

**AN BINSE ACHOMHAIRC
FOSTAÍOCHTA**

**THE EMPLOYMENT APPEALS
TRIBUNAL**

**THIRTY SIXTH ANNUAL REPORT
2003**

Submitted to the

Minister for Enterprise, Trade and Employment

in pursuance of

Section 39(18) of the Redundancy Payments Act, 1967

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**Chairman's Submission to Micheál Martin, T.D.,
Minister for Enterprise, Trade and Employment**

Dear Minister

I am pleased to submit the Annual Report of the Employment Appeals Tribunal for the year 2003 to you, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2003. This is my first Report to you as Minister for Enterprise, Trade and Employment and my third Report as Chairman of the Employment Appeals Tribunal.

The Tribunal has jurisdiction under fourteen Acts of the Oireachtas and two statutory instruments to deal with employment disputes that arise during the course of the employment or on the termination of the employment relationship. Being a tripartite body, consisting of members drawn from three different strands, the Tribunal is well qualified to deal with the complex issues that arise in the modern employment relationship and to apply the detailed provisions of the legislation to the issues. The Tribunal has original jurisdiction to hear claims at first instance under the Unfair Dismissals Acts, the Redundancy Payments Acts, and the Minimum Notice and Terms of Employment Acts, and a claim for holiday pay under the Organisation of Working Time Act can be added to any of these claims. The Tribunal also has an appellate jurisdiction under twelve pieces of legislation to hear appeals: in eleven cases it hears appeals from the Recommendations and Decisions of Rights Commissioners and in one case (where the employer is insolvent) it hears appeals from the Decision of the Minister. Unusually, the Tribunal has both an original and an appellate jurisdiction under the Unfair Dismissals Acts, which provide a dismissed employee with the option to have his/her claim heard at first instance by either a Rights Commissioner or the Employment Appeals Tribunal. In general this results in the simpler cases being dealt with by a Rights Commissioner and the more detailed and complex cases being dealt with by the Tribunal, which as I have already pointed out is a tripartite body.

During the course of 2003 legislative changes improved the statutory redundancy scheme, including provisions for an enhanced payment to redundant workers (Redundancy Payments Act 2003), and under the Insolvency Payments Scheme employees of insolvent employers now have the option to claim their minimum notice entitlements directly from the social insurance fund (administered by Insolvency Payments Unit) or they may still, as they formerly did, seek an order as to their entitlements from the Tribunal. The European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 revoked and replaced the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations 1980, as amended.

The decrease in the number of cases referred to the Tribunal from 6,259 in 2002 to 5,596 in 2003 is due to the large decrease in the number of minimum notice

claims now being referred to it. However, the increase in unfair dismissal and redundancy cases to 2,251 from 1,796, which is a 25% increase in the Tribunal's most time-consuming work, will make significant additional demands on the Tribunal's limited resources. It is notable that 91% of cases referred to the Tribunal over the period deal with termination of employment disputes, and if the claims for holiday pay (tagged-on claims) are included these account for 5,467 of the 5,596 referrals.

The Tribunal's throughput of work continues to increase. It disposed of 6,096 cases in 2003 which is a rise of 33% on the 4,602 cases disposed of in 2002. Cases disposed of under the Unfair Dismissals Acts rose to 1172 in 2003 from 970 in 2002, which was an increase of 21%. This is a very satisfactory result for the Tribunal in what is its most demanding work. This good result was made possible by increasing the number of days on which four or five divisions of the Tribunal sat. The Tribunal is conscious of the need to provide an inexpensive, fair and informal forum for the speedy resolution of employment disputes within its jurisdiction. I believe that in general the Tribunal has successfully met this challenge over the period under review. However, the members of the Tribunal are concerned at the backlog of cases waiting to be heard. The backlog has been caused by the large increase in the number of unfair dismissal cases being referred for hearing over the years. This could be resolved by appointing additional secretaries to the Secretariat, thus enabling additional divisions of the Tribunal to sit each day.

I wish to express my gratitude to the Tánaiste and Minister Fahey for the support they have given to the Tribunal over 2003 and during their term of office. Similar gratitude is expressed to the Department and its continuing support will be welcome.

As always a big debt of gratitude is owed to the Members of the Tribunal for their generous and unstinting commitment to the work of the Tribunal and their support of me as Chairman of the Tribunal. I also express my gratitude to the Tribunal Secretariat staff for their equally unstinting commitment to our work and in particular I would like to acknowledge the courtesy they show in their dealings with the users of the Tribunal and its members.

I extend a warm welcome to you Minister Martin and wish you success in your new portfolio. I extend the same welcome and warm wishes to Minister Killeen. I look forward to both your support in meeting the increasing demands placed on the Tribunal.

Yours sincerely

Kate T. O'Mahony
CHAIRMAN

**THIRTY SIXTH ANNUAL REPORT OF
THE EMPLOYMENT APPEALS TRIBUNAL FOR YEAR ENDING
31ST DECEMBER, 2003**

INTRODUCTORY NOTE

The Tribunal, formerly known as the Redundancy Appeals Tribunal, was established under Section 39 of the Redundancy Payments Act, 1967. It was originally set up to adjudicate in disputes about redundancy between employees and employers and between employees or employers and the Minister for Labour (now Enterprise, Trade and Employment) or a Deciding Officer. The scope of the Tribunal was extended over the years and now, in addition to disputes under the **Redundancy Payments Acts, 1967 to 2003**, it also deals with disputes under:

Minimum Notice and Terms of Employment Acts, 1973 to 2001;
Unfair Dismissals Acts, 1977 to 2001;
Maternity Protection Act, 1994;
Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001;
Payment of Wages Act, 1991;
Terms of Employment (Information) Act, 1994 and 2001;
Adoptive Leave Act, 1995;
Protection of Young Persons (Employment) Act, 1996;
Organisation of Working Time Act, 1997;
Parental Leave Act, 1998;
Protections for Persons Reporting Child Abuse Act, 1998;
European Communities (Protection of Employment) Regulations, 2000;
European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations, 2003.
Carer's Leave Act, 2001;
Competition Act, 2002.

Under Section 18 of the Unfair Dismissals Act, 1977 the name of the Tribunal was changed to the Employment Appeals Tribunal.

The Tribunal is an independent body bound to act judicially and was set up to provide a speedy, fair, inexpensive and informal means for individuals to seek remedies for alleged infringements of their statutory rights.

The Tribunal consists of a Chairman and 22 Vice-Chairmen and a panel of 60 other members, thirty nominated by the Irish Congress of Trade Unions and thirty by organisations representative of employers. The Redundancy Payments Act, 1979 provides for the appointment of additional Vice-Chairmen and Members whenever the Minister for Enterprise, Trade and Employment is of the opinion that such appointments are necessary for the speedy dispatch of the business of 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. Generally, four or five divisions sit on the same day. Claims and 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 in private.

Civil Servants assigned by the Department of Enterprise, Trade and Employment staff the Secretariat of the Tribunal. Officers of the secretariat process applications from the date of receipt and act as secretaries at hearings. Secretaries also draft determinations following Tribunal deliberations, for consideration by the Tribunal and notify the parties concerned of the decisions or determinations of the Tribunal.

**The Membership of the Employment Appeals Tribunal
on 31st December, 2003**

Chairman: Kate T. O'Mahony, Barrister-at-Law.

Vice-Chairmen: Sarah Berkeley, Barrister-at-Law
Ailbhe Burke, Solicitor
Gerard Brady, Solicitor
Anne Bunni, Barrister-at-Law
Dymphna Cusack, Barrister-at-Law
Emile Daly, Barrister-at-Law
John Fahy, Solicitor
Tony Halpin, Barrister-at-Law
Dara Hayes, Barrister-at-Law
Dan Horan
Elva Kearney, Barrister-at-Law
Margaret Levey, Barrister-at-Law
Dermot MacCarthy, Senior Counsel
Lisa McDonald, Solicitor
Paul McGarry, Barrister-at-Law
Penelope McGrath, Barrister-at-Law
Rosemary O'Connell, Solicitor
Peter J. O'Leary, Barrister-at-Law
Moya Quinlan, Solicitor
Joe Revington, Senior Counsel
Tom Ryan, Solicitor
Jeremiah Sheedy, Solicitor

Employers Panel:

Brian Alyward, Patrick Bracken, Clare Carroll,
Pat Casey, Anne Delahunt, Michael Dunne,
Carl Fay, T. P. Flood, Michael Forde,
Richard Gully, Richard Keating, Ben Kealy,
Richard Keenan, Tina Leonard, Gerry McAuliffe,
Mark McGrath, Patrick McKeown, Desmond
Morrison,

Billy O'Carroll, Paul O'Grady, Paul O'Leary,
James O'Neill, C. A. Ormond, Jas. A. Power,
William Power, Robert Prole, Jim Redmond,
John Reid, Edmund Sheehy, Declan Winston.

Employees Panel:

Eveta Brezina, Nick Broughall, Mary Burke,
Anne Clune, Jim Dorney, Breda Fell,
Sean Galavan, Noirin Greene, Phil Harrington,
John Kane, Ben Kearney, Nuala Keher,
Tony Kennelly, Mary Maher, Des Mahon,
John McDonnell, Michael McGarry, Bernard
McKenna,

Alice Moore, Clare O'Connor, Kevin O'Connor,
Seamus O'Donnell, Patrick O'Shaughnessy,
Tommy Perkins,
Sean Redmond, Ciaran Ryan, Catherine Warnock,
Patrick Woods, Paul Clarke, Sam Nolan.

Secretary:

Breda Cody

Appeals and Claims referred to the Tribunal During 2003

Legislation	2002 No.	2003 No.
Minimum Notice and Terms of Employment Acts	3966	2802
Unfair Dismissals Acts (*includes 151 Appeals against Rights Commissioners' Recommendation)	1311	1518*
Redundancy Payments Acts	485	733
Protection of Employees (Employers' Insolvency) Acts	7	20
Maternity Protection Act	3	1
Payment of Wages Act (Appeals against Rights Commissioners' Decisions)	85	80
Terms of Employment (Information) Act (Appeals against Rights Commissioners' Recommendations)	6	24
Adoptive Leave Act (Appeals against Rights Commissioners' Recommendations)	-	-
Protection of Young Persons (Employment) Act (Appeals against Rights Commissioner's Recommendations)	-	-
Organisation of Working Time Act	327	414
Parental Leave Act (Appeals against Rights Commissioners' Decisions)	2	3
Protections for Person Reporting Child Abuse Act (Appeals against Rights Commissioners' Decisions)	-	-
European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations, 2003 (Appeals against Rights Commissioners' Decisions)	2	1

European Communities (Protection of Employment) Regulations, 2000 (Appeals against Rights Commissioners' Decisions)	65	-
Carer's Leave Act (Appeals against Rights Commissioners' Decisions)	-	-
Competition Act, 2002	-	-
TOTAL	6,259	5,596

REDUNDANCY PAYMENTS ACTS, 1967 TO 2003

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. The majority of the claims disposed of by the Tribunal under these Acts were claims by employees for redundancy payments on the grounds that they were dismissed by reason of redundancy. Other areas of dispute relate to questions of 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.

Of the **633** claims disposed of **254** were allowed, **125** were dismissed, **152** were withdrawn during hearing and **102** were withdrawn prior to hearing.

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 To 2001

During 2003, the Protection of Employees (Employers' Insolvency) Acts, 1984 and 2001 were amended to allow claims for statutory notice entitlements, where the employer is insolvent, to be made directly to the Insolvency Payments Unit of the Department of Enterprise, Trade and Employment, for payment from the Social Insurance Fund, without recourse to the Tribunal. This accounts for the significant decrease in the number of minimum notice claims referred to the Tribunal from 3966 in 2002 to 2802 in 2003.

Of the **3,842** claims disposed of under the Minimum Notice and Terms of Employment Acts **2,783** were allowed, **518** were dismissed, **319** were withdrawn during hearing and **222** were withdrawn prior to hearing.

UNFAIR DISMISSALS ACTS, 1977 To 2001

Section 8 of the 1977 Act as amended by Section 7 of the 1993 Act provides for the bringing of claims for redress for unfair dismissal before a Rights Commissioner or the Tribunal within six months of the date of dismissal. Under the amending Act of 1993 the onus for the giving of a copy of the notice of claim to the employer concerned now rests on the Tribunal. The same Act provides that the Rights Commissioner or the Tribunal may extend this time limit to twelve months in exceptional circumstances. A claim under this section may only be brought to the Tribunal if either party objects in writing to a Rights Commissioner hearing the claim.

The Act also provides for the bringing of an appeal against a Rights Commissioner's Recommendation to the Tribunal within six weeks of the date the Recommendation was communicated to the parties concerned. Here again the amending Act now places the onus on the Tribunal to give a copy of the notice of appeal to the other party.

Outcome of Claims and Appeals under the Unfair Dismissals Acts

Direct Claims

Of the total of **1,071** claims disposed of **200** were allowed, **141** were dismissed, **467** were withdrawn during hearing and **263** were withdrawn prior to hearing.

Appeals against Recommendations of Rights Commissioners

Of the **65** appeals against the Recommendations of Rights Commissioners disposed of by the Tribunal **14** were upheld, **10** were upset, **11** were varied and **30** were withdrawn.

Claims for the Implementation where the Recommendations of the Rights Commissioners were not carried out

Of the **36** claims disposed of by the Tribunal **11** were upheld and **25** were withdrawn.

Forms of Redress

The Tribunal awarded compensation amounting to **€2,050,416.24** in **216** cases. The average compensation awarded by the Tribunal was **€9,492.67**. Re-instatement was ordered in **1** case and re-engagement was ordered in **3** cases. The distribution of compensation awarded by the Tribunal is shown in **Annexe 2**.

MATERNITY PROTECTION ACT, 1994

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.

1 case was appealed to the Tribunal in 2003. Two (**2**) cases were disposed of.

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS, 1984 To 2001

Claims under these Acts take the form of complaints against decisions of the Minister for Enterprise, Trade and Employment 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. Also, where a doubt exists as to whether a claim is allowable or not, the Minister may refer the claim to the Tribunal for decision.

19 complaints were disposed of, and of these **7** were allowed and **12** were withdrawn prior to hearing.

During 2003 the Acts were amended to allow claims for statutory notice entitlements, where the employer is insolvent, to be made directly to the Insolvency Payments Unit of the Department of Enterprise, Trade and

Employment, for payment from the Social Insurance Fund, without recourse to the Tribunal.

PAYMENT OF WAGES ACT, 1991

The main purpose of this Act is to define the acceptable modes of payment of wages and to regulate for certain deductions from wages. The Act allows for appeals to be made to the Tribunal against the decisions of Rights Commissioners.

Of the **84** appeals disposed of by the Tribunal **26** were upheld, **13** were upset, **13** were varied and **32** were withdrawn.

TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994 AND 2001

The main purpose of this Act is to establish an employer's obligation to provide a written statement to employees setting out particulars of the employee's 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.

Outcome of Appeals

Of the **3** appeals disposed of by the Tribunal **0** were upheld, **0** were upset, **1** was varied and **2** were withdrawn.

Outcome of Claims for Implementation where the Recommendations of the Rights Commissioners were not carried out

Of the **10** claims disposed of by the Tribunal **1** was upheld and **9** were withdrawn.

ADOPTIVE LEAVE ACT, 1995

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.

There were no appeals to the Tribunal during the year ending 31st December, 2003.

PROTECTION OF YOUNG PERSONS (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.

There were no appeals to the Tribunal during the year ending 31st December, 2003.

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 40 allows an employee or his/her trade union to include a referral of a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its scope.

There were **328** claims disposed of by the Tribunal during the year ending 31st December, 2003. Of these **85** were allowed, **56** were dismissed, **129** were withdrawn during hearing and **58** were withdrawn prior to hearing.

PARENTAL LEAVE ACT, 1998

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.

The Tribunal disposed of **3** appeals in 2003. **1** was upset and **2** were withdrawn prior to hearing.

**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.

There were no appeals to the Tribunal during the year ending 31st December 2003.

**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 after the six-week period.

There were no appeals to the Tribunal during the year ending 31st December 2003.

EUROPEAN COMMUNITIES (PROTECTION OF EMPLOYEES' RIGHTS 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 2,000. 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 7 (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 has not been carried out a claim for implementation may be referred after the six-week period.

1 appeal was referred to the Tribunal during the year ending 31st December 2003. There were no appeals disposed of during the year ending 31st December 2003.

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, Community and Family Affairs 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.

There were no appeals to the Tribunal during the year ending 31st December 2003.

COMPETITION ACT 2002

The Competition Act, 2002 commenced on 1st July, 2002 and consolidated the existing competition and mergers legislation into one Statute.

Section 50(1) of the Act provides that an employee who reports a breach of the Act in good faith will not be held liable for the breach ("whistleblower" provision). Section 50(3) provides that an employer may not penalise an employee for such a report.

Where Section 50 (3) is contravened by an employer, redress is available to the employee concerned under Schedule 3 of the Act, which was based upon similar relevant provisions in the Protections for Persons Reporting Child Abuse Act, 1998 and the Terms of Employment (Information) Act, 1994. Schedule 3 provides that a complaint may be referred to a Rights Commissioner, and subsequently heard by an Employment Appeals Tribunal.

There were no appeals to the Tribunal during the year ending 31st December 2003.

AVERAGE WAITING PERIOD FOR UNFAIR DISMISSAL CASES TO COME FOR HEARING TO THE TRIBUNAL

The average waiting period for a case to come for hearing before the Tribunal was approximately **29** weeks in Dublin and **28** weeks in provincial areas.

CIRCUIT COURT APPEALS

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 regulations made under the Circuit Court Rules. The regulations also provide a means for the Tribunal to be informed of the referral and result of cases appealed to the Circuit Court.

The Tribunal was notified that **54** cases were referred to the Circuit Court during 2003. From the information submitted by Circuit Court Offices in respect of **28** of these cases, **7** were upheld by the Court, **1** was upset, **6** were struck out, **1** was withdrawn and **13** have not yet been heard. Of the remaining **26** cases, no information is available.

NUMBER OF TRIBUNAL SITTINGS

During the year under review, Divisions of the Tribunal sat on **230** days at **125** different venues throughout the country. On **226** of these days, **2** or more Divisions of the Tribunal sat. The total number of sittings was **1,010** (**517** in Dublin and **493** in the Provinces). The number of sittings at each venue varied from a single sitting at a number of venues in the Provinces to **517** in Dublin. Details of the venues and the number of sittings at each venue are shown in **Annexe 3(A)**. Particulars of Tribunal sittings in 2003 are shown at **Annexe 3(B)**.

NUMBER OF POSTPONEMENTS

Cases are set down for hearing and dates 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 at once, and with the consent of the other party concerned, it may be granted. If a postponement is sought later and/or without

the consent of the other party it is likely to be refused. This setting down system, designed primarily for the convenience of parties, renders some applications for postponements inevitable. 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, and increases costs and the delay between the date of referral of a claim and the date of hearing for all claimants. There were **130** lost sittings of divisions due to postponements in 2003.

REPRESENTATION AT HEARINGS

A party to an application may appear and be heard in person or be represented by counsel or solicitor or by a representative of a trade union or of an employer's association or, with the leave of the Tribunal, by any other person. Any party to a case may have one or more representative(s) acting on its behalf. Details of the representation at hearings are as follows:

The total number of cases heard by the Tribunal under the various Acts or combination of Acts in 2003 where the parties had representation was **1616**:

- **1036** employee parties (**64.1%**) were represented (**414** by trade unions, **530** by legal representation and **92** by other persons).
- **817** employer parties (**50.55%**) were represented (**75** by employers' associations, **449** legal representation and **293** by other persons).

The total number of cases heard by the Tribunal under the Unfair Dismissals Acts, 1977 to 2001 where the parties had representation was **940**:

- **600** employee parties (**63.8%**) were represented (**87** by trade unions, **471** by legal representation and **42** by other persons)
- **563** employer parties (**59.89%**) were represented (**64** by employers' associations, **389** by legal representation and **110** by other persons)

INFORMATION ON TRIBUNAL

An information booklet on the Tribunal as well as Guidelines for Practitioners appearing before the Tribunal are available free of charge from the *Information Unit, Department of Enterprise, Trade and Employment*. These are issued to all parties to unfair dismissal disputes prior to hearings.

A description of the service provided by the Tribunal and how to avail of it, as well as contact points, certain publications and frequently asked questions are available on the Department of Enterprise, Trade and Employment's website at www.entemp.ie. This Report is also available on the aforementioned website.

A Register of the Decisions and Determinations made by the Tribunal is kept at the office of the Secretariat.

The Secretariat's address is:

*Department of Enterprise, Trade and Employment
Davitt House
65A Adelaide Road
Dublin 2.*

The Register is open for inspection there by any member of the public during normal office hours.

Kate T. O' Mahony B.L

CHAIRMAN

APPENDICES

- ANNEXE 1(A)** Summary of Claims Referred to the Tribunal in 2003 and the Outcome of the Claims Disposed of in 2003.
- ANNEXE 1(B)** Summary of Appeals against the Recommendations of Rights Commissioners Referred to the Tribunal in 2003 and the Outcome of the Appeals disposed of in 2003.
- ANNEXE 1(C)** Summary of claims for implementation Referred and Disposed of in 2003 where the Recommendations of the Rights Commissioners were not carried out.
- ANNEXE 1(D)** Summary Outcome of All Appeals against the Recommendations of the Rights Commissioners, and of claims for implementation where the recommendations of the Rights Commissioners were not carried out during 2003.
- ANNEXE 1(E)** Average waiting period between date of receipt and date of hearing of cases in 2001, 2002 and 2003 with comparative figures of Tribunal's workload in the same period.
- ANNEXE 2** Distribution of Compensation awarded by the Tribunal in Determinations of Unfair Dismissal in 2003.
- ANNEXE 3(A)** Number of Sittings of the Tribunal at the Various Venues in 2003.
- ANNEXE 3(B)** Particulars of Tribunal sittings in 2003.

ANNEXE 1 (A)

SUMMARY OF CLAIMS REFERRED TO THE TRIBUNAL IN 2003 AND THE OUTCOME OF THE CLAIMS DISPOSED OF IN 2003

Act	Number of Claims referred* ¹	Allowed	Dismissed	Withdrawn during Hearing	Withdrawn prior to Hearing	Total Number of Claims Disposed of* ²
Redundancy Payments	733	254	125	152	102	633
Minimum Notice and Terms of Employment	2802	2783	518	319	222	3842
Unfair Dismissal (Direct Claims)	1367	200	141	467	263	1071
Protection of Employees (Employers' Insolvency)	20	7	0	0	12	19
Organisation of Working Time	414	85	56	129	58	328
TOTAL	5336	3329	840	1067	657	5893

*1. Some claims referred in 2003 not yet disposed of

*2. Some claims disposed of in 2003 were referred in 2002

Appeals against the Recommendations of Rights Commissioners are excluded - See Annexe 1 (B)

ANNEXE 1 (B)

SUMMARY OF APPEALS AGAINST THE RECOMMENDATIONS OF RIGHTS COMMISSIONERS REFERRED TO THE TRIBUNAL IN 2003 AND THE OUTCOME OF THE APPEALS DISPOSED OF IN 2003

Legislation	Total No* referred	Appeals By Employees					Dispose d of	Appeals by Employers					Dispose d of	Total Dispose d of
		No referred	Outcome of Appeals					No referred	Outcome of Appeals					
			Rec upheld	Rec upset	Rec Varied	Appeals Withdra wn			Rec upheld	Rec upset	Rec Varied	Appeals Withdra wn		
Unfair Dismissal Acts, 1977-2001	151	109	13	7	6	17	43	42	1	3	5	13	22	65
Payment of Wages Act, 1991	80	22	11	2	2	10	25	58	15	11	11	22	59	84

Terms of Employment (Information) Act, 1994 & 2001	24	21	0	0	0	2	2	3	0	0	1	0	1	3
Maternity Protection Act, 1994	1	1	0	0	0	1	1	0	0	1	0	0	1	2
Parental Leave Act, 1998	3	3	0	1	0	1	2	0	0	0	0	1	1	3
EC (Transfer of Undertakings) Regulations 2003	1	1	0	0	0	0	0	0	0	0	0	0	0	0

EC (Protection of Employment) Regulations 2000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	260	157	24	10	8	31	73	103	16	15	17	36	84	157

* Some appeals referred in 2003 not yet disposed of

* Some appeals disposed of in 2003 were referred in 2002

ANNEXE 1(C)

SUMMARY OF CLAIMS FOR IMPLEMENTATION REFERRED AND DISPOSED OF IN 2003 WHERE THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONERS WERE NOT CARRIED OUT

Legislation	Total number of appeals referred	Rec. Upheld	Appeals Withdrawn	Total number of appeals disposed of
Unfair Dismissals Act 1977 – 2001	43	11	25	36
Terms of Employment (Information) Act 1994 – 2001	11	1	9	10
Total	54	12	34	46

ANNEXE 1(D)

SUMMARY OUTCOME OF ALL APPEALS AGAINST THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONERS, AND OF CLAIMS FOR IMPLEMENTATION WHERE THE RECOMMENDATIONS OF THE RIGHTS COMMISSIONER WERE NOT CARRIED OUT DURING 2003

Total number of appeals referred	Rec. Upheld	Rec. Upset	Rec. Varied	Appeals Withdrawn	Implementation	Total number of appeals disposed of
260	40	25	25	67	46	203

ANNEX 1(E)

AVERAGE WAITING PERIOD BETWEEN DATE OF RECEIPT AND DATE OF HEARING OF CASES IN 2001, 2002 AND 2003 WITH COMPARATIVE FIGURES OF TRIBUNAL'S WORKLOAD IN THE SAME PERIOD

Average Waiting Period for Dublin			
	2001	2002	2003
WEEKS	13	23	29

Average Waiting Period for Provincial Areas			
	2001	2002	2003
WEEKS	19	19	28

	2001	2002	2003
CASES REFERRED	5257	6259	5596
Cases Disposed	3994	4602	6096

The waiting period has increased as the number of cases referred and disposed of have increased.

ANNEXE 2

DISTRIBUTION OF COMPENSATION AWARDED BY THE TRIBUNAL

IN DETERMINATIONS OF UNFAIR DISMISSAL IN 2003

	Total Awarded	=	€2,050,416.24
Total number of Determination of Unfair Dismissal		=	216
	Average	=	€ 9,492.67

Compensation Award €	Number	Compensation Award €	Number
0	4	5001-6000	8
1 - 250	1	6001-7000	5
251 - 500	10	7001-8000	11
501 - 750	10	8001-9000	10
751 - 1000	9	9001-10000	9
1001 - 2000	28	10001-15000	25
2001 - 3000	21	15001-20000	9

3001 - 4000	13	20001-25000	10
4001 - 5000	17	>25001	16

Re-instatement was ordered in 1 case

Re-engagement was ordered in 3 cases

ANNEXE 3 (A)

NUMBER OF SITTINGS OF THE TRIBUNAL AT VARIOUS VENUES IN 2003

LEINSTER		MUNSTER		CONNAUGHT		ULSTER	
VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE	VENUE	NO. OF SITTINGS AT EACH VENUE
Arklow	3	Bantry	1	Athlone	11	Ballybofey	4
Carlow	7	Cahirciveen	1	Ballina	2	Buncrana	4
Drogheda	19	Castletownbeare	2	Ballinasloe	2	Carrickmacross	2
Dublin	517	Charleville	1	Carrick-on-Shannon	1	Cavan	10
Dundalk	10	Clonakilty	1	Castlebar	7	Letterkenny	15
Gorey	1	Clonmel	10	Clifden	1	Monaghan	7
Kilbeggan	1	Cork	102	Galway	21		
Kill	5	Dungarvan	3	Gort	1		
Kilkenny	8	Ennis	18	Roscommon	1		
Longford	4	Killarney	15	Sligo	13		
Maynooth	1	Limerick	55				
Mullingar	7	Roscrea	8				
Naas	11	Templemore	1				
Navan	14	Thurles	9				
Portlaoise	10	Tralee	5				
Tullamore	10	Waterford	17				
Wexford	29						
Wicklow	2						

TOTAL	659	249	60	42
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ANNEXE 3 (B)

PARTICULARS OF TRIBUNAL SITTINGS IN 2003

Qtr. Ended	No. of Sittings days	No. of days 1 Division sat	No. of days 2 Division s sat	No. of days 3 Division s sat	No. of days 4 Division s sat	No. of days 5 Division s sat	No. of days 6 Division s Sat	Number of Sittings		Total No. of Sittings	No. of days Tribunal sat at 2 venues same day
								Dublin	Provinces		
31/03/03	62	0	6	9	30	14	3	135	112	247	-
30/06/03	60	0	2	4	31	22	1	130	132	262	-
30/09/03	51	0	0	8	20	21	2	111	111	222	-
31/12/03	57	1	2	5	9	20	17	141	138	279	-
TOTALS	230	1	10	26	90	77	23	517	493	1,010	-