactment, by virtue of *section 8*, to a part-time employee.

(4) For the purposes of this section, a part-time employee shall, at a particular time, be regarded as working on a casual basis if—

(a) at that time—

(i) he or she has been in the continuous service of the employer for a period of less than 13 weeks, and

(ii) that period of service and any previous period of service by him or her with the employer are not of such a nature as could reasonably be regarded as regular or seasonal employment,

or

(b) by virtue of his or her fulfilling, at that time, conditions specified in an approved collective agreement that has effect in relation to him or her, he or she is regarded for the purposes of that agreement as working on such a basis.

(5) In *subsection (4)(b)*, “approved collective agreement” means a collective agreement that stands approved of by the Labour Court under the *Schedule* to this Act.

(6) For the purposes of *subsection (4)(a)*, the service of an employee in his or her employment shall be deemed to be continuous unless that service is terminated by—

(a) the dismissal of him or her by the employer, or

(b) the employee voluntarily leaving his or her employment.

(7) The Minister shall from time to time cause to be reviewed, in such manner as he or she determines, the operation of this section in relation to part-time employees and may, following such a review, subject to *subsection (9)*, prescribe a class or classes of such employee to be a class or classes of employee to whom this section shall not apply.

(8) In determining the manner in which such a review shall be carried out, the Minister shall consult with such organisations representative of employers, such organisations representative of employees, and such other bodies as the Minister considers appropriate and, before making regulations under this section, the Minister

shall consult with such organisations and bodies in relation to the terms of the proposed regulations.

(9) The Minister shall not make regulations under this section unless the results of the review concerned referred to in *subsection (7)*, in the Minister's opinion, show that there cannot, in ordinary circumstances, be objective grounds for treating the class or classes of employees to whom the regulations relate in a less favourable manner than a comparable full-time employee.

Objective grounds for less favourable treatment.

12.—(1) A ground shall not be regarded as an objective ground for the purposes of any provision of this Part unless it is based on considerations other than the status of the employee concerned as a part-time employee and the less favourable treatment which it involves for that employee is for the purpose of achieving a legitimate objective of the employer and such treatment is appropriate and necessary for that purpose.

(2) For the avoidance of doubt, a ground which does not constitute an objective ground for the purposes of *section 9(2)* may be capable of constituting an objective ground for the purposes of *section 11(2)*.

Review of obstacles to the performance of part-time work.

13.—(1) The Commission may, and at the request of the Minister shall, study every industry and sector of employment for the purposes of identifying obstacles that may exist in that industry or sector to persons being able to perform part-time work in that industry or sector and make recommendations as to how any such obstacles so identified could be eliminated.

(2) The Commission shall report to the Minister in relation to any study and recommendations made by it under *subsection (1)* (whether that study and those recommendations have been made of its own volition or not) and shall publish, in such manner as it thinks appropriate, that study and those recommendations.

(3) Any such publication may include such practical guidance for the industries and sectors of employment concerned with regard to the steps that may be taken to implement the recommendations of the Commission as the Commission thinks appropriate.

(4) In formulating recommendations under *subsection (1)*, the Commission shall invite such organisations representative of employers, such organisations representative of employees, and such other bodies as the Commission considers appropriate, to make submissions, whether orally or in writing, to it in relation to the proposed recommendations, and shall have regard to any submissions made to it, in response to the invitation, by such organisations or bodies.

(5) The Commission shall, after consultation with organisations and bodies of the kind referred to in *subsection (4)*, determine the extent to which the preparation of a code of practice under this subsection with respect to the steps that could be taken by employers for the purposes of Clause 5.3 of the Framework Agreement would, in its opinion, be of practical benefit to employees and employers and may, if in its opinion the preparation of such code would be of sufficient practical benefit to those persons, prepare and publish such a code accordingly.

(6) The Commission may, after consultation with the organisations and bodies referred to in *subsection (5)*, amend or revoke, or replace with another code of practice thereunder, a code of practice under *subsection (5)*; the Commission shall publish any such replacement code or, as appropriate, publish notice of the making of any such amendment and its nature or any such revocation, as the case may be.

(7) In this section—

“Commission” means the Labour Relations Commission;

“obstacles” includes obstacles arising by virtue of the operation of any enactment and the following of any practice;

“part-time work” means work which, if it were performed, would result in the person performing it being regarded as a part-time employee for the purposes of this Act.

Annotations

Editorial Notes:

- E6** Code of practice prepared in accordance with subs. (5) adopted (12.01.2006) by *Industrial Relations Act 1990 (Code of Practice on Access to Part-Time Working) (Declaration) Order 2006* (S.I. No. 8 of 2006).

Voidance of certain provisions.

14.—Save as expressly provided otherwise in this Act, a provision in an agreement (whether a contract of employment or not and whether made before or after the commencement of the provision concerned of this Act) shall be void in so far as it purports to exclude or limit the application of, or is inconsistent with, any provision of this Act.

Prohibition of penalisation of employee by employer.

15.—(1) An employer shall not penalise an employee—

- (a) for invoking any right of the employee to be treated, in respect of the employee’s conditions of employment, in the manner provided for by this Part, or
- (b) for having in good faith opposed by lawful means an act which is unlawful under this Act, or
- (c) for refusing to accede to a request by the employer to transfer from performing—
 - (i) full-time work to performing part-time work, or
 - (ii) part-time work to performing full-time work,
 or
- (d) for giving evidence in any proceedings under this Act or giving notice of his or her intention to do so or to do any other thing referred to in *paragraph (a), (b) or (c)*.

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

- (a) is dismissed, suffers any unfavourable change in his or her conditions of employment or any unfair treatment (including selection for redundancy), or
- (b) is the subject of any other action prejudicial to his or her employment,

but, where any such action with regard to the employee is in respect of the matter referred to in *subsection (1)(c)*, that action shall not constitute a penalisation of the employee if both of the following conditions are complied with—

- (i) having regard to all the circumstances, there were substantial grounds both to justify the employer’s making the request concerned and the employer’s taking that action consequent on the employee’s refusal, and
- (ii) the taking of that action is in accordance with the employee’s contract of employment and the provisions of any other enactment of the kind to which *section 20(2)* applies.

(3) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts, 1977 to 1993, relief may not be granted to the employee in respect of that penalisation both F3[under Part 4 of the Workplace Relations Act 2015] and under those Acts.

(4) In this section—

“full-time work” means work which, if it were performed, would result in the person performing it being regarded as a full-time employee for the purposes of this Act;

“part-time work” has the same meaning as it has in *section 13*.

Annotations

Amendments:

- F3** Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 ref. 16, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

Editorial Notes:

- E7** Redress and appeal procedures in respect of requirements under section provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 10, sch. 6 part 1 item 16, sch. 6 part 2 item 16, S.I. No. 410 of 2015.

F4[Decision of adjudication officer under section 41 of the Workplace Relations Act 2015

16. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of section 9 or 15 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 relevant provision,
- (c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances, but not exceeding 2 years’ remuneration in respect of the employee’s employment.]

Annotations

Amendments:

- F4** Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 ref. 16, S.I. No. 410 of 2015, subject to transitional provisions in subs. (3).

F5[Decision of Labour Court on appeal from a decision referred to in section 16

17. 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 16, shall affirm, vary or set aside the decision of the adjudication officer.]

Annotations

Amendments:

- F5** Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 ref. 16, S.I. No. 410 of 2015, subject to transitional provision in subs. (3).

Editorial Notes:

- E8** Previous affecting provision: section substituted (14.07.2003) by *Protection of Employees (Fixed-Term Work) Act 2003* (29/2003), s. 19(3), commenced on enactment; substituted as per F-note above.

Enforcement of determinations of Labour Court.

18.—F6[...]

Annotations**Amendments:**

- F6** Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 ref. 15, S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Non-application of sections 16 to 18.

19.—Sections 16 to 18 shall not apply to a member of the Defence Forces.

PART 3

MISCELLANEOUS

Clarification of effect of certain enactments in relation to posted workers and other persons having an employment relationship in the State.

20.—(1) In this section, the “Directive” means Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

(2) For the avoidance of doubt, every enactment referred to in *subsection (3)* that confers rights or entitlements on an employee applies and shall be deemed always to have applied to—

(a) a posted worker (within the meaning of the Directive), and

(b) a person, irrespective of his or her nationality or place of residence, who—

(i) has entered into a contract of employment that provides for his or her being employed in the State,

(ii) works in the State under a contract of employment, or

(iii) where the employment has ceased, entered into a contract of employment referred to in *subparagraph (i)* or worked in the State under a contract of employment,

in the same manner, and subject to the like exceptions not inconsistent with this subsection, as it applies and applied to any other type of employee.

(3) The enactment mentioned in *subsection (2)* is one the principal functions under which are vested (disregarding functions vested in the Labour Court, the Employment Appeals Tribunal or any other person who is not a Minister of the Government or a Minister of State) in—

(a) the Minister or a Minister of State at the Department of Enterprise, Trade and Employment, or

(b) the Minister for Justice, Equality and Law Reform or a Minister of State at the Department of Justice, Equality and Law Reform.

Annotations**Modifications (not altering text):**

C15 Prospective affecting provision: functions transferred and Employment Appeals Tribunal construed by *Workplace Relations Act 2015* (16/2015), s. 66, not commenced as of date of revision.

Transfer of functions from Employment Appeals Tribunal

66.(1) (a) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Commission in so far as they relate to any claim for redress, dispute or complaint determined by the Employment Appeals Tribunal under an employment enactment before that day.

(b) All functions that, immediately before the dissolution day, were vested in the Employment Appeals Tribunal are transferred to the Labour Court in so far as they relate to appeals determined by the Employment Appeals Tribunal under an employment enactment before that day.

(2) (a) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (a) of subsection (1) shall be construed as references to the Commission.

(b) References in any enactment or instrument under an enactment to the Employment Appeals Tribunal in so far as they relate to a function transferred by paragraph (b) of subsection (1) shall be construed as references to the Labour Court.

(3) This section shall come into operation on the dissolution day.

Amendment of section 14(2) of Protection of Employment Act, 1977.

21.—Section 14(2) of the Protection of Employment Act, 1977, is amended by the substitution for “£3,000” of “€12,500”.

SCHEDULE

Approval of Collective Agreements for Purposes of *section 11(4)*

1. In this Schedule, "collective agreement" means a collective agreement referred to in *section 11(5)*.

2. (1) On an application being made in that behalf by any of the parties thereto, the Labour Court may, subject to the provisions of this Schedule, approve of a collective agreement.

(2) On receipt of an application under this paragraph, the Labour Court shall consult such representatives of employees and employers as it considers to have an interest in the matters to which the collective agreement, the subject of the application, relates.

(3) The Labour Court shall not approve of a collective agreement unless the following conditions are fulfilled as respects that agreement, namely—

(a) the Labour Court is satisfied that it is appropriate to approve of the agreement having regard to Clause 2.2 of the Framework Agreement,

(b) the agreement has been concluded in a manner usually employed in determining the pay or other conditions of employment of employees in the employment concerned,

(c) the body which negotiated the agreement on behalf of the employees concerned is the holder of a negotiation licence under the Trade Union Act, 1941, or is an excepted body within the meaning of that Act which is sufficiently representative of the employees concerned,

(d) the agreement is in such form as appears to the Labour Court to be suitable for the purposes of the agreement being approved of under this section.

(4) Where the Labour Court is not satisfied that the condition referred to in *clause (a)* or *(d)* of *subparagraph (3)* is fulfilled in relation to a collective agreement, the subject of an application under this paragraph (but is satisfied that the other conditions referred to in *subparagraph (3)* are fulfilled in relation to the agreement), it may request the parties to the agreement to vary the agreement in such manner as will result in the said condition being fulfilled and if those parties agree so to vary the agreement and vary it, accordingly, the Labour Court shall approve of the agreement as so varied.

3. Where a collective agreement which has been approved of under this Schedule is subsequently varied by the parties thereto, any of the said parties may apply to the Labour Court to have the agreement, as so varied, approved of by the Labour Court under this Schedule and the provisions of this Schedule shall apply to such an application as they apply to an application under *paragraph 2*.

4. The Labour Court may withdraw its approval of a collective agreement under this Schedule where it is satisfied that there are substantial grounds for so doing.

5. The Labour Court shall determine the procedures to be followed by a person in making an application under *paragraph 2* or *3*, by the Labour Court in considering any such application or otherwise performing any of its functions under this Schedule and by persons generally in relation to matters falling to be dealt with under this Schedule.

6. The Labour Court shall publish, in such manner as it thinks fit, particulars of the procedures referred to in *paragraph 5*.

7. The Labour Court shall establish and maintain a register of collective agreements standing approved of by it under this Schedule and such a register shall be made available for inspection by members of the public at all reasonable times.