

Employment Appeals Tribunal

Annual Report

2013

Presented to the Minister for Jobs, Enterprise and Innovation under
Section 39 (18) of the Redundancy Payments Acts 1967 to 2007



An Binse Achomhairc Fostaíochta
Employment Appeals Tribunal

Employment Appeals Tribunal's Mission Statement

‘To provide an inexpensive and relatively informal means for the adjudication of disputes on employment rights under the body of legislation that comes within the scope of the Tribunal’.

Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2

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Chairman's Foreword

Dear Minister

I am pleased to submit the Annual Report of the Employment Appeals Tribunal for the year 2013 to you, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2007.

The Tribunal is an independent quasi-judicial body. Uniquely among all employment bodies, it exclusively deals with individual employment rights issues. It has jurisdiction under several pieces of legislation to deal with issues that arise either during the course of employment or on the termination of the employment relationship, the latter forming the most significant part of its work.

The disputes arising on the termination of the employment relationship are heard under the Unfair Dismissals Acts, the Redundancy Acts, the Minimum Notice and Terms of Employment Acts and the Protection of Employees (Employer's Insolvency) Acts. Complaints against the Decision of the Minister for Social Protection on employees' rights when an employer had been declared insolvent are also made directly to the Tribunal. Finally, claims in respect of holiday entitlements existing at the time of the termination of the employment relationship may be included with any other claim, appeal or complaint instituted before the Tribunal.

Being a body that deals mainly with the termination of employment cases, the prevailing economic climate has a direct impact on the Tribunal's workload.

The number of cases referred to the Tribunal has decreased from 5,623 in 2012 to 4,168 in 2013, a decrease of 26%. We are now close to the level of cases being referred prior to the recession.

In its appellate jurisdiction the Tribunal in general deals with disputes occurring during the course of the employment relationship, although unusually the Tribunal may also deal with appeals under the Unfair Dismissal Acts, where parties have opted to have their case heard at first instance by a Rights Commissioner. This dual jurisdiction of the Tribunal under the Unfair Dismissals Acts is a most attractive feature of the Acts which allows the parties the option of having their cases heard informally and in private with an appeal to the Tribunal or having it heard at first instance by the Tribunal in a more formal and public forum. The dispute in Unfair Dismissal cases is the most important right of employees and many wish to have their 'day in court'.

As predicted in my 2012 Foreword to the Annual Report the cases disposed of began to decrease in 2013. The Tribunal disposed of 5,304 cases in 2013 which represented a 30% decrease over the 2012 figure of 7,624. The explanation for this has been the large decrease in the number of redundancy and minimum notice cases heard in 2013. Almost invariably these cases can be dealt with in a relatively short period of time, while unfair dismissal cases, being complex and contested, on average take one to two days to hear and sometimes longer. There was a reduction of 40% - from 2,383 in 2012 to 1,425 in 2013 - in the number of redundancy cases disposed of and there was a similar decrease of 46% in minimum notice cases disposed of. It is notable that over the period the number of unfair dismissal cases disposed of was practically the same as it was in 2012, a difference of 122 cases. Again the Tribunal is reverting to the pre-recession situation where unfair dismissal cases accounted for around 95% of the Tribunal's hearing time.

As Chairman of the Employment Appeals Tribunal I was president of the European Association of Labour Court Judges (EALCJ) from June 2012 to June 2013. Our conference entitled 'Independent workers - freedom or enslavement' was held in Brussels in June 2013. A report on the conference can be found on www.ealcj.org. The Tribunal has been a member of this body for a long number of years and has cemented a good relationship and sharing of knowledge between the employment rights bodies of those countries which are members of the Association.

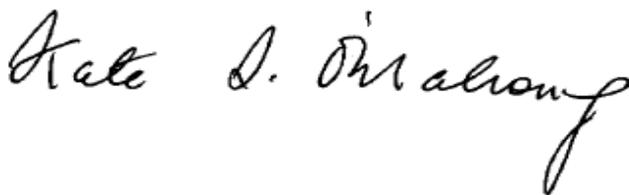
I thank the Minister and the Department for facilitating the work of the Tribunal through the provision of resources in 2013. I thank the members for their usual co-operation, commitment and dedication to the work of the Tribunal. I wish to offer a special word of thanks to the two members who resigned during the course of 2013 and wish them well in their pursuits.

I wish to welcome Ms Frances Gaynor, the new Secretary to the Tribunal and hope her experience with the Tribunal will be a happy one. I also thank her for her contribution to the Tribunal in 2013. I thank the secretaries and the other members of staff of the Secretariat for their continuing support and commitment to the work of the Tribunal.

I express a special 'thank you' to the outgoing secretary of the Tribunal, Mr David Small, who contributed greatly to the Tribunal and whose support was truly appreciated. We wish Dave success in his new position.

The Tribunal extends its condolences to the wife and family of the late Mr Gerry Whyte, a much valued and very committed member of the Tribunal, who died during 2013. Gerry was a long serving member of the Tribunal who was always professional in the discharge of his duties and a pleasure to work with. Ar dheis Dé go raibh a anam.

Yours sincerely

A handwritten signature in black ink that reads "Kate T. O'Mahony". The signature is written in a cursive, flowing style.

Kate T O'Mahony
Chairman

Members of the Tribunal

Chairman	Leachlain S O Catháin	Aidan O'Mara	Alice Moore
Kate T O'Mahony B.L.	Jeremiah O'Connor	James O'Neill	Joe Maher
Vice Chairmen	Peter J O'Leary B.L.	Tadg O'Sullivan	Mary Maher
Sinead Behan B.L.	Moya Quinlan	Neil Ormond	Dominic McEvoy
Kieran Buckley	Joe Revington S.C.	Dermot Peakin	Jim Moore
Pamela Clancy	Nicholas Russell	Pat Pierce	Maire Mulcahy
Charles Corcoran B.L.	Tom Ryan	Peter J Pierson	Helen Murphy
Eithne Coughlan (CR)	Jeremiah Sheedy	William Power	Phil Ni Sheaghdha
Ann-Marie Courell B.L.	Joseph Smith (CR)	Robert D E Prole	Owen Nulty
Fiona Crawford B.L.	Tony Taaffe	John Reid	Seamus O'Donnell
Emile Daly B.L.	Patrick Wallace (CR)	Máire Sweeney	Michael O'Reilly
Dorothy Donovan B.L.	Employers' Panel	Liam Tobin	Ciaran Ryan
Catherine Egan B.L.	Gerry Andrews	Declan F Winston	Dave Thomas
John Fahy B.L.	Joe Browne	Jean Winters	Paddy Trehy
James Flanagan B.L.	Michael Carr	Employees' Panel	Owen Wills
Veronica Gates B.L.	Pat Casey	Frank Barry	Paddy Woods
Myles Gilvarry	Frank Cunneen	Tom Brady	
Bernadette Glynn	Moss Flood	Eveta Brezina	
Dara Hayes B.L.	Angela Gaule	Al Butler	Secretary to the Tribunal
Graham Hanlon	Tom L Gill	Finbarr Dorgan	Ms Frances Gaynor
Eamon Harrington	James Goulding	James Dorney	
David Herlihy	Eamon C Handley	Noel Dowling	
Patrick Hurley	Don Hegarty	Patsy Doyle	
Elva Kearney B.L.	James Hennessy	John Flannery	
Margaret Levey B.L.	John Horan	John Flavin	
James M Lucey	Ben Kealy	Tom J Gill	
Dermot MacCarthy S.C.	J J Killian	Noirin Greene	
Orna Madden B.L.	Con Lucey	Helen Henry	
Roderick Maguire B.L.	Gerry McAuliffe	Thomas A Hogan	
Sean Mahon	Cyril McHugh	James Jordan	
Mary McAveety	Finbar Moloney	Hilary Kelleher	
Jeananne McGovern B.L.	Don Moore	Suzanne Kelly	
Penelope McGrath B.L.	Desmond Morrison	Tony Kelly	
Sandra McNally	Roger F Murphy	Frank Keoghan	
Fintan J Murphy (CR)	Michael Noone	Rosabel Kerrigan	
Eamonn Murray	William O'Carroll	Sean Mackell	
Niamh O'Carroll Kelly B.L.	Tom O'Grady	Michael McGarry	

¹ (CR) refers to County Registrars

² During 2013, Mr Patrick Meaghan and Mr Michael J Murphy resigned and Mr Gerry Whyte passed away



Tribunal News 2013

In 2013, the Employment Appeals Tribunal:

Received **4,168** cases

Disposed of **5,304** cases

Held **1,352** sittings

Comparison with 2012

Category	2012	2013
Cases Referred	5,623	4,168
Cases Disposed	7,624	5,304
Sittings	1,554	1,352

Overview of Tribunal's Work in 2013

Cases Referred

2012	2013	Difference
5,623	4,168	1,455 (-25.88%)

The number of cases received in 2013 was 26% lower than those received in 2012. This downward trend has been evident over the past three years.

The number of appeals against the recommendations of the Rights Commissioners also saw a decrease. The number received in 2013 (845) was 37.36% lower than the 2012 figure of 1,349 and 13.60% lower than those received in 2011 (978).

The top 3 categories of cases referred were

- | | |
|---|--------|
| (1) Unfair Dismissal (UD) | 37.86% |
| (2) Redundancy (RP) | 23.70% |
| (3) Minimum Notice & Terms of Employment (MN) | 16.82% |

Profile of Cases Referred

Legislation		% of Total referred in 2013	2013	2012
Redundancy Payment Acts 1967-2007	RP	23.70%	988	1,239
Minimum Notice and Terms of Employment Acts 1973-2005	MN	16.82%	701	929
Unfair Dismissals Acts 1977-2007	UD	37.86%	1,578	1,742
Protection of Employees (Employers' Insolvency) Acts 1984-2004	I	0.22%	9	108
Organisation of Working Time Act 1997	WT	4.56%	190	386
Maternity Protection Acts 1994 and 2004	M	0.10%	4	11
Payment of Wages Act 1991	PW	10.39%	433	811
Terms of Employment (Information) Acts 1994 and 2001	TE	4.63%	193	295
Parental Leave Acts 1998 and 2006	PL	0	0	2
European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003	TU	1.51%	63	72
European Communities (Protection of Employment) Regulations 2000	PE	0.22%	9	28
TOTAL		100%	4,168	5,623

Cases Disposed

2012	2013	Difference
7,624	5,304	-2,320 (-30.43%)

The number of cases disposed of decreased from 7,624 in 2012 to 5,304 in 2013, which was a **decrease** of 2,320 or 30.43%.

An increase or decrease in the number of cases disposed of can be the result of a number of variables, primarily, the type of cases to be heard. As a result of the streamlining of cases by the Tribunal over the last number of years, the majority of cases now left to be heard are Unfair Dismissal cases. These cases by their nature can be more complicated and protracted which can mean that more time is allocated to a fewer number of cases, resulting in a decrease in the number of cases disposed of.

The largest category of claims disposed of in 2013 was unfair dismissal claims at 31%, followed by Redundancy Payment at 27% and Minimum Notice at 21%. This mirrors the top three categories of cases referred to the Tribunal.

Profile of cases disposed of

Legislation		% of Total Disposed of in 2013	2013	2012
Redundancy Payment Acts 1967-2007	RP	26.86%	1,425	2,393
Minimum Notice and Terms of Employment Acts 1973-2005	MN	20.75%	1,101	2,046
Unfair Dismissals Acts 1977-2007	UD	31.47%	1,669	1,791
Protection of Employees (Employers' Insolvency) Acts 1984-2004	I	.47%	25	10
Organisation of Working Time Act 1997	WT	8.94%	474	740
Maternity Protection Acts 1994 and 2004	M	.19%	10	5
Payment of Wages Act 1991	PW	7.47%	396	407
Terms of Employment (Information) Acts 1994 and 2001	TE	3.81%	202	229
Parental Leave Acts 1998 and 2006	PL	.04%	2	3
TOTAL		100%	5,304	7,624

Cases referred and disposed of in 2013

Redundancy Payments Acts 1967 to 2007

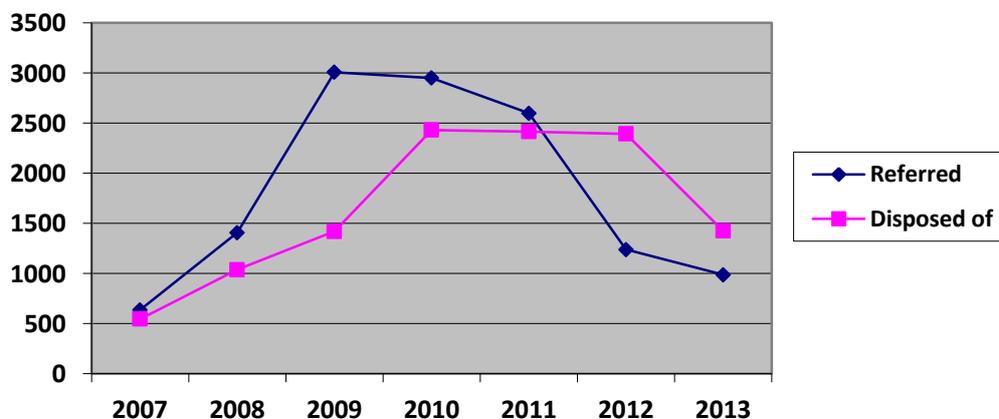
No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
988	559	275	128	463	1,425

For the second consecutive year, 2013 showed a reduction in the number of redundancy cases referred - 988 cases compared to 1,239 in 2012.

Over the past number of years the Tribunal took the initiative to stream the hearing of redundancy cases in areas of high demand. During 2013 the Tribunal continued this streaming of redundancy cases. However, the number of cases disposed of decreased to 1,425 in 2013 compared to 2,393 in 2012.

This is due to the continuing downward trend in the number of redundancy cases being referred to the Tribunal and the increasing number of those cases that are complex and contested.

Redundancy Cases referred and disposed of from 2007-2013



Minimum Notice and Terms of Employment Acts 1973 to 2005

No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
701	343	213	173	372	1,101

Both the cases referred and disposed of under the Minimum Notice and Terms of Employment Acts decreased in 2013 compared to the 2012 figures. The number of cases referred decreased by 25% and the number of cases disposed of by 46%.

Unfair Dismissals Acts 1977 to 2007

The Tribunal disposed of 1,669 Unfair Dismissal cases during 2013. This is a 6.81% decrease over the year 2012 (1,791).

The total number referred in 2013 was 1,578. The percentage of first instance UD cases received was 83%, appeals 13% and implementations 4%. These percentages are the same as in 2012.

Total Cases Referred	Total Disposed
1,578	1,669

First Instance

No. referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
1,315	259	309	258	563	1,389

Appeals

No. referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
203	70	36	20	104	230

Implementations

No. referred	Upheld	Withdrawn	Total Disposed
60	41	9	50

The Tribunal awarded compensation amounting to €5,072,741.03 in 304 UD cases. The average compensation awarded by the Tribunal was €16,686.65. In addition to compensation, re-instatement was ordered in 2 cases and re-engagement was ordered in 10 cases.

Profile of Unfair Dismissal Awards in 2013

Compensation Award €	Number	Compensation Award €	Number
0	4	5001-6000	16
1-250	3	6001-7000	8
251-500	1	7001-8000	12
501-750	5	8001-9000	11
751-1000	5	9001-10000	28
1001-2000	19	10001-15000	35
2001-3000	18	15001-20000	26
3001-4000	10	20001-25000	18
4001-5000	21	>25001	64

Protection of Employees (Employers’ Insolvency) Acts 1984 to 2004

No of Cases referred	Allowed	Dismissed	Withdrawn Prior	Total Disposed
9	12	7	6	25

These relate to the number of appeals against the decision of the Minister for Social Protection. Since 2010 this is an area where there had been continuing increases in the number of cases referred to the Tribunal i.e. 5 in 2010; 48 in 2011 and 108 in 2012. However this year the number referred reduced back to a level close to the 2010 figure, with 9 cases referred. The number of cases disposed of increased from 10 in 2012 to 25 in 2013, a percentage increase of 150%.

Organisation of Working Time Act 1997

No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
190	67	123	126	158	474

Cases under the Organisation of Working Time Act can only be brought to the Tribunal in conjunction with cases under other Acts. The Tribunal only deals with the holiday cases under the Act. The number of cases referred decreased to 190 in 2013 compared to 386 in 2012. Over the same period the number of cases disposed of by the Tribunal decreased from 740 to 474.

Maternity Protection Acts 1994 and 2004

No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
4	1	0	2	7	10

Appeals received under the Maternity Protection Acts decreased from 11 in 2012 to 4 in 2013 and the number of claims disposed increased from 5 in 2012 to 10 in 2013.

Payment of Wages Act 1991

No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
433	114	100	8	174	396

In 2013 the number of appeals referred under the Payment of Wages Act to the Tribunal decreased from 811 in 2012 to 433 in 2013. This decrease stops an upward trend that showed the number of such appeals rising from 316 in 2010 to 811 in 2012.

The number of Payment of Wages cases disposed of by the Tribunal decreased from 407 in 2012 to 396 in 2013.

Terms of Employment (Information) Acts 1994 and 2001

	No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
Appeal	133	55	10	12	71	148
Implementation	60	37	0	0	17	54

The total number of cases referred under this legislation decreased from 295 in 2012 to 193 in 2013. The number of cases disposed of under this Act also decreased slightly from 229 in 2012 to 202 in 2013.

Parental Leave Acts 1998 and 2006

	No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
Appeal	0	1	0	0	1	2

Two cases were disposed under this legislation in 2013.

European Communities (Protection of Employment) Regulations 2000

No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
9	0	0	0	0	0

9 Appeals were received under the 2000 European Communities (Protection of Employment) Regulations in 2013 compared to 28 in 2012.

European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003

No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
63	0	0	0	0	0

63 Appeals were received under the 2003 European Communities (Protection of Employees on Transfer of Undertakings) Regulations in 2013 compared to 72 in 2012.

No cases were referred or disposed of in 2013 under the following Acts.

- Adoptive Leave Acts 1995 and 2005
- Protection of Young Person (Employment) Act 1996
- Carer’s Leave Act 2001
- Competition Acts 2002-2010
- Chemicals Acts 2008 and 2010
- Protection for Persons Reporting Child Abuse Act 1998
- Consumer Protection Act 2007

Representation at hearings

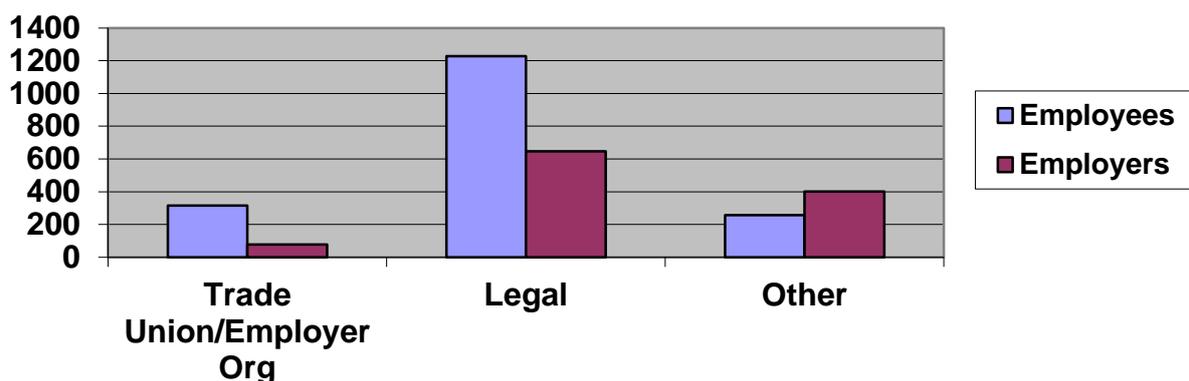
A party to an application may appear before the Tribunal and be heard in person, or be represented by counsel or solicitor or by a representative of a trade union or by an employers' association or, with the leave of the Tribunal, by any other person. There is no requirement for representation in order to appear before the Tribunal.

Details of the representation under the various Acts or combination of Acts in 2013 are as follows:

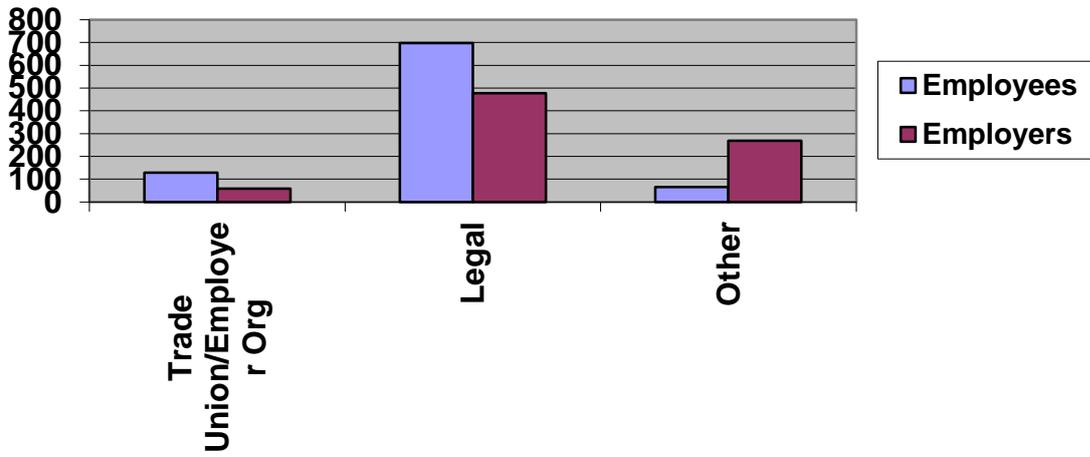
In 2013, 1,801 **employees** had representation at hearings before the Tribunal. Of these, 316 cases involved representation by Trade Unions, 1,228 by legal representatives and 257 by other persons. In this period, **employers** had representation in 1,125 cases. Of these 647 was by legal representatives, 401 by other persons and 77 by employers' associations.

It is notable that the highest level of representation is in unfair dismissal cases. In 2013 in such cases, 892 **employee** parties had representation (129 by trade unions, 697 by legal representatives and 66 by other persons) and 803 **employer** parties had representation (58 by employers' associations, 477 by legal representatives and 268 by other persons).

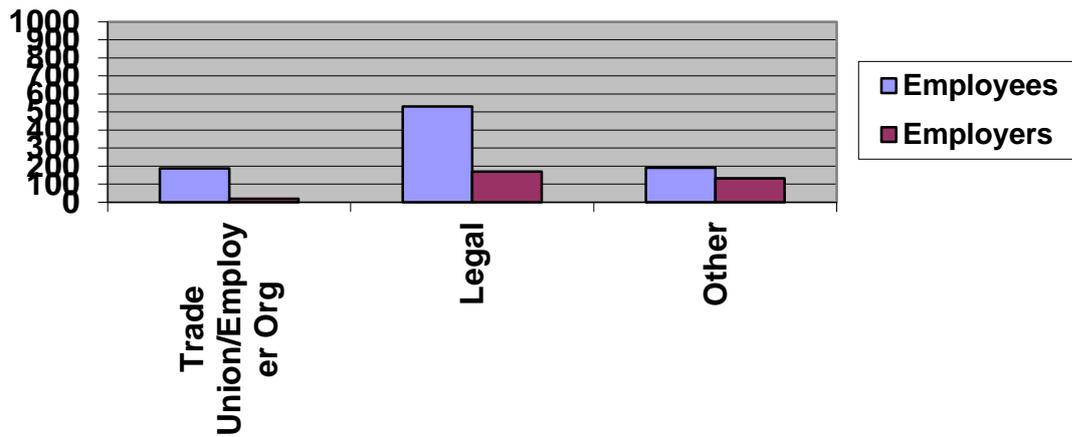
Representation under all Acts in 2013



Representation under Unfair Dismissal Acts in 2013



Representation under all Acts excluding UD in 2013



Other Activities

Workplace Relations reform process

The Minister for Jobs, Enterprise and Innovation Richard Bruton TD has commenced a major programme of reform of the State's workplace relations bodies. This reform will deliver a modern, user-friendly, world-class workplace relations system that will provide significant benefits for its users and society as a whole. The reform will make a substantial contribution to better business regulation, employee relations and public service reform. It will greatly improve the service for users while at the same time saving money for the taxpayer.

A significant amount of work has been completed on the preparation of the legislation which will give statutory effect to the new structures and associated processes. The Workplace Relations Bill was published on 28 July 2014 with a view to having the new structures in place before the end of 2014.

The legislation will provide for the services of the Equality Tribunal, the National Employment Rights Authority, the Labour Relations Commission and the first instance functions of the Employment Appeals Tribunal to come together under the remit of the Workplace Relations Commission (the WRC). The appellate functions of the Tribunal will be amalgamated into a reconfigured Labour Court.

Significant progress has also been achieved to date, in advance of the enabling legislation, insofar as the technological, structural, administrative and staffing changes required to underpin the Workplace Relations Reform Programme are concerned, including the following measures which have already been put in place; transfer of the Equality Tribunal into the Department of Jobs Enterprise and Innovation as a precursor to being merged into the new WRC; a Single Contact Portal; an e-complaint facility; a Staffing and Structures Plan; a new Workplace Relations website; an Early Resolution Service; Adjudicator training and recruitment plans, and enhanced technologies and processes, including the publication of a Request for Tender for a customer relationship management solution.

During 2013, the Tribunal has worked closely with the Department and the other Workplace Relations bodies to progress the Minister's reform agenda.

Postponements & Interpreters

When cases are set down for hearing, dates are notified to the parties on average five to six weeks in advance. Postponements may be granted only in exceptional circumstances. If a postponement is sought immediately, or within 5 working days of receiving the notice of hearing and the consent of the other party to the case has been obtained, it may be granted. If a postponement is sought later and/or without the consent of the other party, it is unlikely to be granted. This setting down system, designed primarily for the convenience of parties, renders some applications for postponements inevitable but outside the control of the Tribunal. Postponements, which are applied for too close to the date of hearing and are granted, result in the loss of scheduled Tribunal sitting time. This loss of time adversely affects the setting down system, increases costs, and results in further delays between the date of referral of a claim and the date of hearing for all claimants.

In 2013, the total number of postponement applications was 480 of which 122 were granted and 358 refused. This resulted in 58 lost sitting days. This compares with a total of 516 postponement applications for 2012 of which 248 were granted and 268 were refused with 44.5 lost sittings days.

In addition to the above, the Tribunal, where it is found necessary, also facilitates a language interpreter service. Applications for an interpreter must be made before a sitting division of the Tribunal in advance of the hearing date. A variety of language interpretation requests were made during 2013, including Polish, Russian, and Lithuanian.

The Tribunal granted 208 applications to have interpreters at hearings during 2013 compared with 255 applications during 2012.

Accessibility

The Tribunal, on request, will take all practicable steps to provide special facilities for a person with disabilities and/or other special needs. Parties are asked to notify the Tribunal in advance of the hearing of their requirements.

The Tribunal accommodated 5 requests for sign language facilities at hearings in 2013 compared with 2 in 2012.

Appeals to the Higher Courts

Determinations of the Tribunal, under some Acts, may be appealed on a point of law to the High Court. In 2013, the Tribunal was notified of 5 High Court cases, which include both Judicial Reviews and cases referred on a point of law, in which they were a named party.

Determinations by the Tribunal in cases under the Unfair Dismissals Acts may be appealed to the Circuit Court within six weeks of the date on which the Determinations are communicated to the parties. The procedure for appealing Tribunal Determinations is set out in Circuit Court Rules (www.courts.ie). The regulations also provide a means for the Tribunal to be informed of the referral and result of cases appealed to the Circuit Court. From information supplied approximately 175 cases (both appeals and enforcements) progressed to the Circuit Court.

European Association of Labour Court Judges

The Tribunal is a member of the European Association of Labour Court Judges. This body provides the forum for building upon the working relationship that already exists between employment rights bodies of Europe. It also develops a greater understanding of the statutory employment rights conferred on workers in Europe and the various systems for the vindication of those rights. In 2012, the Chairman to the Tribunal Ms Kate O'Mahony was appointed for a 12 month period as Chairperson to the European Association of Labour Court Judges. Two representatives of the Tribunal participated in a conference co-ordinated by the Association on "Independent Workers – freedom or enslavement" in June 2013 in Brussels. The topics included the legal position of Independent workers and role of the state and the judiciary towards independent workers. In light of the volume of EU employment law & Directives, Tribunal representation at these meetings ensures Members keep abreast of developments in the law at a European level.

Attending at EAT Hearings

Tribunal hearings are held in public, in accordance with statute. In addition to the parties to a particular case, Tribunal hearings can be attended by those whose cases may be pending who wish to see in advance the procedure of hearings, members of the public with an interest in employment rights, voluntary sector groups (in particular groups from the Citizens' Information Centres), and from community law groups.

The Tribunal receives requests to attend from third-level and postgraduate students. These requests generally focus on employment rights legislation and the role of the Tribunal. To

facilitate groups it is better to contact the Tribunal secretariat in advance to ensure accommodation.

Archiving of Files

The Employment Appeals Tribunal is a scheduled body under the National Archives Act 1986. In general, records, which are more than 30 years old and held by scheduled bodies, must be transferred to the National Archives and be made available for inspection by the public. Following an inspection by officers of the National Archives on 6th April 2011, the National Archives have authorised, pursuant to section 7(3) of the National Archives Act 1986, that records referred to in the certificate (i.e. appeals under the relevant legislation) do not warrant preservation by the National Archives and have authorised their disposal in accordance with section 7(5) of the Act. The chairman of the Employment Appeals Tribunal has directed that case files completed 12 years ago or earlier can be destroyed annually.

Customer Service and Charter

The Tribunal is committed to quality customer service and to delivering a service, having regard to available resources, that is both effective and efficient, and which at all times is provided in a courteous manner. The Tribunal respects the rights of all parties to a case. A copy of our Customer Service Charter is available on request. Comments regarding our service are welcome and may be sent to the Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2, by email to: eat@djei.ie, by phone at (01) 6313006 or by fax at (01) 6313266.

A description of the services provided by the Tribunal and how to avail of them, relevant publications and frequently asked questions are all available on the website at www.workplacerelations.ie. An information booklet ***EAT Practitioners' Guide*** is available on the above website.

The Tribunal maintains a Register of its Decisions and Determinations, in accordance with statute. The Register is open for inspection, free of charge, by any member of the public during normal business hours at the Office of the Secretariat, Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2. Determinations are also available on the website www.workplacerelations.ie.

Freedom of Information Act 1997

Currently, the Freedom of Information Act 1997 (as amended) does not apply to the Tribunal. However, the extension of the Freedom of Information legislation to the operation of the Tribunal, as well as other bodies currently outside its scope, is proposed in the Freedom of Information Bill 2013.

Appendix 1: Cases Received in 2013

	First Instance	Appeals		Implementation	Total
		By Employees	By Employers		
Redundancy	988	0	0	0	988
Minimum Notice and Terms of Employment	701	0	0	0	701
Unfair Dismissal	1,315	150	53	60	1,578
Protection of employees (Employers' Insolvency)	9	0	0	0	9
Organisation of Working Time	190	0	0	0	190
Maternity Protection	0	3	1	0	4
Payment of Wages	0	159	274	0	433
Terms of Employment (Information)	0	61	72	60	193
European Communities (Transfer of Undertakings)	0	31	32	0	63
European Communities (Protection of employment)	0	0	9	0	9
TOTAL	3,203	404	441	120	4,168

Appendix 2: Cases Disposed of in 2013

The Tribunal disposed of 5,304 cases in 2013 which represents a 30% decrease over cases disposed of in 2012. The number of cases disposed of reflects the type of case the EAT are currently processing.

First Instance

	Allowed	Dismissed	Withdrawn during Hearing	Withdrawn prior to hearing	Total
Redundancy	559	275	128	463	1,425
Minimum Notice and Terms of Employment	343	213	173	372	1,101
Unfair Dismissal	259	309	258	563	1,389
Protection of employees (Employers' Insolvency)	12	7	0	6	25
Organisation of Working Time	67	123	126	158	474
TOTAL	1,240	927	685	1,562	4,414

Appeals

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	70	36	20	104	230
Maternity Protection	1	0	2	7	10
Payment of Wages	114	100	8	174	396
Terms of Employment (Information)	55	10	12	71	148
Parental Leave	1	0	0	1	2
TOTAL	241	146	42	357	786

Breakdown of Appeals based on cases initiated by Employees or Employers

	Upheld	Upset	Varied	Withdrawn	Total
Employees	148	61	18	180	407
Employers	93	85	24	177	379
TOTAL	241	146	42	357	786

Implementations

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	41	0	0	9	50
Terms of Employment (Information)	37	0	0	17	54
TOTAL	78	0	0	26	104

Appendix 3: History and Composition of the Tribunal

The Redundancy Payments Act of 1967, which established the Redundancy Appeals Tribunal, was enacted on 18th December 1967. The creation of the Tribunal was considered an innovative move by the State in the area of employment rights. It was set up to ensure that a worker's statutory entitlement to redundancy was given the force as well as the full protection of the law. The Act thus established a forum within which the ordinary 'man in the street' could refer a case to have those rights vindicated. Apart from its continuing responsibility to hear appeals under the Redundancy Payments Acts, today, under its revised title, the Employment Appeals Tribunal now deals with cases under eighteen pieces of legislation. These range from cases for unfair dismissal to minimum notice, as well as hearing appeals from decisions and recommendations of the Rights Commissioner Service of the Labour Relations Commission.

The inaugural meeting of the first Redundancy Appeals Tribunal took place on 22nd March 1968, under the guardianship and protection of the first sixteen Members appointed to the Tribunal. The first Chairman, Mr John Gleeson, led the Tribunal. It heard its first appeal on 18th April 1968. Between that date and 31st December 1968, the Tribunal sat on seventy-five (75) days and heard a total of one hundred and thirty three (133) appeals. Eighty-three (83) of those appeals were heard in Dublin, and the remaining fifty appeals (50) were heard at various other venues around the country. From the start it was clear that the Tribunal would have a countrywide and therefore a national dimension to its work. Over forty years on, the Employment Appeals Tribunal continues the work started by the Tribunal. Indeed, instead of its early base of sixteen (16) members, in 2011, there are now one hundred and thirty one (131) members of the Tribunal.

➤ 2013 Composition of the Tribunal

At the beginning of 2013 the Tribunal consisted of a Chairman, forty eight Vice-Chairmen and a panel of eighty two other members, forty-one nominated by the Irish Congress of Trade Unions and forty-one by organisations representative of employers. During 2013 one vice chairman and one member resigned and one member passed away. At the end of 2013 there were 8 vacancies on the Tribunal.

The Tribunal acts in divisions, each consisting of either the chairman or a vice-chairman and two other 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. Appeals are heard in public unless the Tribunal, on the application of either party and in the exercise of its discretion, decides that the hearing be heard in private.

➤ **The Secretariat**

The Secretariat is responsible for the administration of cases referred to the Tribunal under various employment rights legislation. Its role is to provide administrative support to the Tribunal. Civil Servants, assigned by the Department of Jobs, Enterprise and Innovation, comprise the staff of the Secretariat of the Tribunal.

The Secretary of the Tribunal is Ms Frances Gaynor.

Appendix 4: Hearings and Sittings

The unprecedented growth in the referral of cases has impacted on the waiting period. As a result, the annual average waiting period increased significantly over the past number of years to an average waiting period of 77 weeks in Dublin and 82 weeks in provincial areas. During 2013 however, the waiting period showed signs of decreasing slightly, with an average waiting period of 74 and 80 weeks in Dublin and the regions respectively.

However, the waiting period does not tell the full story. Although the EAT conducts hearings in about 31 locations across the State, where the number of cases is relatively small the Tribunal may wait until a sufficient number of cases are on hand before hearings in certain locations can be listed, so as to maximise value for money in relation to the costs of hearings outside the Tribunal Head Office. Once a critical mass of hearings is assembled, 5 days of hearings in a single location can reduce the waiting time in the area concerned significantly. The waiting time is also impacted upon by the number of postponement or adjournment applications received by the Tribunal from either party to a hearing.

In 2013 the Tribunal sat on 239 days. In all, hearings were held at 29 different venues throughout the country to suit appellants and respondents.

The number of divisions sitting per day varied, with 7-8 being the usual number of divisions sitting per day. The following tables sets out the venues per Province.

Leinster	Munster	Connaught	Ulster
Carlow	Clonmel	Carrick on Shannon	Cavan
Drogheda	Cork	Castlebar	Donegal
Dublin	Ennis	Galway	Letterkenny
Kilkenny	Killarney	Roscommon	Monaghan
Longford	Limerick	Sligo	
Mullingar	Thurles		
Naas	Tralee		
Portlaoise	Waterford		
Trim			
Tullamore			
Wexford			
Wicklow			

Appendix 5: Overview of Legislation

The Employment Appeals Tribunal is a statutory body established to deal with and adjudicate on employment disputes under the following statutes. *The information given below is intended as a guide only and does not purport to be a legal interpretation.*

Redundancy Payments Acts 1967 to 2007

Under the Redundancy Payments Act 2003 an eligible employee is entitled to two weeks statutory redundancy payment for every year of service together with a bonus week. The majority of the cases disposed of by the Tribunal under these Acts were cases by employees for redundancy payments on the grounds that they were dismissed by reason of redundancy. Other areas of dispute relate to questions as to whether alternative employment offered was suitable; associated companies; change of ownership of trade or business; continuity of employment; lay-off and short-time; calculation of amount of lump sums and normal weekly remuneration.

Minimum Notice and Terms of Employment Acts 1973 to 2005

In 2003, the Protection of Employees (Employers' Insolvency) Acts 1984 and 2001 were amended to allow cases for statutory notice entitlements, where the employer is insolvent, to be made directly to the Insolvency Payments Unit of the Department of Social Protection for payment from the Social Insurance Fund, without recourse to the Tribunal. The Civil Service Regulation (Amendment) Act 2005 extends the provisions of the Minimum Notice and Terms of Employment to civil servants as of 4th July 2006.

Unfair Dismissals Acts 1977 to 2007

The Unfair Dismissals Act 1977 was a major development in Irish employment law. It provides remedies for employees who are found by the Tribunal to have been unfairly dismissed from their employment. The remedies under the Act are: re-instatement, re-engagement or compensation up to a maximum of 104 weeks' remuneration. Cases for unfair dismissal may be initiated with the Tribunal or with a Rights Commissioner. A case under this Act may only be brought to the Tribunal if one of the parties objects in writing to a Rights Commissioner hearing the claim.

The Unfair Dismissals Acts now apply to most state employees including most civil servants. The exclusion from the Acts for most state employees was removed by the Civil Service Regulation (Amendment) Act 2005 and the relevant sections became operational on 4th July 2006.

Where a case for unfair dismissal is initiated with a Rights Commissioner, either party may appeal the Rights Commissioner's Recommendation to the Tribunal within six weeks of the date the Recommendation was communicated to the parties concerned.

Protection of Employees (Employers' Insolvency) Acts 1984 to 2004

Financial entitlements of employees who lose their jobs as a result of their employers' insolvency are substantially protected under the 1984 Act as amended. Cases under the Act as amended, take the form of complaints against Decisions of the Minister for Social Protection to refuse all or part of a claim for payment in respect of arrears of wages, arrears of sick pay, arrears of holiday pay or payment of unpaid contributions to occupational pension schemes. Where a doubt exists as to whether a case is allowable or not, the Minister may refer the case to the Tribunal for a Decision. Such claims are paid out of the Social Insurance Fund.

The European Communities (Protection of Employees (Employers' Insolvency) Regulations 2005, S.I. No. 630 of 2005 has extended the Insolvency Payments Scheme to include all awards made by the Tribunal³. This statutory instrument also extends cover to employees who are employed in Ireland by an employer who has become insolvent under the laws, regulations and administrative procedures of another member state.

Organisation of Working Time Act 1997

Section 39 of the Organisation of Working Time Act, provides for a solution to difficulties encountered with the enforcement of Decisions of the Employment Appeals Tribunal and other specified bodies under the legislation administered by it, where details relating to an employer are incorrectly set out in a Tribunal Decision. Section 39 allows an employee, where an employer is inadvertently incorrectly identified before the Tribunal, to apply for leave to institute proceedings against the proposed employer, notwithstanding that the time line for instituting such cases might have expired. Section 40 allows an employee or his/her trade union to include a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its jurisdiction.

³ Awards made by the Tribunal under the Redundancy Payments Acts are also paid out of the Social Insurance Fund.

Maternity Protection Acts 1994 and 2004

Disputes concerning entitlements under the Act must be brought to a Rights Commissioner in the first instance and then to the Tribunal by way of an appeal against the Rights Commissioner's Recommendation.

Payment of Wages Act 1991

The Act establishes a range of rights for employees relating to the payment of their wages: a right to a negotiable mode of wage payment, a right to a written statement of wages and deductions, and protection against unlawful deductions from wages. The Act allows for an appeal to be made to the Tribunal against the Decision of a Rights Commissioner on complaints in relation to an unlawful deduction from wages.

Terms of Employment (Information) Acts 1994 and 2001

The main purpose of this Act is to impose an obligation on employers to provide a written statement to employees setting out certain particulars of the employees' 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 Acts 1995 and 2005

The purpose of this Act is to entitle 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 Person (Employment) Act 1996

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). An employer or an employee may appeal to the Tribunal from a Recommendation of a Rights Commissioner.

Parental Leave Acts 1998 and 2006

The Parental Leave Act 1998 came into operation on 3rd December 1998. The Act provides for an entitlement for men and women 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 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.

Carer's Leave Act 2001

This Act provides for the 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 Protection as requiring full time care and attention. 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.

European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003

These came into force on the 11th April 2003. They revoke and replace the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations 1980, and the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations 2000. They provide for representation of, and consultation with, employees in the absence of a trade union, staff association or excepted body. They also provide for a right of complaint to a Rights Commissioner, where an employer contravenes Regulation 8 (the information and consultation provision) and they provide for increases in the levels of fines for offences.

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 to the parties. Where a Rights Commissioner's decision or a determination of the Tribunal has not been carried out, a claim for implementation may be made after a six-week period to the Circuit Court.

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.

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 to the parties. Where a Rights Commissioner's Decision has not been carried out a case for implementation may be referred to the Tribunal after the six-week period.

Competition Acts 2002-2010

The Competition Acts 2002-2010 consolidated the existing competition and mergers legislation. Section 50 (3) of the Act provides protection for an employee, from penalisation by the employer, where the employee acting reasonably and in good faith, reports a breach of the Act. Schedule 3 of the Act sets out the avenue for redress, which is by complaint to a Rights Commissioner and an appeal lies to the Employment Appeals Tribunal.

Chemicals Acts 2008 and 2010

Section 26 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

Protections for Persons Reporting Child Abuse Act 1998

The purpose of this Act is to provide 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 provision for an appeal from the Rights Commissioner by either party, to the Employment Appeals Tribunal. The Act came into operation on 23rd January 1999.

Consumer Protection Act 2007

Section 87 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

Appendix 6: Glossary of Terms

Claimant	the person bringing the case.
Respondent	the person or company against whom the case is brought
Appellant	the person or company appealing a decision.
Division	the Tribunal acts in divisions, each consisting of either the chairman or a vice chairman and two other members, one drawn from the employers' side of the panel and one from the trade unions' side; a vice chairman of the Tribunal, when acting as chairman (at the request of the Minister or chairman) has all the powers of the chairman.
Withdrawn	an application can only be withdrawn by the claimant or the claimant's representative.
Settlement	an agreement reached by the parties; this may happen before the hearing or at any time during the hearing; a determination will not issue in this case.
Liberty to re-enter	where the parties having reached agreement, the claim or appeal is withdrawn and a strict time limit is given by a division to re-enter the claim or appeal.
Disposed of	cases that are withdrawn prior to a hearing, withdrawn during a hearing or on which a determination issues.
Representation	a party may appear without representation, or be represented by counsel or solicitor, or by a representative of a trade union or an employers' organisation or with the leave of the Tribunal by any other person.
Determination	a determination is the decision of the Tribunal recorded in a document signed by the chairman and sealed with the seal of the Tribunal.
Register	determinations of the Tribunal are entered in a register, which is open for inspection by any person without charge during normal hours at the offices of the secretariat of the Tribunal.

This Glossary of the more common terms used in relation to proceedings before the Tribunal is not exhaustive or intended to be a complete glossary. It is the 'ordinary man's' guide to those common terms and is intended to assist understanding of the terminology.

Appendix 7: Advisory and Information Bodies

Department of Jobs, Enterprise and Innovation

23 Kildare Street
Dublin 2

Tel: +353 1 6312121 or LoCall 1890220222
www.djei.ie

The Labour Court

Tom Johnson House
Haddington Road
Dublin 4

Tel: 01 6136666
www.workplacerelations.ie

Workplace Relations Customer Service

Government Buildings
O'Brien Road
Carlow

Tel: +353 59 9178990 or LoCall 1890808090
www.workplacerelations.ie

National Employments Rights Authority

Government Buildings
O'Brien Road
Carlow

Tel: +353 59 9178990 or LoCall 1890808090
www.workplacerelations.ie

Redundancy Section

Department of Social Protection
Block C
The Earlsfort Centre
Lower Hatch Street
Dublin 2

Tel: 1890 800 699
www.welfare.ie

Citizens Information

Tel: +353 12 452 1600 or LoCall 1890 777 121 or +353 21 452 1600
Check www.citizensinformation.ie for your nearest information centre

Rights Commissioners

Tom Johnson House,
Haddington Road, Dublin 4, Ireland
Telephone: (01) 613 6700

Tel: Lo call: 1890 220 227 (outside (01) area)
www.workplacerelations.ie

The Equality Tribunal

Davitt House
65A Adelaide Road
Dublin 2

Tel: 01-6136800
Email: info@equalitytribunal.ie
www.workplacerelations.ie

The Courts Service

15 - 24 Phoenix Street North
Smithfield
Dublin 7

Tel: + 353 1 888 6000
www.courts.ie

The Companies Registration Office

Parnell House
14 Parnell Square
Dublin 1

Tel: +353 1 8045200
www.cro.ie

Insolvency Section

Department of Social Protection
Block C
The Earlsfort Centre
Lower Hatch Street
Dublin 2

Tel: 1890 800 699
www.welfare.ie

Revenue Commissioners

Check www.revenue.ie for your local revenue office

