



Labour Relations Commission

Dispute Procedures including
Procedures in Essential Services

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1. INTRODUCTION

1. Section 42 of the Industrial Relations Act 1990 makes provision for the preparation of draft codes of practice by the Labour Relations Commission for submission to the Minister for Labour. (Appendix 2)
2. In February 1991 the Minister for Labour, Mr. Bertie Ahern TD, requested the Commission to prepare codes of practice on dispute procedures and the levels of cover which should be provided in the event of disputes arising in essential services. When preparing this Code of Practice the Commission held meetings and consultations with the Irish Congress of Trade Unions, the Federation of Irish Employers, the Department of Finance, the Department of Labour, the Local Government Staff Negotiations Board, the Labour Court and representatives of the International Labour Organisation. The Commission has taken account of the views expressed by these organisations to the maximum extent possible in preparing this Code.
3. The Code recognises that the primary responsibility for dealing with industrial relations issues and the resolution of disputes rests with employers, employer organisations and trade unions. It is the intention of the Code to ensure that in line with this responsibility employers and trade unions:
 - a) agree appropriate and practical arrangements for resolving disputes on collective and individual issues;
 - b) observe the terms of these agreements; and
 - c) refrain from any actions which would be in contravention of them.
4. The Code is designed to assist employers* and trade unions in making agreements which recognise the rights and interests of the parties concerned and which contain procedures which will resolve issues in a peaceful manner and avoid the need for any of the parties to resort to actions which will lead to a disruption of supplies and services, and a loss of income to employees and of revenue to employers.

**The use of the word "employers" in the Code includes employer organisations where relevant and appropriate.*
5. The major objective of agreed procedures is to establish arrangements to deal with issues which could give rise to disputes. Such procedures provide for discussion and negotiation with a view to the parties reaching agreement at the earliest possible stage of the procedure, and without resort to any form of industrial action.
6. The Code provides practical guidance on procedures for the resolution of disputes between employers and trade unions and how to operate them effectively. The principles contained in the Code are appropriate for employments in the public and private sectors of the economy irrespective of their function, nature or size.
7. The procedures of the Code provide a framework for the peaceful resolution of disputes, including disputes in essential services. The Code also provides general guidance to employers and trade unions on the arrangements which are necessary to ensure minimum cover or service where disputes which give rise to stoppages of work could have serious and adverse consequences for the community or the undertaking concerned and its employees.
8. Although the Code has been prepared primarily for employments where terms of employment are established through employer/trade union agreements, its general principles should be regarded as being applicable to other undertakings and enterprises and to their employees.

2. GENERAL PROVISIONS

9. Agreements between employers and trade unions on dispute settlement procedures can make a significant contribution to the maintenance of industrial peace. The dispute procedures contained in the Code should be seen as providing an underpinning for the conduct of industrial relations in the enterprise and in relationships between the parties.
10. Agreements on dispute procedures should be seen to be fair and equitable as between the interests of the parties and should include provision for the resolution of disputes on collective and individual issues, and such procedures should be introduced where they currently do not exist.
11. Employers and trade unions should examine existing procedures at the level of the enterprise and take whatever steps may be necessary to ensure that the principles outlined in the Code are incorporated within them.
12. Dispute procedures should be as comprehensive as possible covering all foreseeable circumstances and setting out the consecutive stages involved in the resolution of disputes on collective and/or individual issues. Such procedures should include agreement on the appropriate level of management and trade union representation which will be involved at each stage of the procedure. The actions required of the parties at each stage of the procedure should be clearly indicated.
13. Agreements between employers and trade unions should be in writing so as to eliminate the possibility of misunderstandings arising from lack of awareness of procedures or misinterpretation of informal arrangements which may have come to be regarded as “custom and practice”.
14. Employees and management at all levels should be aware of the agreed procedures. Accordingly, arrangements should be made for these procedures to be communicated and explained through whatever means may be appropriate.
15. Dispute procedures should afford early access to disputes resolution machinery and to arrangements for the settlement of collective and individual issues within a reasonable timescale. The introduction of any specific time limits for the operation of different stages of a disputes procedure is a matter for consideration by employers and unions at local level.
16. The procedures for handling disputes on collective and individual issues should take account, where appropriate, of the functions of the relevant State agencies (the Labour Relations Commission, the Labour Court, the Rights Commissioner Service, the Equality Service and the Employment Appeals Tribunal) so as to facilitate the potential use of these services in the development and maintenance of good industrial relations.
17. Nothing in the Code precludes an employer and trade union in an enterprise industry or service from adding other stages to their dispute procedures should this be considered appropriate.
18. The operation of dispute procedures should be reviewed from time to time with the object of improving the practical working of the procedures.

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19. The Labour Relations Commission will provide assistance to employers and trade unions in formulating agreed dispute procedures in accordance with the Code.

3. EMERGENCY/MINIMUM SERVICES

20. While the primary responsibility for the provision of minimum levels of services rests with managements, this Code recognises that there is a joint obligation on employers and trade unions to have in place agreed contingency plans and other arrangements to deal with any emergency which may arise during an industrial dispute. Employers and trade unions should co-operate with the introduction of such plans and contingency arrangements. In particular, employers and trade unions in each employment providing an essential service should co-operate with each other in making arrangements concerning:
 - a) the maintenance of plant and equipment
 - b) all matters concerning health, safety and security
 - c) special operational problems which exist in continuous process industries
 - d) the provision of urgent medical services and supplies
 - e) the provision of emergency services required on humanitarian grounds.
21. In the event of the parties encountering problems in making such arrangements they should seek the assistance of the Labour Relations Commission.

4. DISPUTE PROCEDURES – GENERAL

22. The dispute procedures set out below should be incorporated in employer/trade union agreements for the purpose of peacefully resolving disputes arising between employers and trade unions. Such agreements should provide:
 - a) that the parties will refrain from any action which might impede the effective functioning of these procedures
 - b) for co-operation between trade unions and employers on appropriate arrangements and facilities for trade union representatives to take part in agreed dispute procedures
 - c) for appropriate arrangements to facilitate employees to consider any proposals emanating from the operation of the procedures.
23. Trade union claims on collective and individual matters and other issues which could give rise to disputes should be the subject of discussion and negotiation at the appropriate level by the parties concerned with a view to securing a mutually acceptable resolution of them within a reasonable period of time. Every effort should be made by the parties to secure a settlement without recourse to outside agencies.
24. In the event of direct discussions between the parties not resolving the issue(s), they should be referred to the appropriate service of the Labour Relations Commission. The parties should co-operate with the appropriate service in arranging a meeting as soon as practicable to consider the dispute.

25. Agreements should provide that, where disputes are not resolved through the intervention of these services and where the Labour Relations Commission is satisfied that further efforts to resolve a dispute are unlikely to be successful, the parties should refer the issues in dispute to the Labour Court for investigation and recommendation or to such other dispute resolution body as may be prescribed in their agreements.
26. During the period in which the above procedures are being followed no strikes, lock-outs or other action designed to bring pressure to bear on either party should take place.
27. Strikes and any other form of industrial action should only take place after all dispute procedures have been fully utilised.
28. Where notice of a strike or any other form of industrial action is being served on an employer a minimum of 7 days' notice should apply except where agreements provide for a longer period of notice.
29. The procedures outlined in paragraphs 24 and 25 above refer to employees who have statutory access to the Labour Relations Commission and the Labour Court under the Industrial Relations Acts, 1946 to 1990. In the case of employees who do not have access to these bodies, for example certain employees in the public services, discussions should take place between the parties concerned with a view to developing procedures which would be in accordance with the principles included in this Code to the extent that such procedures do not already exist. In developing such procedures the parties should have regard to such considerations as the size and complexity of the employments concerned, the nature of the services provided, and the terms of employment of the employees involved.

5. ESSENTIAL SERVICES – AGREEMENTS ON SPECIAL PROCEDURES

30. In the case of essential services, additional procedures and safeguards are necessary for the peaceful resolution of disputes and these should be included in the appropriate agreements between employers and trade unions. These services include those whose cessation or interruption could endanger life, or cause major damage to the national economy, or widespread hardship to the Community and particularly: health services, energy supplies, including gas and electricity, water and sewage services, fire, ambulance and rescue services and certain elements of public transport. This list is indicative rather than comprehensive. The provisions of this section of the Code could be introduced by agreement in other enterprises or undertakings where strikes, lock-outs or other forms of industrial action could have far-reaching consequences.
31. These additional procedures and safeguards should be introduced through consultation and agreement in all services and employments coming within the scope of paragraph 30 above. The parties should recognise their joint responsibility to resolve disputes in such services and employments without resorting to strikes or other forms of industrial action.
32. The introduction of these additional procedures and safeguards should be accompanied by arrangements for the dissemination and exchange of information relating to various aspects of the life of the undertaking concerned including its relationship with the community which it serves. Employers should make appropriate arrangements for consultation with the unions through the use of agreed procedures especially where major changes affecting employees' interests are concerned.

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33. Except where other procedures and safeguards have been introduced which ensure the continuity of essential supplies and services, agreements negotiated on a voluntary basis should include one of the following provisions in order to eliminate or reduce any risk to essential supplies and services arising from industrial disputes:
- a) acceptance by the parties of awards, decisions and recommendations which result from the final stage of the dispute settlement procedures where these include investigation by an independent expert body such as the Labour Court, an agreed arbitration board or tribunal or an independent person appointed by the parties

or

 - b) a specific undertaking in agreements that, in the event of any one of the parties deciding that an award, decision or recommendation emerging from the final stage of the dispute settlement procedure is unsatisfactory they will agree on the means of resolving the issue without resort to strike or other forms of industrial action, such agreements to include a provision for a review of the case by an agreed recognised body after twelve months, such review to represent a final determination of the issue

or

 - c) provision that the parties to an agreement would accept awards, decisions or recommendations resulting from the operation of the final stage of the dispute procedure on the basis that an independent review would take place at five-yearly intervals to examine whether the employees covered by the agreement had been placed at any disadvantage as a result of entering into such agreement and if so to advise, having regard to all aspects of the situation, including economic and financial considerations, on the changes necessary to redress the position.

6. ESSENTIAL SERVICES – MAINTENANCE OF INDUSTRIAL PEACE

34. Where the parties have not concluded an agreement incorporating the procedures referred to in paragraph 33(a) or (b) or (c) and otherwise where for any reason a serious threat to the continuity of essential supplies and services exists, or is perceived to exist, as a result of the failure of the parties to resolve an industrial dispute and where the Labour Relations Commission is satisfied that all available dispute procedures have been used to try to effect a settlement, the Labour Relations Commission should consult the Irish Congress of Trade Unions and the Irish Business and Employers Confederation about the situation. The objective of such consultation should be to secure their assistance and co-operation with whatever measures may be necessary to resolve the dispute including, where appropriate, arrangements which would provide a basis for a continuation of normal working for a period not exceeding six months while further efforts by the parties themselves or the dispute settlement agencies were being made to secure a full and final settlement of the issues in dispute.

7. REVIEW OF CODE

35. The Commission will review the draft Code and its operation at regular intervals and advise the Minister for Enterprise, Trade and Employment of any changes which may be necessary or desirable.

APPENDIX I

S.I. No. 1 of 1992

Industrial Relations Act 1990, Code of Practice on Dispute Procedures (Declaration) Order 1992

WHEREAS the Labour Relations Commission has prepared a draft Code of Practice on dispute procedures, including procedures in essential services;

AND WHEREAS the Labour Relations Commission has complied with subsection (2) of section 42 of the Industrial Relations Act 1990 (No. 19 of 1990), and has submitted the draft Code of Practice to the Minister for Labour;

NOW THEREFORE, I, MICHAEL O'KENNEDY, Minister for Labour, in exercise of the powers conferred on me by subsection (3) of that section, hereby order as follows:

1. This Order may be cited as the Industrial Relations Act 1990, Code of Practice on Dispute Procedures (Declaration) Order 1992.
2. It is hereby declared that the draft Code of Practice set out in the Schedule to this Order shall be a Code of Practice for the purposes of the Industrial Relations Act 1990 (No. 19 of 1990).

GIVEN under my Official Seal,
this 6th day of January 1992.

MICHAEL O'KENNEDY
Minister for Labour

