



THE LABOUR COURT

GUIDELINES FOR TRADE UNIONS AND EMPLOYERS

CASES REFERRED UNDER

- **SECTION 32 OF THE INDUSTRIAL RELATIONS ACT, 1946**

OR

- **SECTION 10 OF THE INDUSTRIAL RELATIONS ACT, 1969**

September, 2009

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COMPLAINTS TO THE LABOUR COURT

UNDER SECTION 32 OF THE INDUSTRIAL RELATIONS ACT, 1946

or

UNDER SECTION 10 OF THE INDUSTRIAL RELATIONS ACT, 1969

1. INTRODUCTION

Section 32 of the Industrial Relations Act, 1946 provides for the making by a **trade union representative of workers** to the Labour Court of a complaint that an employer has breached a registered employment agreement which applies to him.

Section 10 of the Industrial Relations Act, 1969 provides for the making by an **employer or a trade union representative of employers** to the Labour Court of a complaint that an employer has breached a registered employment agreement which applies to him.

This document outlines the Labour Court's procedures for dealing with such cases.

2. MAKING A COMPLAINT

A complaint must be made on the form which is attached to these Guidelines. Copies of the form are available from the Offices of the Court and it is also available in both PDF and Word format on the Court's website (www.labourcourt.ie).

If a complaint is received by the Court other than on this form, the complainant will be asked to complete the form. Also, if a complaint form received has not been fully completed, it will be returned to the complainant for completion.

3. WITHDRAWING A COMPLAINT

It is important that, if a complaint is to be withdrawn at any stage, the Labour Court be informed as soon as possible by means of a written notice to this effect.

4. PROCESSING THE COMPLAINT

4.1 When the Court's Administration is satisfied that all the required information has been included in the complaint form, and that the required supporting documentation has been attached, a copy of the complaint form (and all attachments) will be sent to the named employer by registered post. A covering letter will -

- a) inform the employer of the complaint;
- b) inform the employer that he has a right to be heard by the Court as part of its consideration of the complaint,
- c) ask him to indicate (by completing a supplied form to that effect) if he wishes to be heard, and
- d) indicate that a failure to reply within 21 days will be taken as confirmation that the employer does not wish to be heard and that the Court will proceed to consider the complaint without a hearing.

4.2 If no response has been received from the employer within the time frame set down in the Court's letter, the complaint will be considered by the Court. The Court will

- a) consider the written details of the complaint together with any supporting evidence,
- b) decide whether the complaint is well founded, and
- c) if the complaint is considered well-founded, decide the arrears of contribution due - this may involve an inspection of the employer's records.

The employer and the complainant will be informed of the outcome of the Court's consideration of the complaint.

4.3 If the employer has responded to the Court's letter and has indicated that he wishes to defend the complaint but that he does not wish to be heard, the Court will proceed as at paragraph 4.2, but will also take into account any evidence submitted by the employer.

4.4 If the employer has responded to the Court's letter and has indicated that he wishes to be heard, a hearing will be arranged in the normal way.

4.5 Where the complaint has been considered by the Court without a hearing, the following will apply:

- a) if the Court has decided on the basis of all the evidence before it that the complaint should not proceed any further, this will be conveyed to the parties;
- b) if the Court has decided that the complaint is well founded and the extent of arrears due and owing have been computed (usually following a report by a NERA Inspector and the furnishing of calculations by the complainant), the Court will send a letter to the employer
 - to ask him to confirm the accuracy of the computations, or to provide evidence to the contrary, and
 - to offer him an opportunity to be heard if the figures are disputed.

- 4.6 If nothing is heard from the employer within three weeks from the date of the Court's letter referred to at paragraph 4.5 (b), an Order in the amount indicated will be made by the Court.
- 4.7 If the employer disputes the findings of the inspector or the calculation based on those findings, and wishes to be heard, a hearing will be arranged.

5. THE COURT HEARING

- 5.1 Where a case is to proceed to a hearing, the parties will, in due course, be notified of the Hearing arrangements:
- a letter to the complainant, as well as giving details of the hearing, will also ask that 6 copies of any submission which he proposes to make at the Hearing be lodged at the Court's offices at least 3 working days before the Hearing;
 - a summons will issue to the employer and he will also be informed that 6 copies of any submission which he proposes to make at the Hearing must be lodged at the Court's offices at least 3 working days before the Hearing;
- 5.2 Regardless of any lack of advance indication of the employer's intentions with regard to his contesting the case, the complainant should attend the hearing on the basis that it will be contested.
- 5.3 If there is no indication in advance of the Hearing that the employer intends to contest the complaint but, in the event, presents himself or is represented at the Hearing, it will be a matter for the Court to decide on the day how to deal with the case.
- 5.4 Where at the Hearing of a case, the Court at the request of both parties grants an adjournment for any period, then in the event of neither party reverting to the

Court prior to the end of that period, informing it of their intention to proceed, the case will be treated as having been withdrawn. In that event, it will be necessary that a new complaint is referred before the Court will take any further action in the matter.

6. FURTHER INFORMATION

Any queries in relation to the procedures for processing these complaints should be addressed to info@labourcourt.ie



THE LABOUR COURT

Complaint of a Breach of a Registered Employment Agreement

Complaint made under (Please tick as appropriate)

- SECTION 32 OF THE INDUSTRIAL RELATIONS ACT, 1946
 SECTION 10 OF THE INDUSTRIAL RELATIONS ACT, 1969

Complaint relates to (Please tick as appropriate)

- Construction Industry Pensions, Assurance and Sick Pay
 Electrical Contracting Industry Registered Employment Agreement
 Other (Name Registered Employment Agreement)

PLEASE READ ATTACHED NOTES BEFORE COMPLETING THIS FORM

1. Details of Complainant:

Name and Address of Complainant:

Telephone No.:

Mobile Tel No.:

e-mail address:

2. Details of the Employer :

2.1 Name and Address of Employer

2.2 Please state what evidence you are providing to the Court to verify the name and address of the employer – see Note 1 attached

3. Details of the Complaint

3.1 What is the nature of your complaint

3.1 Please give a description of the main business activity carried out by the employer

3.2 Please indicate why you believe that this is an activity to which the Agreement applies - **see Note 2 attached**

3.3 Please indicate the location(s) at which the employer is/was engaged in the activity described above. In respect of each such location and activity, please give relevant dates and an indication of the names and occupations of employees - **see Note 3 attached**

4. Prior Communication with Employer

Please indicate what steps you have taken to bring the complaint to the attention of the employer - **see Note 4 attached**

Signature:

Position:

Date:

Note: This form should be sent to Registered Agreements Section, The Labour Court, Tom Johnson House, Haddington Road, Dublin 4, Telephone: (01) 6136641, 6136639, 6136638 Lo-Call (if calling from outside (01) area): 1890 220228.

NOTES

1. You are required to provide evidence that the employer is properly named in this complaint form and that the address provided is correct. Where the employer is incorporated as a company, a copy of the CRO registration document should be provided. In other cases, some evidence that the address given is correct should be provided, for example, a letter head, a copy of an entry in the telephone directory, or a receipt for a registered letter.

In the absence of such evidence, the Court will not proceed to consider the complaint.

2. The Registered Employment Agreement in relation to which this complaint is being made describes the activities covered by the Agreement. You are required to indicate, in respect of any activity being complained of, which particular description in the Agreement applies to that activity.
3. The Agreement describes the categories of workers to whom the Agreement applies. You are required to give details of the workers in each such category, employed by the employer at any location covered by this complaint, together with relevant dates.
4. It is expected that the Complainant will have written to the employer setting out the complaint before it is presented to the Court. Copies of all correspondence should be provided with this complaint form.
5. The Labour Court should be informed immediately if a complaint is to be withdrawn.



THE LABOUR COURT

Complaint of a breach of a Registered Employment Agreement

Notification by Employer of intention to Defend the Complaint

Complaint relates to (Please tick as appropriate)

- Construction Industry Pensions, Assurance and Sick Pay**
- Electrical Contracting Industry Registered Employment Agreement**
- Other** (Name Registered Employment Agreement)

Employer details:

Name:
Address:
Contact person:
Phone Number:
e-mail address:

Please answer the following Questions:

		YES	NO
1	<i>Is it your intention to defend the complaint against you?</i>	<input type="checkbox"/>	<input type="checkbox"/>

2	<i>If you have answered 'yes' to question 1, please state the basis for that defence</i>
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		YES	NO
3.	<i>Do you wish to be heard by the Labour Court in the course of its examination of the complaint?</i>	<input type="checkbox"/>	<input type="checkbox"/>

Signed: _____

(Please Print Name)

(Position in enterprise)

Date: _____

Note: This form should be completed and returned to Registered Agreements Section, The Labour Court, Tom Johnson House, Haddington Road, Dublin 4, Telephone: (01) 6136641, 6136639, 6136638 Lo-Call (if calling from outside (01) area): 1890 220228 **within 21 days from the date of the Court's letter to you.**