

UNFAIR DISMISSALS ACT, 1977

AN ACT TO PROVIDE FOR REDRESS FOR EMPLOYEES UNFAIRLY DISMISSED FROM THEIR EMPLOYMENT, TO PROVIDE FOR THE DETERMINATION OF CLAIMS FOR SUCH REDRESS BY RIGHTS COMMISSIONERS AND BY THE TRIBUNAL ESTABLISHED, FOR THE PURPOSE OF DETERMINING CERTAIN APPEALS, BY THE REDUNDANCY PAYMENTS ACT, 1967, TO PROVIDE THAT THAT TRIBUNAL SHALL BE KNOWN AS THE EMPLOYMENT APPEALS TRIBUNAL, TO MAKE PROVISION FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID AND TO AMEND THE MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT, 1973.

[6th April, 1977]

BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:

Definitions.

1.

-In this Act-

"contract of employment" means a contract of service or of apprenticeship, whether it is express or implied and (if it is express) whether it is oral or in writing;

"date of dismissal" means-

(a) where prior notice of the termination of the contract of employment is given and it complies with the provisions of that contract and of the Minimum Notice and Terms of Employment Act, 1973, the date on which that notice expires.

(b) where either prior notice of such termination is not given or the notice given does not comply with the provisions of the contract of employment or the Minimum Notice and Terms of Employment Act, 1973, the date on which such a notice would have expired, if it had been given on the date of such termination and had been expressed to expire on the later of the following dates-

(i) the earliest date that would be in compliance with the provisions of the contract of employment,

(ii) the earliest date that would be in compliance with the provisions of the Minimum Notice and Terms of Employment Act, 1973,

(c) where a contract of employment for a fixed term expires without its being renewed under the same contract or, in the case of a contract for a specified purpose (being a purpose of such a kind that the duration of the contract was limited, but was, at the time of its making, incapable of precise ascertainment), there is a cesser of the purpose, the date of the expiry or cesser,

"dismissal", in relation to an employee, means-

(a) the termination by his employer of the employee's contract of employment with the employer, whether prior notice of the termination was or was not given to the employee.

(b) the termination by the employee of his contract of employment with his employer, whether

prior notice of the termination was or was not given to the employer, in circumstances in which, because of the conduct of the employer, the employee was or would have been entitled, or it was or would have been reasonable for the employee, to terminate the contract of employment without giving prior notice of the termination to the employer, or

(c) the expiration of a contract of employment for a fixed term without its being renewed under the same contract or, in the case of a contract for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment), the cesser of the purpose;

"employee" means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment and, in relation to redress for a dismissal under this Act, includes, in the case of the death of the employee concerned at any time following the dismissal, his personal representative.

"employer", in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed under a contract of employment and an individual in the service of a local authority for the purposes of the Local Government Act, 1941, shall be deemed to be employed by the local authority;

"industrial action" means lawful action taken by any number or body of employees acting in combination or under a common understanding, in consequence of a dispute, as a means of compelling their employers or any employee or body of employees, or to aid other employees in compelling their employer or any employee or body of employees, to accept or not to accept terms or conditions of or affecting employment;

"the Minister" means the Minister for Labour;

"redundancy" means any of the matters referred to in paragraphs (a) to (e) of section 7 (2) of the Redundancy Payments Act, 1967, as amended by the Redundancy Payments Act, 1971;

"statutory apprenticeship" means an apprenticeship in a designated industrial activity within the meaning of the Industrial Training Act, 1967, and includes any apprenticeship in a trade to which an order, rule or notice referred to in paragraph (a) or (b) of section 49 (1) of that Act applies;

"strike" means the cessation of work by any number or body of employees acting in combination or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, in consequence of a dispute, done as a means of compelling their employer or any employee or body of employees, or to aid other employees in compelling their employer or any employee or body of employees, to accept or not to accept terms or conditions of or affecting employment;

"trade union" means a trade union which is the holder of a negotiation licence granted under the Trade Union Acts, 1941 and 1971;

"the Tribunal" means the Employment Appeals Tribunal established by the Redundancy Payments Act, 1967.

Exclusions.

2.

-(1) This Act shall not apply in relation to any of the following persons:

- (a) an employee (other than a person referred to in section 4 of this Act) who is dismissed, who, at the date of his dismissal, had less than one year's continuous service with the employer who dismissed him and whose dismissal does not result wholly or mainly from the matters referred to in section 6 (2) (f) of this Act,
- (b) an employee who is dismissed and who, on or before the date of his dismissal, had reached the normal retiring age for employees of the same employer in similar employment or who on that date was a person to whom by reason of his age the Redundancy Payments Acts, 1967 to 1973, did not apply,
- (c) a person who is employed by his spouse, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, stepdaughter, brother, sister, half-brother or half-sister, is a member of his employer's household and whose place of employment is a private dwellinghouse or a farm in or on which both the employee and the employer reside,
- (d) a person in employment as a member of the Defence Forces, the Judge Advocate-General, the chairman of the Army Pensions Board or the ordinary member thereof who is not an officer of the Medical Corps of the Defence Forces,
- (e) a member of the Garda Síochána,
- (f) a person (other than a person employed under a contract of employment) who is receiving a training allowance from or undergoing instruction by An Chomhairle Oiliúna or is receiving a training allowance from and undergoing instruction by that body,
- (g) a person who is employed by An Chomhairle Oiliúna under a contract of apprenticeship,
- (h) a person employed by or under the State other than persons standing designated for the time being under section 17 of the Industrial Relations Act, 1969,
- (i) officers of a local authority for the purposes of the Local Government Act, 1941,
- (j) officers of a health board, a vocational education committee established by the Vocational Education Act, 1930, or a committee of agriculture established by the Agriculture Act, 1931.

(2) This Act shall not apply in relation to-

- (a) dismissal where the employment was under a contract of employment for a fixed term made before the 16th day of September, 1976, and the dismissal consisted only of the expiry of the term without its being renewed under the same contract, or
- (b) dismissal where the employment was under a contract of employment for a fixed term or for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment) and the dismissal consisted only of the expiry of the term without its being renewed under the said contract or the cesser of the purpose and the contract is in writing, was signed by or on behalf of the employer and by the employee and provides that this Act shall not apply to a dismissal consisting only of the expiry or cesser aforesaid.

(3) (a) This Act shall not apply in relation to the dismissal of an employee who, under the relevant contract of employment, ordinarily worked outside the State unless-

- (i) he was ordinarily resident in the State during the term of the contract, or
- (ii) he was domiciled in the State during the term of the contract, and the employer-
- (I) in case the employee was an individual, was ordinarily resident in the State, during the term of the contract, or
- (II) in case the employer was a body corporate or an unincorporated body of persons, had its principal place of business in the State during the term of the contract.
- (b) In this subsection "term of the contract" means the whole of the period from the time of the commencement of work under the contract to the time of the relevant dismissal.
- (4) The First Schedule to the Minimum Notice and Terms of Employment Act, 1973, as amended by section 20 of this Act, shall apply for the purpose of ascertaining for the purposes of this Act the period of service of an employee and whether that service has been continuous.

Dismissal during probation or training.

3.

-(1) This Act shall not apply in relation to the dismissal of an employee during a period starting with the commencement of the employment when he is on probation or undergoing training-

(a) if his contract of employment is in writing, the duration of the probation or training is 1 year or less and is specified in the contract, or

(b) if his contract of employment was made before the commencement of this Act and was not in writing and the duration of the probation or training is 1 year or less.

(2) This Act shall not apply in relation to the dismissal of an employee during a period starting with the commencement of the employment when he is undergoing training for the purpose of becoming qualified or registered, as the case may be, as a nurse, pharmacist, health inspector, medical laboratory technician, occupational therapist, physiotherapist, speech therapist, radiographer or social worker.

Dismissal during apprenticeship.

4.

-This Act shall not apply in relation to the dismissal of a person who is or was employed under a statutory apprenticeship if the dismissal takes place within 6 months after the commencement of the apprenticeship or within 1 month after the completion of the apprenticeship.

Dismissal by way of lock-out or for taking part in strike.

5.

-(1) The dismissal of an employee by way of a lock-out shall be deemed, for the purposes of this Act, not to be an unfair dismissal if the employee is offered re-instatement or re-engagement as from the date of resumption of work.

(2) The dismissal of an employee for taking part in a strike or other industrial action shall be deemed, for the purposes of this Act, to be an unfair dismissal, if-

(a) one or more employees of the same employer who took part in the strike or other industrial

action were not dismissed for so taking part, or

(b) one or more of such employees who were dismissed for so taking part are subsequently offered re-instatement or re-engagement and the employee is not.

(3) References in paragraphs (a), (b) and (c) of section 7 (1) of this Act to dismissals include, in the case of employees dismissed by way of lock-out or for taking part in a strike or other industrial action, references to failure to offer them re-instatement or re-engagement in accordance with any agreement by the employer and by or on behalf of the employees, or, in the absence of such agreement, from the earliest date for which re-instatement or re-engagement was offered to the other employees of the same employer who were locked out or took part in the strike or other industrial action or to a majority of such employees.

(4) In this section a reference to an offer of re-instatement or re-engagement, in relation to an employee, is a reference to an offer (made either by the original employer or by a successor of that employer or by an associated employer) to re-instate that employee in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal, or to re-engage him, either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him, on such terms and conditions as are reasonable having regard to all the circumstances.

(5) In this section-

"lock-out" means an action which, in contemplation or furtherance of a trade dispute (within the meaning of the Industrial Relations Act, 1946), is taken by one or more employers, whether parties to the dispute or not, and which consists of the exclusion of one or more employees from one or more factories, offices or other places of work or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of employees;

"the original employer" means, in relation to the employee, the employer who dismissed the employee.

Unfair dismissal.

6.

(1) Subject to the provisions of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal.

(2) Without prejudice to the generality of subsection (1) of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, to be an unfair dismissal if it results wholly or mainly from one or more of the following:

(a) the employee's membership, or proposal that he or another person become a member, of, or his engaging in activities on behalf of, a trade union or excepted body under the Trade Union Acts, 1941 and 1971, where the times at which he engages in such activities are outside his hours of work or are times during his hours of work in which he is permitted pursuant to the contract of employment between him and his employer so to engage,

(b) the religious or political opinions of the employee,

- (c) civil proceedings whether actual, threatened or proposed against the employer to which the employee is or will be a party or in which the employee was or is likely to be a witness,
- (d) criminal proceedings against the employer, whether actual, threatened or proposed, in relation to which the employee has made, proposed or threatened to make a complaint or statement to the prosecuting authority or to any other authority connected with or involved in the prosecution of the proceedings or in which the employee was or is likely to be a witness,
- (e) the race or colour of the employee,
- (f) the pregnancy of the employee or matters connected therewith, unless—
 - (i) the employee was unable, by reason of the pregnancy or matters connected therewith—
 - (I) to do adequately the work for which she was employed, or
 - (II) to continue to do such work without contravention by her or her employer of a provision of a statute or instrument made under statute, and
 - (ii) (I) there was not, at the time of the dismissal, any other employment with her employer that was suitable for her and in relation to which there was a vacancy, or
 - (II) the employee refused an offer by her employer of alternative employment on terms and conditions corresponding to those of the employment to which the dismissal related, being an offer made so as to enable her to be retained in the employment of her employer notwithstanding pregnancy.
- (3) Without prejudice to the generality of subsection (1) of this section, if an employee was dismissed due to redundancy but the circumstances constituting the redundancy applied equally to one or more other employees in similar employment with the same employer who have not been dismissed, and either—
 - (a) the selection of that employee for dismissal resulted wholly or mainly from one or more of the matters specified in subsection (2) of this section or another matter that would not be a ground justifying dismissal, or
 - (b) he was selected for dismissal in contravention of a procedure (being a procedure that has been agreed upon by or on behalf of the employer and by the employee or a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing him or has been established by the custom and practice of the employment concerned) relating to redundancy and there were no special reasons justifying a departure from that procedure,then the dismissal shall be deemed, for the purposes of this Act, to be an unfair dismissal.
- (4) Without prejudice to the generality of subsection (1) of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, not to be an unfair dismissal, if it results wholly or mainly from one or more of the following:
 - (a) the capability, competence or qualifications of the employee for performing work of the kind which he was employed by the employer to do,
 - (b) the conduct of the employee,

(c) the redundancy of the employee, and

(d) the employee being unable to work or continue to work in the position which he held without contravention (by him or by his employer) of a duty or restriction imposed by or under any statute or instrument made under statute.

(5) (a) Without prejudice to the generality of subsection (1) of this section, the dismissal by the Minister for Defence of a civilian employed with the Defence Forces under section 30 (1) (g) of the Defence Act, 1954, shall be deemed for the purposes of this Act not to be an unfair dismissal if it is shown that the dismissal was for the purpose of safeguarding national security.

(b) A certificate purporting to be signed by the Minister for Defence and stating that a dismissal by the Minister for Defence of a civilian named in the certificate from employment with the Defence Forces under section 30 (1) (g) of the Defence Act, 1954, was for the purpose of safeguarding national security shall be evidence, for the purposes of this Act, of the facts stated in the certificate without further proof.

(6) In determining for the purposes of this Act whether the dismissal of an employee was an unfair dismissal or not, it shall be for the employer to show that the dismissal resulted wholly or mainly from one or more of the matters specified in subsection (4) of this section or that there were other substantial grounds justifying the dismissal.

(7) Where it is shown that a dismissal of a person referred to in paragraph (a) or (b) of section 2 (1) or section 3 or 4 of this Act results wholly or mainly from one or more of the matters referred to in subsection (2) (a) of this section, then subsections (1) and (6) of this section and the said sections 2 (1), 3 and 4 shall not apply in relation to the dismissal.

Redress for unfair dismissal.

7.

-(1) Where an employee is dismissed and the dismissal is an unfair dismissal, the employee shall be entitled to redress consisting of whichever of the following the rights commissioner, the Tribunal or the Circuit Court, as the case may be, considers appropriate having regard to all the circumstances:

(a) re-instatement by the employer of the employee in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal together with a term that the re-instatement shall be deemed to have commenced on the day of the dismissal, or

(b) re-engagement by the employer of the employee either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him on such terms and conditions as are reasonable having regard to all the circumstances, or

(c) payment by the employer to the employee of such compensation (not exceeding in amount 104 weeks remuneration in respect of the employment from which he was dismissed calculated in accordance with regulations under section 17 of this Act) in respect of any financial loss incurred by him and attributable to the dismissal as is just and equitable having regard to all the circumstances.

(2) Without prejudice to the generality of subsection (1) of this section in determining the

amount of compensation payable under that subsection regard shall be had to-

- (a) the extent (if any) to which the financial loss referred to in that subsection was attributable to an act, omission or conduct by or on behalf of the employer,
- (b) the extent (if any) to which the said financial loss was attributable to an action, omission or conduct by or on behalf of the employee,
- (c) the measures (if any) adopted by the employee or, as the case may be, his failure to adopt measures, to mitigate the loss aforesaid, and
- (d) the extent (if any) of the compliance or failure to comply by the employer or employee with any procedure of the kind referred to in section 14 (3) of this Act or with the provisions of any code of practice relating to procedures regarding dismissal approved of by the Minister.

(3) In this section-

"financial loss", in relation to the dismissal of an employee, includes any actual loss and any estimated prospective loss of income attributable to the dismissal and the value of any loss or diminution, attributable to the dismissal, of the rights of the employee under the Redundancy Payments Acts, 1967 to 1973, or in relation to superannuation;

"remuneration" includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

Determination of claims for unfair dismissal.

8.

(1) A claim by an employee against an employer for redress under this Act for unfair dismissal may be brought by the employee before a rights commissioner or the Tribunal and the commissioner or Tribunal shall hear the parties and any evidence relevant to the claim tendered by them and, in the case of a rights commissioner, shall make a recommendation in relation to the claim, and, in the case of the Tribunal, shall make a determination in relation to the claim.

(2) A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under section 17 of this Act made for the purposes of subsection (8) of this section) to a rights commissioner or the Tribunal, as the case may be, within 6 months of the date of the relevant dismissal and a copy of the notice shall be given to the employer concerned within the same period.

(3) A rights commissioner shall not hear a claim for redress under this Act if-

- (a) the Tribunal has made a determination in relation to the claim, or
- (b) any party concerned notifies the commissioner in writing that he objects to the claim being heard by a rights commissioner.

(4) (a) Where a recommendation of a rights commissioner in relation to a claim for redress under this Act is not carried out by the employer in accordance with its terms, the employee concerned may bring the claim before the Tribunal under subsection (1) of this section.

(b) The bringing of a claim before the Tribunal by virtue of this subsection shall be effected by giving to the Tribunal a notice in writing containing such particulars (if any) as may be

specified in regulations under section 17 of this Act made for the purposes of subsection (8) of this section.

(5) Subject to subsection (4) of this section, the Tribunal shall not hear a claim for redress under this Act (except by way of appeal from a recommendation of a rights commissioner)-

(a) if a rights commissioner has made a recommendation in relation to the claim, or

(b) unless one of the parties concerned notifies a rights commissioner in writing that he objects to the claim being heard by a rights commissioner.

(6) Proceedings under this section before a rights commissioner shall be conducted otherwise than in public.

(7) A rights commissioner shall notify the Tribunal of any recommendation he makes under this section.

(8) Regulations under section 17 of this Act may provide for all or any of the following matters and for anything consequential thereon or incidental or ancillary thereto-

(a) the procedure to be followed regarding the bringing of claims under this section or appeals under section 9 of this Act before the Tribunal.

(b) the times and places of hearings by the Tribunal.

(c) the representation of parties attending hearings by the Tribunal.

(d) procedure regarding the hearing of such claims and appeals as aforesaid by the Tribunal,

(e) publication and notification of determinations of the Tribunal,

(f) the particulars to be contained in the notices referred to in subsections (2) and (4) of this section and section 9 of this Act,

(g) the award by the Tribunal of costs and expenses in relation to such claims and appeals as aforesaid and the payment thereof.

(9) Section 21 (2) of the Industrial Relations Act, 1946, shall apply in relation to all proceedings before the Tribunal as if the references in that section to the Labour Court were references to the Tribunal and subsection (17) of section 39 of the Redundancy Payments Act, 1967, shall apply in relation to proceedings before the Tribunal under this Act as it applies to matters referred to it under the said section 39.

(10) A dispute in relation to a dismissal that is an unfair dismissal for the purposes of this Act shall not be referred to a rights commissioner under section 13 (2) of the Industrial Relations Act, 1969.

Appeal from recommendation of rights commissioner.

9.

-(1) A party concerned may appeal to the Tribunal from a recommendation of a rights commissioner in relation to a claim for redress under this Act and the Tribunal shall hear the parties and any evidence relevant to the appeal tendered by them and shall make a determination in relation to the appeal.

(2) An appeal under this section shall be initiated by a party by giving, within 6 weeks of the date on which the recommendation to which it relates was given to the parties concerned, a notice in writing (containing such particulars (if any) as may be specified in regulations under section 17 of this Act for the purposes of section 8 (8) thereof) to the Tribunal and stating the intention of the party concerned to appeal against the recommendation and a copy of the notice shall be given to the other party concerned within the said period of 6 weeks.

Proceedings in Circuit Court for redress under Act.

10

-(1) If an employer fails to carry out in accordance with its terms a determination of the Tribunal in relation to a claim for redress under this Act within 6 weeks from the date on which the determination is communicated to the parties the Minister may, if he thinks it appropriate, having regard to all the circumstances, to do so, institute and carry on proceedings in the Circuit Court in his name on behalf of the employee against the employer for redress under this Act.

(2) Where, in proceedings under this section, the Circuit Court finds that an employee is entitled to redress under this Act, it shall order the employer concerned to make to the employee concerned the appropriate redress.

(3) Any costs-

(a) incurred by the Minister in relation to proceedings under this section, or

(b) incurred by the employer concerned in any such proceedings,

and required by the Circuit Court to be borne by the Minister shall be paid by the Minister, and the employee concerned shall be under no liability in relation to any such costs.

(4) A party concerned may appeal to the Circuit Court from any determination of the Tribunal in relation to a claim for redress under this Act within 6 weeks from the date on which the determination is communicated to the parties.

(5) Proceedings under this section shall be heard in the county where the employer concerned ordinarily resides or carries on any profession, business or occupation.

(6) The reference in subsection (1) of this section to a determination of the Tribunal is a reference to such a determination in relation to which, at the expiration of the time for bringing an appeal against the determination, no such appeal has been brought.

Service of documents on bodies.

11.

-Any summons or other document required to be served for the purpose or in the course of any proceedings under this Act on a body corporate or an unincorporated body of persons may be served by leaving it at or sending it by post to the registered office for the purpose of the Companies Act, 1963, of that body or, if there is no such office, by leaving it at or sending it by post to any place in the State at which that body conducts its business.

Provisions relating to winding up and bankruptcy.

12.

-(1) There shall be included among the debts which, under section 285 of the Companies Act, 1963, are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable under this Act by the company to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by rules made under that Act.

(2) There shall be included among the debts which, under section 4 of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all compensation payable under this Act by the bankrupt or arranging debtor, as the case may be, to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by general orders made under the said Act.

Voidance of certain provisions in agreements.

13.

-A provision in an agreement (whether a contract of employment or not and whether made before or after the commencement 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.

Notice to employees of procedure for, and grounds of, dismissal.

14.

-(1) An employer shall, not later than 28 days after he enters into a contract of employment with an employee, give to the employee a notice in writing setting out the procedure which the employer will observe before and for the purpose of dismissing the employee.

(2) Where there is an alteration in the procedure referred to in subsection (1) of this section, the employer concerned shall, within 28 days after the alteration takes effect, give to any employee concerned a notice in writing setting out the procedure as so altered.

(3) The reference in subsection (1) of this section to a procedure is a reference to a procedure that has been agreed upon by or on behalf of the employer concerned and by the employee concerned or a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing him or has been established by the custom and practice of the employment concerned, and the references in subsection (2) of this section to an alteration in the said procedure are references to an alteration that has been agreed upon by the employer concerned or a person representing him and by a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing the employee concerned.

(4) Where an employee is dismissed, the employer shall, if so requested, furnish to the employee within 14 days of the request, particulars in writing of the grounds for the dismissal, but in determining for the purposes of this Act whether the dismissal was unfair there may be taken into account any other grounds which are substantial grounds and which would have justified the dismissal.

Alternative remedies of employee.

15.

-(1) Nothing in this Act, apart from this section, shall prejudice the right of a person to recover damages at common law for wrongful dismissal.

(2) Where an employee gives a notice in writing under section 8 (2) of this Act in respect of a dismissal to a rights commissioner or the Tribunal, he shall not be entitled to recover damages at common law for wrongful dismissal in respect of that dismissal.

(3) Where proceedings for damages at common law for wrongful dismissal are initiated by or on behalf of an employee, the employee shall not be entitled to redress under this Act in respect of the dismissal to which the proceedings relate.

(4) A person who accepts redress awarded under section 9 or 10 of the Anti-Discrimination (Pay) Act, 1974, in respect of any dismissal shall not be entitled to accept redress awarded under section 7 of this Act in respect of that dismissal and a person who accepts redress awarded under the said section 7 in respect of any dismissal shall not be entitled to accept redress awarded under the said section 9 or 10 in respect of that dismissal.

Amendment of Act by order of Minister.

16.

-(1) The Minister may by order amend section 2 (1) of this Act so as to extend the application of the Act to any class of employee specified in that section or part (defined in such manner and by reference to such matters as the Minister considers appropriate) of any such class.

(2) The Minister may by order amend paragraph (c) of section 7 (1) of this Act so as to vary the maximum amount of compensation referred to in the said paragraph (c).

(3) The Minister may by order amend section 2 (2), 3 or 4 of this Act so as to vary-

(a) the application of this Act in relation to dismissals where the employment was under a contract of employment for a fixed term or a specified purpose,

(b) the period of 1 year specified in the said section 3, or

(c) the periods of 6 months and 1 month specified in the said section 4 or either of them.

(4) The Minister may, by order, made with the consent of the Minister for Health, amend subsection (2) of section 3 of this Act so as to extend the application of the subsection to other employments connected with medicine or health.

(5) The Minister may by order amend any provision of this Act so as to comply with any international obligations in relation to dismissals that the State has decided to assume.

(6) An order under this section may contain such supplementary and ancillary provisions as the Minister considers necessary or expedient.

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

(8) Where an order is proposed to be made under this section, a draft thereof shall be laid

before both Houses of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

Regulations.

17.

-(1) The Minister may make regulations for the purposes of sections 7 (1) (c) and 8 (8) of this Act and for the purpose of enabling any other provisions of this Act to have full effect.

(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

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

Employment Appeals Tribunal.

18.

-The tribunal established by section 39 of the Redundancy Payments Act, 1967, shall be known as the Employment Appeals Tribunal and references in that Act and any other Act of the Oireachtas and any instrument made under any Act of the Oireachtas to the Redundancy Appeals Tribunal shall be construed as references to the Employment Appeals Tribunal.

Repayment of moneys paid under Redundancy Payments Acts, 1967 and 1973.

19.

-Where an employee is re-instated or re-engaged by an employer in pursuance of a determination or order under this Act in relation to the dismissal of the employee by the employer, any payments made under the Redundancy Payments Acts, 1967 and 1973, in relation to the dismissal shall be repaid by the person to whom they were made to the person by whom they were made and may be recovered by the latter from the former as a simple contract debt in any court of competent jurisdiction and any moneys due and owing to any person under those Acts in relation to the dismissal shall cease to be due or owing.

Amendment of First Schedule to Minimum Notice and Terms of Employment Act, 1973.

20.

-The First Schedule to the Minimum Notice and Terms of Employment Act, 1973, is hereby amended by the substitution of the following paragraphs for paragraphs 5 and 7:

"5. An employee who claims and receives redundancy payment in respect of lay-off or short time shall be deemed to have voluntarily left his employment.

7. Where the whole or part of a trade, business or undertaking was or is transferred to another person either before or after the passing of this Act, the service of an employee in the trade,

business or undertaking, or the part thereof, so transferred shall be reckoned as part of the service of the employee with the transferee and the transfer shall not operate to break the continuity of the service of the employee. "

Expenses.

21.

-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.

Short title and commencement.

22.

(1) This Act may be cited as the Unfair Dismissals Act, 1977.

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

ACTS REFERRED TO

Agriculture Act, 1931	1931, No. 8
Anti-Discrimination (Pay) Act, 1974	1974, No. 15
Companies Act, 1963	1963, No. 33
Defence Act, 1954	1954, No. 18
Industrial Relations Act, 1946	1946, No. 26
Industrial Relations Act, 1969	1969, No. 14
Industrial Training Act, 1967	1967, No. 5
Local Government Act, 1941	1941, No. 23
Minimum Notice and Terms of Employment Act, 1973	1973, No. 4
Preferential Payments in Bankruptcy (Ireland) Act, 1889	1889, c. 60
Redundancy Payments Act, 1967	1967, No. 21
Redundancy Payments Act, 1971	1971, No. 20
Vocational Education Act, 1930	1930, No. 29