



Labour Relations Commission

Duties and Responsibilities of
employee representatives and the
protection and facilities afforded
them by their employers

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1. INTRODUCTION

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 Enterprise and Employment.

The main purpose of this Code of Practice is to set out for the guidance of employers, employees and trade unions the duties and responsibilities of employee representatives (frequently referred to in trade union rule books and employer/trade union agreements as shop stewards) and the protection and facilities which should be afforded them in order to enable them to carry out their duties in an effective and constructive manner.

When preparing this Code of Practice the Commission held meetings and consultations with the Irish Congress of Trade Unions and the Irish Business and Employers Confederation. It also consulted with the Departments of Enterprise and Employment and Finance. The Commission has taken account of the views expressed by these organisations to the maximum extent possible in preparing this Code. It has also had regard to the procedures and practices applied in undertakings and establishments which have pursued sound industrial relations policies and to the provisions of trade union rule books.

2. GENERAL

1. Employee representatives, for the purpose of this Code, are
 - a) employees of an undertaking or establishment who have been formally designated employee representatives for that undertaking or establishment by a trade union in accordance with the rules of that trade union and any employer/trade union agreement which relates to the appointment of such representatives in that undertaking or establishment and
 - b) who normally participate in negotiations about terms and conditions of employment for all or a section of the workforce and who are involved in the procedures for the settlement of any disputes or grievances which may arise in that undertaking or establishment.

Reference to trade unions throughout this Code includes reference to “excepted bodies” under the Trade Union Acts, 1871 – 1990. An “excepted body” is a body which may lawfully negotiate wages or other conditions of employment without holding a negotiation licence. “Excepted body” is defined in section 6(3) of the Trade Union Act 1941, as amended, and includes an association, all the members of which are employed by the same employer.

2. The duties and responsibilities of employee representatives and the protection and facilities to be afforded them under this Code are indicative of the important position and role of such representatives in our system of industrial relations and in the resolution of disputes/grievances. The manner in which employee representatives discharge their duties and responsibilities significantly affects the quality of management/labour relations in the undertaking or establishment in which they work, its efficient operation and future development.

3. DUTIES AND RESPONSIBILITIES OF EMPLOYEE REPRESENTATIVES

3. The principal duties and responsibilities of employee representatives include -
 - a) representing members fairly and effectively in relation to matters arising within the undertaking or establishment in which they work and which concern employment and conditions of employment
 - b) participating in negotiation and grievance procedures as provided for in employer/trade union agreements or in accordance with recognised custom and practice in the undertaking or establishment in which they work
 - c) co-operating with the management of the undertaking or establishment in ensuring the proper implementation and observance of employer/trade union agreements, the use of agreed dispute and grievance procedures and the avoidance of any action, especially unofficial action, which would be contrary to such agreements or procedures and which would affect the continuity of operations or services
 - d) acting in accordance with existing laws and regulations, the rules of the union and good industrial relations practice; liaising with and seeking advice and assistance from the appropriate full-time trade union official
 - e) having regard at all times to the safe and efficient operation of the undertaking or establishment
 - f) subject to any other arrangements made between an employer and a trade union, employee representatives should conform to the same job performance standards, company rules, disciplinary conditions and other conditions of employment as comparable employees in the undertaking or establishment in which they work.

4. ELECTION OF EMPLOYEE REPRESENTATIVES

4. Employee representatives should be elected/designated in accordance with the appropriate trade union rules and procedures and, where relevant, in accordance with employer/trade union agreements. These procedures and agreements should ensure that such representatives will be representative of the trade union members concerned. Such representatives should normally have a minimum of one year's service in the undertaking or establishment concerned; their appointment as employee representatives should be confirmed in writing by the union to the employer and the union should provide relevant information, advice and training to employee representatives on their principal functions and duties. Nothing in this Code precludes an employer from providing additional training.
5. The number of employee representatives should be reasonable having regard to the size of the undertaking or establishment concerned, the number of trade union members employed and the structure of trade union organisation within the undertaking or establishment.
6. Following notification of the appointment of an employee representative, the employer should provide the representative with relevant information about the normal procedures for communicating with the appropriate representatives of management.

5. PROTECTION OF EMPLOYEE REPRESENTATIVES

7. Employee representatives who carry out their duties and responsibilities in accordance with paragraph 3 of this Code should not:

a) be dismissed or suffer any unfavourable change in their conditions of employment or unfair treatment, including selection for redundancy, because of their status or activities as employee representatives

or

b) suffer any action prejudicial to their employment because of their status or activities as employee representatives,

without prior consultation taking place between the management and the relevant trade union.

Where it is established that an employee representative has been dismissed in contravention of the provision at (a) above such representative should normally be re-instated.

8. Section 7 of this Code is without prejudice to the provisions of the Unfair Dismissals Acts 1977 and 1991.
9. Where an employer considers that an employee representative has acted or is acting beyond the usual authority and functions of an employee representative as set out in paragraph 3 or in a manner which is damaging to the undertaking or establishment, the employer should, in the first instance, take the matter up with the employee representative concerned and failing satisfaction at that level with his/her trade union.

6. FACILITIES FOR EMPLOYEE REPRESENTATIVES

10. For purposes of effectively ensuring the provision of reasonable facilities for employee representatives in accordance with paragraph 11 below, employers and trade unions should enter into agreements at the level of the undertaking or establishment which would incorporate the following provisions suitably adapted to the circumstances of the particular undertaking or establishment as referred to in paragraph 12 below.
11. Employee representatives should be afforded such reasonable facilities as will enable them to carry out their functions as employee representatives promptly and efficiently and in accordance with paragraph 3.
12. The granting of such facilities should have a regard to the provisions of paragraph 5 and especially to the needs, size and capabilities of the undertaking or establishment concerned and should not impair the efficient operation of the undertaking or establishment.
13. Employee representatives should be afforded necessary time off for carrying out their representative functions in the undertaking or establishment in which they work. In the absence of formal standing arrangements, employee representatives should obtain prior permission from an appropriate representative of management. Such permission should not be unreasonably withheld. Reasonable limits may be set on the amount of time off.

14. On the same basis as at paragraphs 10 and 12 above, employee representatives should be granted reasonable time off for trade union meetings and training courses which relate to their activities as employee representatives.
15. The question of payment of wages in respect of time off for any of the purposes set out at paragraphs 13 and 14 above should be the subject of discussion in advance at the level of the undertaking or establishment.
16. Employee representatives in the undertaking or establishment should be granted reasonable access to all workplaces where they represent trade union members and where such access is necessary to enable them to carry out their representative functions.
17. Employee representatives should have access, without undue delay, to management at the appropriate level on matters relating to their representative functions and responsibilities.
18. In the absence of check-off arrangements, employee representatives should, by agreement, be permitted to collect union dues regularly in the undertaking or establishment.
19. Employers and trade unions should agree arrangements whereby employee representatives, acting on behalf of their trade union, should be permitted to post notices relating to normal activities of the union in the undertaking or establishment in a place agreed with management to which employees have easy access.
20. Employee representatives, acting on behalf of their trade union, should be permitted to distribute non-political news sheets, pamphlets, publications and other documents relating to normal trade union activities amongst the members of the union in the undertaking or establishment.
21. The use of the facilities referred to in paragraph 19 and 20 above should have regard to the orderly operation and tidiness of the undertaking or establishment.
22. Management and trade unions should agree on the particular information and facilities which should be made available to employee representatives to enable them to carry out their functions and responsibilities in accordance with this Code.

APPENDIX 1**S.I. No. 169 of 1993****Industrial Relations Act 1990 Code of Practice on Employee Representatives (Declaration) Order 1993**

WHEREAS the Labour Relations Commission has prepared a draft Code of Practice on the duties and responsibilities of employee representatives and the protection and facilities to be afforded them by their employer;

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 Enterprise and Employment;

NOW THEREFORE, I RUAIRÍ QUINN, Minister for Enterprise and Employment, 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 Employee Representatives (Declaration) Order 1993.
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 25th day of June, 1993.

RUAIRÍ QUINN
Minister for Enterprise and Employment.