



- **Redundancy Payments Acts, 1967 To 2001**
- **Minimum Notice and Terms of Employment Acts, 1973 To 2001**
- **Unfair Dismissals Acts, 1977 to 2001**
- **Maternity Protection Act, 1994**
- **Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001**
- **Payment of Wages Act, 1991**
- **Terms of Employment (Information) Act, 1994 and 2001**
- **Adoptive Leave Act, 1995**
- **Protection of Young Persons (Employment) Act, 1996**
- **Organisation of Working Time Act, 1997**
- **Parental Leave Act, 1998**
- **Protection for Persons Reporting Child Abuse Act, 1998**
- **Carer's Leave Act, 2001**
- **European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings)(Amendment) Regulations, 2000**
- **European Communities (Protection of Employment) Regulations, 2000**

**EXPLANATORY BOOKLET  
ON THE  
EMPLOYMENT APPEALS TRIBUNAL**

**Issued by:**

**The Department of Enterprise, Trade and Employment  
Davitt House, Adelaide Road, Dublin 2  
January 2002**

## NOTE

This booklet gives only a summary of the procedures and powers of the Employment Appeals Tribunal which deals with disputes arising out of the Redundancy Payments Acts, the Minimum Notice and Terms of Employment Acts, the Unfair Dismissals Acts, the Maternity Protection Act, the Protection of Employees (Employers' Insolvency) Acts, the Payment of Wages Act, the Terms of Employment (Information) Act, the Protection of Young Persons (Employment) Act, the Adoptive Leave Act, the Organisation of Working Time Act, the Protection for Persons Reporting Child Abuse Act and the Carer's Leave Act.

This guide is not a legal interpretation of the Acts, and is not intended to be a complete or authoritative statement of the law.

For specific information, the Acts themselves and the regulations made under them, (see appendix) should be read. These can be ordered from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2.

A Guide to the Redundancy Payments Scheme is available free from the Department of Enterprise, Trade and Employment, as are explanatory booklets on the Minimum Notice and Terms of Employment Acts, the Unfair Dismissals Acts, the Protection of Employees (Employers' Insolvency) Acts, the Payment of Wages Act, the Terms of Employment (Information) Act, the Protection of Young Persons Act, the Adoptive Leave Act, the Organisation of Working Time Act, the Carer's Leave Act, the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations, 2000 and the European Communities (Protection of Employment) Regulations, 2000.

A Guide to the Maternity Protection Act and the Parental Leave Act is available from:

**The Equality Authority, Clonmel Street, Dublin 2**  
**Telephone: 01 417 3333**  
**Low Call: 1890 245545**

## INDEX

	SECTION
The Scope of the Employment Appeals Tribunal	1
Composition of Tribunal	2
Tribunal Secretariat	3
Offices of the Secretariat	4
How to refer an application	5
Range of applications handled	6
Time Limits and other constraints	7
Procedure of Secretariat in handling appeals - Notice of Appearance	8
Places and times of hearings	9
Prompt hearings	10
Representation of parties at hearings	11
Informality of hearings	12
Procedures at hearings	13
Oaths	14
Witnesses and Evidence	15
Mitigation of Loss	16
Determinations of Tribunal	17
Appeals against determinations of the EAT	18
Non-attendance at hearings	19
Adjournments and Postponements	20
Withdrawal of applications	21
Costs	22
Annual Report of Tribunal	23
Appendix - Acts of Oireachtas relating to the Employment Appeals Tribunal and Statutory Instruments relating to Acts.	

## 1. THE SCOPE OF THE EMPLOYMENT APPEALS TRIBUNAL

The Tribunal is an independent body bound to act judicially and was set up to provide a speedy, fair, inexpensive and informal means for individuals to seek remedies for alleged infringements of their statutory rights.

The Tribunal was set up in 1968 under Section 39 of the Redundancy Payments Act, 1967, for the purposes of resolving disputes on redundancy

- (a) between employees and employers
- (b) between employees/employers and the Minister for Labour (now Enterprise, Trade and Employment) or a Deciding Officer.

**The Minimum Notice and Terms of Employment Act, 1973 to 2001:** This Act widened the scope of the Tribunal inasmuch as Section 11 of that Act provided for the reference of disputes under the Act to the Tribunal.

**Unfair Dismissals Acts 1977 to 2001:** Applications to the Tribunal can be made under Sections 8 and 9 of the Act, as amended by the ***Unfair Dismissals (Amendment) Act***, 1993. The unfair dismissals legislation is now referred to as the Unfair Dismissals Acts, 1977 to 2001. For more specific information on the functions of the Tribunal under this legislation please refer to section 6 of this booklet.

**The Maternity Protection Act, 1994:** Any dispute concerning an entitlement under the Act which does not relate to a dismissal or to technical matters on health and safety risk within the competence of the Health and Safety Authority, may be referred by either party to the dispute to a Rights Commissioner within six months of the commencement of the dispute. However, this period may be extended to one not exceeding twelve months if a Rights Commissioner is satisfied that exceptional circumstances prevented either party giving notice within the six months period. The Department of Social Community and Family Affairs is responsible for payment during maternity leave to employees who satisfy the required contribution conditions.

**The Protection of Employees (Employers' Insolvency) Act, 1984 to 2001:** This Act provides for the protection of employees' entitlements in regard to matters relating to pay (e.g. arrears of wages, holiday pay, etc.) in the event of the insolvency of their employer on or after 22nd October, 1983. The Act also provides that disputes concerning some of these entitlements may be referred to the Employment Appeals Tribunal.

**Payment of Wages Act, 1991:** The main purpose of this Act is to define the acceptable modes of payment of wages and to regulate for certain deductions from wages. The Act allows for appeals to be made to the Tribunal against the decisions of Rights Commissioners.

**The Terms of Employment (Information) Act, 1994 to 2001:** The Act establishes an employer's obligation to provide a written statement to employees setting out particulars of the employee's terms of employment. A dispute under the Act must first be brought before a Rights Commissioner. It may then be brought before the Tribunal by way of an appeal against the Recommendation of the Rights Commissioner in the matter.

**Adoptive Leave Act, 1995:** This Act entitles female employees, and in certain circumstances male employees, to employment leave for the purpose of child adoption. A dispute under the Act must first be brought before a Rights Commissioner. It may then be appealed to the Tribunal by way of an appeal against the decision of the Rights Commissioner in the matter.

**Protection of Young Persons (Employment) Act, 1996:** A parent or guardian of a child or a young person may present a complaint to a Rights Commissioner that an employer has contravened section 13 (preservation of existing rates of pay and conditions) or section 17 (refusal to co-operate with the employer in breaching the Act). An employer or an employee may appeal to the Tribunal from a Recommendation of a Rights Commissioner.

**Organisation of Working Time Act, 1997:** Section 39 of this Act provides for a solution to difficulties encountered with the enforcement of decisions of, inter alia, the Employment Appeals Tribunal under the legislation administered by it where details relating to an employer are

incorrectly set out in a Tribunal decision. In addition, Section 40 allows an employee or his/her trade union to include a referral of a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its scope.

**The Parental Leave Act, 1998:** The Act entitles employees to avail of unpaid leave from employment to enable them to take care of their young children, and for limited paid leave (*force majeure* leave) to enable employees to deal with family emergencies resulting from injury or illness of certain family members.

Employees and employers are entitled to refer a dispute from a Recommendation of a Rights Commissioner. An employer or an employee may appeal to the Tribunal from a Recommendation of a Rights Commissioner. However, disputes concerning the dismissal of an employee are dealt with under the provisions of the Unfair Dismissals Acts, 1977 to 1993.

**Protection for Persons Reporting Child Abuse Act, 1998:** The Act provides protection from penalisation by their employers of persons who report child abuse “reasonably and in good faith” to designated officers of health boards or any member of the Garda Síochána. The avenue of redress for such a person is by way of complaint to a Rights Commissioner. There is also a provision for an appeal from the Rights Commissioner by either party to the Employment Appeals Tribunal.

### **European Communities (Protection of Employment) Regulations, 2000:**

These Regulations amend the Protection of Employment Act, 1977, to provide for representation of, and consultation with, employees in the absence of a trade union, staff association or excepted body; to provide for a right of complaint to a rights commissioner where an employer contravenes section 9 or 10 (information and consultation of employees) and to provide for increases in the levels of fines for offences.

**European Communities (Safeguarding of Employees’ Rights on Transfer of Undertakings) (Amendment) Regulations, 2000:** These Regulations amend the European Communities (Safeguarding of Employees’ Rights on Transfer of Undertakings) Regulations 1980

to provide for representation of, and consultation with, employees in the absence of a trade union, staff association or excepted body; to provide for a right of complaint to a Rights Commissioner where an employer contravenes Regulation 7 (information and consultation of employees) and to provide for increases in the levels of fines for offences.

**Carer's Leave Act, 2001:** This Act provides for a new entitlement of employees to avail of unpaid carer's leave from their employment to enable them to care personally for persons who have been certified by the Department of Social, Community and Family Affairs as requiring full time care and attention.

An employee with 12 months continuous service is entitled to up to 65 weeks' leave in respect of any one person in receipt of care from him or her.

Disputes in relation to issues of (i) whether or not the person to be cared for requires full-time care and attention; or (ii) whether or not the employee is providing the full-time care and attention are referable only to a deciding officer at the Department of Social, Community and Family Affairs.

All *other* disputes regarding rights or obligations under the Act are referable to a Rights Commissioner for decision by him or her, within six months of the date of the contravention giving rise to the dispute. This time limit may be extended by a Rights Commissioner by a period of up to six months in certain circumstances.

A party to proceedings before a Rights Commissioner may appeal from the decision of the Rights Commissioner to the Tribunal within 4 weeks of the date on which the decision was communicated to the party, by notice in writing. The notice must contain any particulars, which may be prescribed and state the intention of the party to appeal the decision. (The Tribunal may, if it considers reasonable to do so having regard to all the circumstances, extend by a specified period – not exceeding a further six weeks – the period of time within which the appeal notice is to be given).

## **2. COMPOSITION OF TRIBUNAL**

The Tribunal consists of a Chairman and 22 Vice-Chairmen and a panel of 60 Members, 30 nominated by the Irish Congress of Trade Unions and 30 by Employers' Organisations.

The Tribunal ordinarily acts in divisions, each division consisting of either the Chairman or a Vice-Chairman and two Members, one drawn from the employers' side of the panel and one from the trade union side. A Vice-Chairman of the Tribunal, when acting as Chairman (at the request of the Minister or the Chairman), has all the powers of the Chairman.

## **3. TRIBUNAL SECRETARIAT**

The Tribunal Secretariat is staffed by Civil Servants assigned from the Department of Enterprise, Trade and Employment. Officers of the Secretariat process applications from the date of receipt and act as secretaries at hearings of the Tribunal. Secretaries also draft decisions following Tribunal deliberations, for consideration by the Tribunal and notify the parties concerned of the decisions of the Tribunal.

## **4. OFFICES OF THE SECRETARIAT**

The offices of the Secretariat of the Tribunal are located in the Department of Enterprise, Trade and Employment building at Davitt House, 65A Adelaide Road, Dublin 2, (Telephone 01-6312121). Telephone enquiries regarding the various Acts should be directed to The Employment Rights Information Unit of the Department of Enterprise, Trade and Employment. In the case of the Maternity Protection and Adoptive Leave Acts such queries should be directed to the Equality Authority, Clonmel Street, Dublin 2.

## **5. HOW TO REFER AN APPLICATION**

An application is referred to the Tribunal by way of a completed form containing a statement of the facts and contentions on which the appellant (i.e. the person making the application) intends to rely. Forms T1A, T1B, T1C, T1D and RP 51B (as appropriate) are available from the Information Unit, Department of Enterprise, Trade and

Employment, Davitt House, Adelaide Road, Dublin 2 (Telephone 01-631 3131) or from the offices of the Secretariat of the Tribunal at the above address (Telephone 01-6312121).

The forms in question are:

**Form T1A:** to be used by an employee when making a direct claim under any of the following Acts: Redundancy Payments Acts 1967 to 2001, Minimum Notice and Terms of Employment Acts 1973 to 2001, Unfair Dismissals Acts 1977 to 2001 and the Organisation of Working Time Act, 1997.

**Form T1B:** to be used by persons who wish to appeal against a Recommendation of a Rights Commissioner under any of the following Acts: Unfair Dismissals Acts 1977 to 2001, Payment of Wages Act 1991, Terms of Employment (Information) Act 1994 to 2001, Maternity Protection Act 1994, Adoptive Leave Act 1995, Protection of Young Persons (Employment) Act 1996, Parental Leave Act 1998, the Protection for Persons Reporting Child Abuse Act, 1998, European Communities (Safeguarding of Employees' Rights On Transfer of Undertakings)(Amendment) Regulations, 2000, European Communities (Protection of Employment) Regulation, 2001 and Carer's Leave Act., 2001.

**Form T1C:** to be used by an employee in matters relating to the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001.

**Form T1D:** to be used by persons who wish to bring before the Tribunal a Recommendation/Decision of the Rights Commissioner which has not been carried out.

**Form RP51B:** to be used by an employee/employer when appealing against a decision of the Minister for Enterprise, Trade and Employment or a Deciding Officer in a matter of redundancy (Form T1A should be used by an

employee when appealing against a decision of an employer).

## 6. RANGE OF APPLICATIONS HANDLED

### Redundancy Payments Acts

An appeal by an employee who is dissatisfied with any decision of an employer under the Redundancy Payments Acts. Examples are as follows:

- where an employer claims that the employee's dismissal was not on grounds of redundancy;
- where an employer claims that an employee was not long enough in the job to qualify under the Redundancy Payments Acts;
- where there is a disagreement over the length of time the employee was employed;
- where an employee claims that his lump sum was wrongly calculated;
- where the employee has been laid off or put on short-time for a qualifying period and his redundancy has not been conceded on application;
- where the employee claims that alternative employment which was offered to him/her in a redundancy situation was not suitable;
- where there is a dispute about continuity of employment e.g. where there has been a change of ownership etc.;
- where there is a dispute regarding the employee's entitlement to time off during the two weeks' notice period to look for new employment or make arrangements for training for future employment.

An appeal by *an employee* against a decision of a Deciding Officer under the Redundancy Payments Acts on any question arising in relation to:

- who is the employer of an employee;

An appeal by *an employer* under the Redundancy Payments Acts where:

- he is dissatisfied with a decision given by the Minister in relation to his rebate.
- he is dissatisfied with a decision given by a Deciding Officer in relation to (i) in sub paragraph (b) above.

A redundancy matter referred by a Deciding Officer to the Tribunal for decision.

Claims under the **Minimum Notice and Terms of Employment Acts**

**The Unfair Dismissals Acts,**

- a claim for redress by an employee where a party has objected in writing to its being heard by a Rights Commissioner. The claim must be initiated within six months of the date of dismissal by giving written notice within that period to the Tribunal. *The Tribunal has discretion to extend this time-limit to 12 months, but only in exceptional circumstances. A copy of the notice will be given by the Tribunal to the employer.*
- A claim by an employee who has made a parallel claim at common law in respect of the same dismissal will be accepted by the Tribunal. However, at a specified stage in one or other of the respective procedures, the “second” claim is rendered ineffective. More detailed information on this issue can be obtained by referring to Section 10 of the Unfair Dismissals (Amendment) Act, 1993;
- an appeal by an employer or employee against a recommendation of a Rights Commissioner in the matter of unfair dismissal. Such an appeal must be initiated within six weeks of the date on which the recommendation of the Rights Commissioner was given to the parties concerned. This is done by giving written notice of appeal within that period to the Tribunal on the prescribed form(T1B). *A copy of the notice will be given by the Tribunal to the other party concerned.*
- a claim by an employee for the implementation by the Tribunal of a Rights Commissioner’s recommendation the terms of which have not been carried out by the employer and which

has not been appealed within the specified 6 weeks time limited. (Form T-1D)

**The Maternity Protection Act:** Disputes concerning entitlement, except those relating to health and safety matters, may be referred to a Rights Commissioner and on appeal to the Employment Appeals Tribunal. If a dispute relates to the dismissal of an employee it is dealt with under the Unfair Dismissal Acts, 1977 to 2001. Dismissals relating to an employee's exercise of rights under the Maternity Protection Act or to matters connected with pregnancy, giving birth or breastfeeding are deemed to be unfair dismissals.

Regulations which have been made under the Maternity Protection Act set out the procedure to be followed as regards the submission and hearing of disputes and appeals before the Employment Appeals Tribunal. An Information Note on the Regulations is available from the Equality Authority Clonmel Street, Dublin 2. Telephone No. 01 4173333.

**The Protection of Employees (Employers' Insolvency) Acts:** Applications concerning claims for entitlements relating to arrears of wages, holiday pay, sick pay, or unpaid contributions to occupational pension schemes may be made to the Minister. A decision of the Minister may be appealed to the Employment Appeals Tribunal by the claimant on the grounds that no payment was made or that any payment made was less than the amount which the claimant considered should have been paid. Where a doubt exists as to whether a claim is allowable, the Minister may refer any matter arising in connection with the claim to the Tribunal for a decision.

**The Payment of Wages Act:** The Act provides, among other things, that a complaint relating to an unlawful deduction from wages may be made to a Rights Commissioner. An employer or an employee may appeal to the Tribunal from a decision of a Rights Commissioner. A decision of the Rights Commissioner under the Act or a determination of the Tribunal may be enforced by the Circuit Court.

**The Terms of Employment (Information) Act.:** The Act provides that a complaint relating to the requisite statement of the terms of employment may be made to a Rights Commissioner. An employer or

an employee may appeal to the Tribunal from a recommendation of a Rights Commissioner.

**The Adoptive Leave Act:** (Part V) of the Act provides that a dispute between an employer and an employee as regards entitlements under the legislation may be referred to a Rights Commissioner. Either party may appeal to the Tribunal from a recommendation of a Rights Commissioner. In the case of a dispute in relation to the dismissal of an employee, because of the exercise or contemplated exercise of the right to adoptive leave or additional adoptive leave, the redress procedures of the Unfair Dismissals Act apply.

**The Protection of Young Persons (Employment) Act:** This Act provides that the parent or guardian of a child or a young person may present a complaint to a Rights Commissioner that an employer has contravened section 13 (preservation of existing rates of pay and conditions) or section 17 (refusal to co-operate with the employer in breaching the Act).

**The Organisation of Working Time Act:** Under the Act a party who already has a claim before the Tribunal may associate a dispute in relation to holiday entitlements with that claim. However, it should be noted that stand-alone holiday complaints may not be referred to the Tribunal for adjudication, but rather should be referred to the Rights Commissioner Service in the first instance, and to the Labour Court on appeal/implementation.

**The Parental Leave Act:** The Act provides that either party may appeal to the Tribunal from a recommendation of a Rights Commissioner.

**The Protection for Persons Reporting Child Abuse Act:** Either an employer or an employee may appeal to the Tribunal from a recommendation of a Rights Commissioner.

European Communities (Safeguarding of Employees' Rights On Transfer of Undertakings)(Amendment) Regulations, 2000 (See under Scope of the Tribunal).

European Communities (Protection of Employment) Regulations, 2000 (See under Scope of the Tribunal).

**Carer's Leave Act 2001:** The Act provides that either party may appeal to the Tribunal from a recommendation of a Rights Commissioner.

## **7. TIME LIMITS AND OTHER CONSTRAINTS WHICH APPLY TO APPLICATIONS MADE TO THE TRIBUNAL**

### **Redundancy Payments Acts - Time Limits**

Time limit for claiming a redundancy payment from employer:

- (1) A claim for a redundancy lump sum must be made in writing within *52 weeks* following the date of dismissal or date of termination of employment - (see (5) following).

A person may lose entitlement to a redundancy lump sum if he does not *WITHIN THE 52-WEEK PERIOD* mentioned:

give a written claim for redundancy lump sum payment to his employer

**or**

have the question of his right to such payment, or its amount, referred to the *EMPLOYMENT APPEALS TRIBUNAL* - but see (2) following.

- (2) The *EMPLOYMENT APPEALS TRIBUNAL* has discretion, if satisfied that failure by the employee to claim within the 52 week limit was due to reasonable cause, to extend that limit to *104 WEEKS* from the date of dismissal or date of termination of employment - see (5) following.
- (3) If the 52 week period mentioned in (1) has elapsed before the claim was made, the employee can be declared entitled to a redundancy lump sum *ONLY BY DECISION OF THE TRIBUNAL*.

In such cases an employee must give a *WRITTEN* claim for redundancy to his employer within the 104 week period mentioned in (2), and is advised to do so before appealing to the Tribunal. He is also *advised* (though not *obliged*) to consult his union or other representative (if any) before sending in his appeal.

- (4) Circumstances may arise where an employee may be transferred from one employer to another without realising that the transfer involves his dismissal by one employer and re-engagement by the other. The employee, if he is subsequently made redundant, has the usual time to apply for his redundancy entitlement for the period spent working for the employer who made him redundant. The Tribunal may fix the date from which the time limit shall run for applying to his previous employer for his redundancy entitlement in respect of his pre-transfer employment, where his failure to apply was due to his not having received from such previous employer notice of dismissal or a redundancy certificate.
- (5) It should be noted that the expression “*TERMINATION OF EMPLOYMENT*” does not necessarily mean the date on which an employee actually stopped work. It means *the date on which his contract of employment with the employer against whom he is claiming ended*, whether or not he was on that date actually working.

## **Minimum Notice and Terms of Employment Acts**

As the process of hearing a dispute can take some time, it would be advisable to endeavour to resolve it directly with the employer or by negotiation through a Trade Union before referring it to the Tribunal. While the Acts do not impose any time limit on the referral of a dispute to the Tribunal any person intending to do so should act without delay because the passage of time makes the resolution of the dispute more difficult.

## **Unfair Dismissals Acts**

**The time limits under these Acts are outlined under Range of Applications handled in Section 6 of this booklet.**

## **Maternity Protection Act**

Any dispute concerning an entitlement under the Act which does not relate to a dismissal or to technical matters on health and safety risk within the competence of the Health and Safety Authority, may be referred by either party to the dispute to a Rights Commissioner within

six months of the commencement of the dispute. However, this period may be extended to one not exceeding twelve months if a Rights Commissioner is satisfied that exceptional circumstances prevented either party giving notice within the six months period.

Either party to a dispute may appeal a decision of a Rights Commissioner to the Employment Appeals Tribunal within four weeks of the date on which the decision was communicated to that party.

### **Protection of Employees (Employers' Insolvency) Acts**

Appeals concerning entitlements under these Acts should normally be submitted to the Employment Appeals Tribunal within six weeks of the claimant being informed of the Minister's decision on the claim, or in certain circumstances within such further period as the Tribunal may determine to be allowable.

### **Payment of Wages Act**

An appeal against a decision of a Rights Commissioner under the Act must be brought within 6 weeks of the date on which the decision of the Rights Commissioner was communicated to the parties.

### **Terms of Employment (Information) Act**

An appeal against a recommendation of a Rights Commissioner under the Act must be brought within 6 weeks of the date on which the recommendation of the Rights Commissioner was communicated to the parties.

### **Adoptive Leave Act**

An appeal against a decision of a Rights Commissioner must be brought within 4 weeks of the date on which the decision of the Rights Commissioner was communicated to the parties.

### **Protection of Young Persons (Employment) Act**

An appeal against a recommendation of a Rights Commissioner, under the Act, must be brought within 6 weeks of the date on which the recommendation of the Rights Commissioner was communicated to the parties.

## **Organisation of Working Time Act**

Section 39 of the Organisation of Working Time Act provides for a solution to difficulties encountered with the enforcement of decisions of, inter alia, the Employment Appeals Tribunal under the legislation administered by it where details relating to an employer are incorrectly set out in a Tribunal decision. Section 40 allows an employee or his/her trade union to include a referral of a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its scope. A holiday complaint that is not linked to another claim must be referred to the Rights Commissioners Office. An appeal or implementation of a Rights Commissioner Decision should be referred to the Labour Court.

### **Parental Leave**

Employees and employers are entitled to refer a dispute in relation to an entitlement under the Act to a Rights Commissioner. A reference to the Rights Commissioner concerning a dispute under the Act must be made in writing within 6 months of the occurrence of the dispute. However, disputes concerning the dismissal of an employee are dealt with under the provisions of the Unfair Dismissals Acts, 1977 to 2001. There is also provision for an appeal from the Rights Commissioner by either party to the Employment Appeals Tribunal.

If a person fails or refuses to comply with the decision of the Rights Commissioner or the determination of the E.A.T the other party or the Minister for Justice, Equality and Law Reform, if he or she considers it appropriate having regard to all the circumstances, may apply to the Circuit Court for an Order directing compliance.

### **European Communities (Safeguarding of Employees' Rights On Transfer of Undertakings)(Amendment) Regulations, 2000:**

There is a provision for the Rights Commissioner's decision to be appealed to the Tribunal within six weeks of the date that the decision was communicated. Where a Rights Commissioner's decision has not been carried out a case for implementation may be referred after the six week period.

## **European Communities (Protection of Employment) Regulations, 2000:**

There is a provision for the Rights Commissioner's decision to be appealed to the Tribunal within six weeks of the date that the decision was communicated. Where a Rights Commissioner's decision has not been carried out a case for implementation may be referred after the six week period.

### **Carer's Leave**

The decision of the Rights Commissioner may be appealed to the Tribunal within 4 weeks of the date the decision was communicated to the parties. This time limit may be extended for a further period not exceeding six weeks if the Tribunal considers it reasonable to do so having regard to all the circumstances.

### **Persons Reporting Child Abuse Act**

There is a provision for an appeal from the Rights Commissioner by either party to the Employment Appeals Tribunal within six weeks of the date that the decision was communicated. Where a decision of a Rights Commissioner is not implemented, a case may be referred to the Employment Appeals Tribunal.

## **8. PROCEDURE OF SECRETARIAT IN HANDLING APPEALS AND NOTICES OF APPEARANCE**

In every case of an application by an employee against an employer, a copy of the application will be sent to the employer by the Secretariat of the Tribunal. This will be sent with a form which is known as a Notice of Appearance (Form T2).

If the employer intends to contest the application he/she should, within 14 days of receiving a copy of the application, indicate by way of a counter statement on Form T2 the grounds of contesting the application and return the form to the Secretariat of the Tribunal. A copy of the employer's counter statement will be supplied to the employee.

If the employer does not submit the counter statement he/she will not be entitled, as of right, to take part in the proceedings unless the Tribunal at its discretion decides to hear the case.

Parties will assist themselves and the Tribunal greatly by giving as much detail as possible on the Notice of Appeal Form and on the Notice of Appearance Form respectively.

Attention is drawn to the provision in the regulations under which the Tribunal may require any party to an appeal to furnish in writing further particulars with regard to the facts and contentions contained in either the Notice of Appeal or the Notice of Appearance and when the required particulars have been received by the Tribunal, it shall furnish the other party to the appeal with a copy of the particulars provided.

If either party intends submitting any documents to the Tribunal at the hearing, then the original and at least five copies of the document(s) should be brought to the hearing - three for the Tribunal members, one for the Secretary, and one for the other side.

Subject to good cause being given, an employer may be granted an extension of the time limit for entering an appearance or making a counter statement, provided, as a general rule, he applies for this extension within the 14 days mentioned.

The procedure in the case of an appeal against a decision of a Deciding Officer or a decision by the Minister is slightly different but is in general conformity with the practice of supplying a copy of the counter statement to the claimant or appellant (the person making the appeal).

The effect of the procedures outlined is that at a hearing of the Tribunal the parties to the dispute will each have had prior access to the Notice of Appeal and the counter statement and will know the case that will be made by the other party.

## **9. PLACES AND TIMES OF HEARINGS**

A large number of hearings take place in the rooms of the Tribunal at Davitt House, 65a Adelaide Road, Dublin 2, but, in general, hearings are held throughout the country to suit the convenience of the parties

to the application. The Secretary of the Tribunal fixes the schedules and venues of hearings. Adequate advance notice of hearings is usually given to the parties. Hearings are public unless the Tribunal, at the request of either party, decides to hear an appeal in private. A private hearing will be allowed only in special circumstances.

## **10. PROMPT HEARINGS**

Due to regional fluctuations in the numbers of appeals received and the necessity to efficiently utilize scheduling capacities, it will be appreciated that applications cannot all be heard immediately on receipt. Appellants can, however, be assured that their applications will be heard as soon as possible. (Correspondence with the Secretariat on this subject should be avoided).

## **11. REPRESENTATION OF PARTIES AT HEARINGS**

A party to an application may appear and be heard in person or may be represented by counsel or solicitor or by a representative of a trade union or of an employers' organisation, or with the leave of the Tribunal, by any other person. Where a representative is nominated by a party to attend on his behalf, notice of hearing will be sent to that representative as well. It is not obligatory for a party to be represented at a hearing. (Guidelines for Practitioners appearing before the Tribunal are available from the Tribunal offices).

## **12. INFORMALITY OF HEARINGS**

The actual hearing itself is conducted in a relatively informal, but structured manner. If required, the Tribunal will assist a party in the presentation of his/her case by asking questions in order to elicit the relevant facts and an unrepresented party should therefore be assured that his/her case will not be prejudiced in any way.

## **13. PROCEDURES AT HEARINGS**

At the hearing, a party to an application may be invited to make an opening statement, call witnesses, cross-examine any witnesses called by any other party, give evidence on his/her own behalf and address the Tribunal at the close of the evidence.

The Tribunal may postpone or adjourn the hearing of an appeal. A majority of the members of the Tribunal may make a decision or a determination.

#### **14. OATHS**

The Tribunal has power to take evidence on oath and may administer oaths to persons attending as witnesses. Penalties are prescribed by law for wilful and corrupt perjury by any person convicted in a Court of Law of wilfully giving false evidence or wilfully and corruptly swearing anything, which is false at a hearing of the Tribunal.

#### **15. WITNESSES AND EVIDENCE**

The Tribunal may require, by written notice, any person to attend to give evidence at a specified time and place and to produce any documents in his possession, custody or control, relating to any matter referred to the Tribunal. Costs and expenses incurred by persons summonsed to attend the Tribunal are the responsibility of the party requiring the witness to attend.

A person who fails to attend a hearing in response to such a notice from the Tribunal or who refuses to give evidence or to produce any required documents will be guilty of an offence and liable on summary conviction to a fine.

An appellant (i.e. person making the appeal) or respondent (i.e. the party whose action or decision is being disputed) who has reason to believe that documents or evidence relevant to the application may not be produced at the hearing may ask the Tribunal to require the appropriate person to produce such documents. It is helpful to the Secretariat of the Tribunal if requests for such documents are made at the earliest possible opportunity stating precisely what is required and why.

A party to an application should bring to the hearing any relevant documents or other evidence which he wishes to submit in support of his/her case. Such documents may consist of evidence of unemployment or social welfare payments, pay slips, conditions of employment, income tax statements, job applications etc.

## **16. MITIGATION OF LOSS**

There is a clear onus on all parties seeking compensation to mitigate their loss to the satisfaction of the Tribunal. This might include, for example, proffering evidence as to having made adequate efforts to seek alternative employment, or to establishing that a subsequent employment is remunerated at a lower rate. Typical documentary evidence that is sought in these regards include job applications, employment agency registrations, and current pay-slips.

It is important to note that the Tribunal does not compensate claimants for damages relating to stress, personal injuries, defamation or inconvenience.

## **17. DETERMINATIONS OF TRIBUNAL**

A determination of the Tribunal is recorded in a document signed by the Chairman and sealed with the seal of the Tribunal. Written determinations of the Tribunal are final and conclusive subject only to the appropriate avenue of legal appeal. While the Tribunal has limited powers to correct or amend certain technical inaccuracies (see for example Section 39 of the Organisation of Working Time Act, 1997), it is not the policy of the Tribunal to revisit matters of evidence or reconsider its deliberations once a written determination has issued.

Determinations of the Tribunal are entered in a register, which is open to inspection by any person without charge during normal hours at the offices of the Secretariat of the Tribunal.

## **18. APPEALS AGAINST DETERMINATIONS OF THE TRIBUNAL**

A determination of the Tribunal on any question referred to it under the Redundancy Payments Acts, the Minimum Notice and Terms of Employment Acts, the Protection of Employees (Employers' Insolvency) Acts, may be appealed by a dissatisfied party to the High Court on a point of law. A decision of the Tribunal given on appeal from a Rights Commissioner under the Payment of Wages Act, the Terms of Employment (Information) Act and the Protection of Young Persons (Employment) Act, the Parental Leave Act, the Maternity Protection Act, the Protections for persons reporting Child Abuse the Adoptive Leave Act and the Carer's Leave Act may also be appealed

on a point of law, to the High Court. Any such appeal to the High Court must be brought as a rule by special summons served on the Minister for Enterprise, Trade and Employment, as well as on all parties to the decision of the Tribunal, within 21 days of the date on which a copy of the decision of the Tribunal was given to the party appealing subject, however, to the proviso that the time within which the summons may be issued may be extended by the Court on application ex-parte at any time within six weeks of the date.

A determination of the Tribunal under the Unfair Dismissals Acts may be appealed to the Circuit Court by a party within six weeks from the date of service of the determination.

Under the Organisation of Working Time Act parties who receive determinations which are not favourable to them, and who wish to appeal, should refer to the appeals procedures applicable to the Act with which the Holiday/Public Holiday complaint was associated. For example a Holiday complaint lodged with a Notice claim should be referred to the High Court.

Every document issued by the Tribunal and sealed with the official seal of the Tribunal may be received in evidence without further proof.

The Tribunal may also refer a question of Law to the High Court under any of the above named Acts.

## **19 NON-ATTENDANCE AT HEARINGS**

If a party is unable to attend a scheduled hearing, the Secretariat of the Tribunal should be informed immediately. Last minute notifications of inability to attend are extremely upsetting to other parties and disruptive of the Tribunal's work.

A party who fails to appear at a hearing presents the Tribunal with an option of deciding the appeal on the basis of the evidence available at the hearing. Provided it has complied with its statutory obligations, the Tribunal is obliged only to consider evidence before it at the time of hearing. There are certain matters, which the Tribunal is obliged by law to presume unless the contrary is shown.

A person who has received a notice requiring him to attend a hearing and who refuses or wilfully neglects to attend or who, having so attended refuses to give evidence, may on summary conviction be fined.

## **20. ADJOURNMENTS and POSTPONEMENTS**

By their very nature, adjournments cause delays to the Tribunal schedule of hearings. While consideration will be given to all applications the following conditions should at least be met when applying for an adjournment:

- Good cause should be shown as adjournments are only granted for very grave reasons
- The application should be at the earliest opportunity after receipt of the notice of hearing, save where the Tribunal for just cause dispenses with this requirement
- The written consent of the other party must be obtained. Where same is not forthcoming or cannot be procured easily, the Tribunal nevertheless requires the application to be made at the earliest possible date.

## **21 WITHDRAWAL OF APPLICATIONS**

In terms of expenditure on Secretarial staff, Tribunal fees and expenses, applications are costly to service. Accordingly, an appellant who wishes to withdraw an application should notify the Tribunal in writing at the earliest possible opportunity. Withdrawal should not be left until the hearing as it results in the loss of Tribunal time for that date.

In the case of a respondent (i.e. the party whose action or decision is being disputed) conceding a claim or an appeal, the Secretariat will communicate with the appellant in order to obtain his formal withdrawal of his application.

## **22. COSTS**

The Tribunal may not award costs against any party to an application except that where, in its opinion, a party has acted frivolously or vexatiously, the Tribunal may make an order that he shall pay to another party a specified amount in respect of travelling expenses and any other costs or expenses reasonably incurred by that other party in connection with the hearing. The amount referred to in such an order is recoverable as a simple contract debt.

Costs are not otherwise awarded to appellants or respondents or in respect of the attendance of counsel, solicitors, officials of a trade union, or of an employers' association appearing before the Tribunal in a representative capacity. An award in respect of loss of remunerative time may be made by the Tribunal to a witness whom the Tribunal requires by written notice to attend a hearing. The Department of Equality and Law Reform's Scheme of Legal Aid and Advice does, however, apply to advice and representation in respect of appellate proceedings before the Circuit Court. The Scheme is means and merit tested. It excludes proceedings before administrative tribunals such as the EAT, and test cases. The Legal Aid Board should be contacted in this regard.

## **23. ANNUAL REPORT OF TRIBUNAL**

An annual report is submitted by the Tribunal to the Minister of State For Labour, Trade and Consumer Affairs. It is available free of charge from the Department of Enterprise, Trade and Employment.

## APPENDIX

### Employment Appeals Tribunal

#### Acts of the Oireachtas relating to Tribunal

Redundancy Payments Act, 1967 (No. 21 of 1967)

Redundancy Payments Act, 1971 (No. 20 of 1971)

Redundancy Payments Act, 1979 (No. 7 of 1979)

Minimum Notice and Terms of Employment Act, 1973 (No. 4 of 1973)

Unfair Dismissals Act, 1977 (No. 10 of 1977)

Unfair Dismissals (Amendment) Act, 1993 (No. 22 of 1993)

Maternity Protection Act, 1994 (No. 34 of 1994)

Protection of Employees (Employers' Insolvency) Act, 1984 (No. 21 of 1984)

Payment of Wages Act, 1991 (No. 25 of 1991)

Terms of Employment (Information) Act, 1994 (No. 5 of 1994)

Adoptive Leave Act, 1995 (No. 2 of 1995)

Protection of Young Persons (Employment) Act, 1996 (No. 16 of 1996)

Organisation of Working Time Act, 1997 (No. 20 of 1997)

Parental Leave Act, 1998 (No. 30 of 1998)

Protection for Persons Reporting Child Abuse act, 1998 (No. 49 of 1998)

Carer's Leave Act, 2001 (No 19 of 2001)

**Statutory Instruments relating to above Acts** *(those relating to Procedures of the Appeals Tribunal are denoted with an \*)*

- S.I. No. 302 of 1967** Redundancy Payments Act, 1967 (Appointed Day) Order, 1967.
- S.I. No. 5 of 1968** Redundancy (Repayment and Recovery of Payments) Regulations, 1968.
- S.I. No. 11 of 1968** Redundancy (Rebates and Weekly Payments) Regulations, 1968.
- S.I. No. 12 of 1968** Redundancy (Inspection of Records) Regulations, 1968.
- \*S.I. No. 24 of 1968** Redundancy (Redundancy Appeals Tribunal) Regulations, 1968.
- S.I. No. 106 of 1968** Redundancy Payments Act (Authorised Officers) Order, 1968.
- S.I. No. 230 of 1971** Redundancy Payments Act, 1971 (Commencement Order, 1971).
- S.I. No. 301 of 1971** Redundancy Payments (Dublin Port Dockers) Regulations, 1971.
- S.I. No. 42 of 1973** Redundancy Payments (Dublin Port Dockers) Regulations, 1973.
- S.I. No. 95 of 1973** Redundancy Payments (Dundalk Port Dockers) Regulations, 1973.
- S.I. No. 242 of 1973** Minimum Notice and Terms of Employment Act, 1973, (Commencement) Order, 1973
- \*S.I. No. 243 of 1973** Minimum Notice and Terms of Employment (Reference of Disputes) Regulations, 1973.
- S.I. No. 261 of 1973** Redundancy Payments (Galway Port Dockers) Regulations, 1973.

- S.I. No. 59 of 1974 Redundancy Payments (Limerick Port Dockers) Regulations, 1974.
- S.I. No. 82 of 1974 Redundancy Payments (Weekly Payments and Lump Sum) Order, 1974.
- S.I. No. 73 of 1975 Redundancy Payments (Waterford Port Dockers) Regulations, 1975.
- S.I. No. 126 of 1976 Redundancy Payments (Weekly Payments) Order, 1976.
- S.I. No. 138 of 1977 Unfair Dismissals Act, 1977 (Commencement) Order, 1977.
- \*S.I. No. 286 of 1977 Unfair Dismissals (Claims and Appeals) Regulations, 1977.
- S.I. No. 287 of 1977 Unfair Dismissals (Calculation of Weekly Remuneration) Regulations, 1977.
- S.I. No. 95 of 1979 Redundancy Payments Act, 1979 (Commencement) Order, 1979.
- S.I. No. 111 of 1979 Redundancy (Notice of Dismissal) Regulations, 1979.
- S.I. No. 112 of 1979 Redundancy Certificate Regulations, 1979.
- S.I. No. 113 of 1979 Redundancy (Rebates and Weekly Payments) Regulations, 1979.
- \*S.I. No. 114 of 1979 Redundancy (Employment Appeals Tribunal) Regulations, 1979.
- S.I. No. 115 of 1979 Redundancy (Inspection of Records) Regulations, 1979.
- S.I. No. 191 of 1981 Redundancy Payments (Lump Sum) Regulations, 1981

- S.I. No. 104 of 1982 Redundancy Payments (Lump Sum) Regulations, 1982.
- S.I. No. 84 of 1983 Redundancy Payments (Employer's Redundancy Contribution) Regulations, 1983.
- S.I. No. 108 of 1983 Redundancy Payments (Lump Sum) Regulations, 1983.
- S.I. No. 63 of 1984 Redundancy Payments (Variation of Employer's Redundancy Contribution) Regulations, 1984.
- S.I. No. 220 of 1984 Redundancy (Notice of Dismissal) Regulations, 1984.
- S.I. No. 221 of 1984 Redundancy Certificate Regulations, 1984.
- \*S.I. No. 222 of 1984 Redundancy (Rebate) Regulations, 1984.
- S.I. No. 356 of 1984 Protection of Employees (Employers' Insolvency)(Forms and Procedure) Regulations, 1984.
- S.I. No. 75 of 1985 Redundancy Payments (Variation of Employers' Redundancy Contribution) Regulations, 1985.
- S.I. No. 123 of 1985 Protection of Employees (Employers' Insolvency) (Occupational Pension Scheme) Forms and Procedure Regulations, 1985.
- S.I. No. 232 of 1985 Protection of Employees (Employers' Insolvency) (Specification of Date) Regulations, 1985.
- S.I. No. 50 of 1986 Protection of Employees (Employers' Insolvency) (Specification of Date) Regulations, 1986.

- S.I. No. 67 of 1986 Redundancy Payments (Variation of Employers' Redundancy Contribution) Regulations, 1986.
- S.I. No. 211 of 1987 Redundancy Payments (Cork Port Dockers) Regulations, 1987.
- S.I. No. 48 of 1988 Protection of Employees (Employers' Insolvency) Act, 1984 (Amendment Order) Order, 1988.
- S.I. No. 69 of 1989 Redundancy Payments (Variation of Employers' Redundancy Contributions) Regulations, 1989.
- S.I. No. 17 of 1990 Protection of Employees (Employers' Insolvency) (Variation of Limit) Regulations, 1990.
- S.I. No. 18 of 1990 Redundancy Payments (Lump Sum) Regulations, 1990.
- S.I. No. 121 of 1990 Protection of Employees (Employers' Insolvency) (Occupational Pension Scheme)(Forms and Procedure) Regulations, 1990.
- S.I. No. 122 of 1990 Redundancy Rebates Regulations, 1990.
- S.I. No. 347 of 1991 Redundancy Certificate Regulations, 1991.
- S.I. No. 348 of 1991 Redundancy (Notice of Dismissal) Regulations, 1991.
- S.I. No. 349 of 1991 Protection of Employees (Employers' Insolvency) (Forms and Procedure)(Amendment) Regulations, 1991.
- S.I. No. 350 of 1991 Payment of Wages Act, 1991 (Commencement) Order 1991.

- \*S.I. No. 351 of 1991 Payment of Wages (Appeals) Regulations, 1991.
- S.I. No. 62 of 1994 Protection of Employees (Employers' Insolvency) (Variation of Limit) Regulations, 1994.
- S.I. No. 64 of 1994 Redundancy Payments (Lump Sum) Regulations, 1994.
- S.I. No. 96 of 1994 Terms of Employment (Information) Act, 1991 (Commencement) Order, 1994.
- \*S.I. No. 244 of 1994 Terms of Employment (Information)(Appeals and Complaints) Regulations, 1994.
- S.I. No. 16 of 1995 Maternity Protection Act, 1994. (Commencement) Order, 1995
- \*S.I. No. 17 of 1995 Maternity Protection (Disputes and Appeals) Regulations, 1995.
- S.I. No. 18 of 1995 Maternity Protection (Time off for Ante-Natal and/or Post-Natal Care) Regulations, 1995.
- S.I. No. 19 of 1995 Maternity Protection (Health and Safety Leave Certification) Regulations, 1995.
- S.I. No. 20 of 1995 Maternity Protection (Health and Safety Leave Remuneration) Regulations, 1995.
- S.I. No. 64 of 1995 Adoptive Leave Act, 1995 (Commencement) Order, 1995.
- \*S.I. No. 195 of 1995 Adoptive Leave (Referral of Disputes and Appeals) (Part V) Regulations, 1995.
- S.I. No. 196 of 1995 Adoptive Leave (Calculation of Weekly Remuneration) Regulations, 1995.
- S.I. No. 371 of 1996 Protection of Young Persons (Employment) Act, 1996 (Commencement) Order, 1996.

- S.I. No. 1 of 1997 Protection of Young Persons (Employment) (Exclusion of Workers in the Fishing or Shipping Sectors) Regulations, 1997.
- S.I. No. 2 of 1997 Protection of Young Persons (Employment of Close Relatives) Regulations, 1997.
- S.I. No. 3 of 1997 Protection of Young Persons (Employment) (Prescribed Abstract) Regulations, 1997.
- S.I. No. 4 of 1997 Terms of Employment (Information) Act, 1994 (Section 3 (6))Order, 1997
- S.I. No. 454 of 1998 Parental Leave (Notice of Force Majeure Leave) Regulations, 1998.
- \*S.I. No. 6 of 1999 Regulations entitled Parental Leave (Disputes and Appeals) Regulations, 1999.
- S.I. No. 34 of 1999 Parental Leave (Maximum Compensation) Regulations, 1999.
- S.I. No. 134 of 1999 Maternity Protection (Maximum Compensation) Regulations 1999.
- S.I. No. 231 of 2000 European Communities (Parental Leave) Regulations, 2000.
- S.I. No. 487 of 2000 European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations 2000
- S. I. No. 488 of 2000 European Communities (Protection of Employment) Regulations, 2000
- S.I. No. 29 of 2001 Maternity Protection Act, 1994 (Extension of Periods of Leave) Order 2001.
- S.I. No 30 of 2001 Adoptive Leave Act, 1995 (Extension of Periods of Leave) Order, 2001.

- S.I. No. 41 of 2001 Redundancy Payments (Lump Sum) Regulations, 2001.
- S.I. No. 337 of 2001 European Communities (Burden of Proof in Gender Discrimination Cases) Regulations, 2001.

