



THE LABOUR COURT
An Chúirt Oibreachais

Labour Court Rules 2019

These Rules are made pursuant to Section 20(5) of the Industrial Relations Act 1946. The Labour Court (Employment Rights Enactments) Rules 2016 and Labour Court Provisional (Part VI) Rules 1946 are hereby revoked with effect from 21 January 2019 and replaced by the Labour Court Rules 2019.

Interpretation

In these Rules-

“the 2015 Act” means the Workplace Relations Act 2015;

“Adjudication Officer” has the same meaning as in the 2015 Act;

“Appellant” means a person who initiated an appeal under the 2015 Act or on whose behalf an appeal is initiated;

“Court” means the Labour Court;

“Chairman” means the person who stands appointed as Chairman of the Labour Court under Section 10 of the Industrial Relations Act 1946 and, where the context requires, a Deputy Chairman of the Labour Court standing appointed under Section 4 of the Industrial Relations Act 1969 while acting as Chairman of a Division of the Court or while exercising a function authorised by regulations made under Section 78 of the 2015 Act;

“Ordinary Members” means those persons who stand appointed as workers’ members of the Court or employers’ members of the Court under Section 10 of the Industrial Relations Act 1946.

“Court Secretary” means a member of the staff of the Court appointed to act in that capacity;

“Inspector” has the same meaning as in the 2015 Act;

“Respondent” means a party to an appeal who is not the Appellant;

A word or expression used in these Rules which is also used in the 2015 Act has the same meaning in these Rules as it has in the 2015 Act unless a contrary intention appears.

The Interpretation Act 2005 applies to these Rules.

These Rules may be cited as “Labour Court Rules 2019.”

Part I

Unfair Dismissals Acts 1977 - 2015 and Employment Equality Acts 1998 - 2015

The provisions of this Part of the Rules relate to the procedure to be used in appeals against the decision of an Adjudication Officer under the Unfair Dismissals Acts 1977 – 2015 and the Employment Equality Acts 1998 - 2015.

1. The appeal shall be initiated by notice in writing delivered to the Court within 42 days from the date of the decision being appealed. In accordance with the provisions of the Interpretation Act 2005 the date of the decision is day 1 of the 42-day period.
2. If the appeal is not made within the requisite 42 days, then as part of the appeal an application should be made in writing to the Court in accordance with Section 44(4) of the 2015 Act, to extend time for bringing an appeal and giving the grounds upon which the extension is sought. Such an extension of time will only be granted in exceptional circumstances. The grounds for any such extension of time should form part of the submission.
3. The notice of appeal shall be accompanied by a copy of the decision of the Adjudication Officer to which the appeal relates and shall contain the following particulars: -
 - (a) The name, phone number, address and email address of the Appellant;
 - (b) The name, phone number, address and email address of the Appellant’s representative if any;
 - (c) The name, phone number, address and email address of the Respondent;
 - (d) The name, phone number, address and email address of the Respondent’s representative if any;
 - (e) Brief details of the grounds of appeal.
4. The notice referred to at 3 above shall be given on a form provided by the Court for that purpose.
5. The Court shall send a copy of the notice of appeal to the Respondent.

6. Not later than three weeks from the date on which the notice of appeal is delivered to the Court the Appellant shall furnish the Court with a written submission setting out the details of the claim under the Act and the factual and legal arguments upon which the Appellant intends to rely in the appeal (see Rule 9. below).
7. The Respondent shall send a replying submission to the Court within three weeks of the date on which a copy of the Appellant's submission was sent to the Respondent in accordance with Rule 6.
8. Where a submission is sent to the Court in accordance with Rule 6 or in accordance with Rule 7, five copies¹ of the submission shall be furnished to the Court by the party concerned. A further copy should be sent to directly to the Appellant/Respondent.
9. The submission and replying submission shall contain the following (for ease of reference at the hearing all pages of the submission, including all appendices, must be numbered in sequential order): -
 - (a) Details of the claim under the Act;
 - (b) A concise statement of the factual background to the claim giving rise to the appeal;
 - (c) Arguments in support of the case being made by the party making the submission. Any documents/documentary evidence upon which it is intended to rely shall be provided with the submission as appendices;
 - (d) A summary of all legal arguments to be relied upon.
 - (e) Full copies of all legal authorities/precedents shall be appended to the submission.
 - (f) Where the appeal is out of time, the grounds upon which an extension of time is sought.
 - (g) The names of witnesses, if any, the party proposes to call to give evidence at the hearing of the appeal and a summary of the evidence each witness is expected to give (hereinafter referred to as, 'a witness statement'). Copies of any documents that the witness intends to rely on shall be included as an appendix to the witness statement. This requirement for witness statements in advance is for scheduling purposes so that the Court can discern the significance and relevance of the evidence in order to determine the likely duration of the hearing.
 - (h) While there is no standard format for a witness statement, the following details should be included: -

¹ The Labour Court is currently engaged in a digitisation programme which, when completed, will allow the Court to receive submissions electronically. The Court will announce when this process is complete, at which stage one electronic copy or six hard copies will be required.

- i. The witness statement should be a summary or outline of the evidence to be given in more detailed form at the hearing.
 - ii. It is sufficient that the witness statement contains a synopsis of the evidence rather than a full verbatim account of what the witness will say at the hearing.
 - iii. The witnesses statement should only include events/incidents/actions that the person providing the evidence directly saw or heard or did;
 - iv. The witness statement² should contain precise dates, or date ranges (i.e. on or about), on which the referenced events/incidents occurred.
10. The Court may extend the time for filing submissions on application to the Court where exceptional circumstances are shown for the delay.
11. As soon as may be after the receipt of submissions from all parties the Court shall fix the date and place for the hearing of the appeal.
12. Notwithstanding Rule 11, the Court may, in its discretion, require the parties to attend a case management conference in order to seek clarification on certain matters before a date for the hearing of the appeal is fixed.
13. A notice of the date, time and place of hearing shall be notified to the parties at the address notified to the Court.
14. An Appellant may withdraw his/her/its appeal by sending a notice of withdrawal to the Court in writing before the commencement of the hearing of the appeal.
15. An Appellant may withdraw his/her/its appeal after the commencement of the hearing of the appeal with leave of the Court.

Part II

Other Employment Enactments

The provisions of this Part of the Rules relate to the procedure to be used in appeals against the decision of an Adjudication Officer under all employment enactments **other than** the Unfair Dismissals Acts 1977 – 2015 and the Employment Equality Acts 1998 – 2015.

16. The appeal shall be initiated by notice in writing delivered to the Court within 42 days from the date of the decision being appealed. In accordance with the provisions of the Interpretation Act 2005 the date of the decision is day 1 of the 42-day period.

² The following is an example of the type of witness statement that would, at a minimum, be acceptable: Mr. X, [POSITION IN THE COMPANY], will give evidence in relation to the disciplinary hearing he conducted with the Complainant on [DATE]. The witness will confirm the attendees at the hearing and outline the procedures that were followed. The witness will give an account of the hearing itself. The witness was the person who made the decision to dismiss the Complainant and will explain the rationale for his decision.

17. If the appeal is not made within the requisite 42 days, then as part of the appeal an application may be made in writing to the Court in accordance with Section 44(4) of the 2015 Act, to extend time for bringing an appeal and giving the grounds upon which the extension is sought. Such an extension of time will only be granted in exceptional circumstances. The grounds for any such extension of time should form part of the submission.
18. The notice of appeal shall be accompanied by a copy of the decision of the Adjudication Officer to which the appeal relates and shall contain the following particulars: -
 - (a) The name, phone number, address and email address of the Appellant;
 - (b) The name, phone number, address and email address of the Appellant's representative if any;
 - (c) The name, phone number, address and email address of the Respondent;
 - (d) The name, phone number, address and email address of the Respondent's representative if any;
 - (e) Brief details of the grounds of appeal.
19. The notice referred to at 18 above shall be given on a form provided by the Court for that purpose.
20. The Court shall send a copy of the notice of appeal to the Respondent.
21. The Court will fix the time date and place at which the hearing of the appeal will be held as soon as may be after the notice of appeal is received and a notice thereof shall be sent to the parties.
22. Not later than ten working days before the date fixed for the hearing of an appeal each party to the appeal shall furnish both the Court and the other party with a written submission setting out the details of the claim and the factual and legal issues upon which the party intends to rely on appeal. Confirmation that submissions have been exchanged with the other side should be given to the Court (see Rule 25. below).
23. Five copies of the submission shall be furnished to the Court by the party concerned.³
24. Where an appeal includes an appeal under the Unfair Dismissal Acts and the Employment Equality Acts the applicable rules in relation to submissions are outlined in Part 1 Rules 6 to 9.

³ The Labour Court is currently engaged in a digitisation programme which when completed will allow the Court to receive submissions electronically. The Court will announce when this process is complete, at which stage one electronic copy or five hard copies will be required.

25. The submissions shall contain the following (for ease of reference at the hearing of the appeal, all pages of a submission, including all appendices, must be numbered in sequential order): -
- (a) Details of the claim under the Act.
 - (b) A concise statement of the factual background to the claim giving rise to the appeal;
 - (c) Arguments in support of the case being made by the party making the submission. Any documents/documentary evidence upon which it is intended to rely shall be provided with the submission as appendices;
 - (d) A summary of all legal arguments to be relied upon. Full copies of all legal authorities/precedents shall be appended to the submission.
 - (e) The names of witnesses, if any, the party proposes to call to give evidence at the hearing of the appeal and a summary of the evidence which each witness is expected to give (hereinafter referred to as, ‘a witness statement’). Copies of any documents that the witness intends to rely on shall be included as an appendix. This requirement for witness statements in advance is for scheduling purposes so that the Court is in a position to discern the significance and relevance of the evidence and determine the likely duration of the hearing.
 - (f) While there is no standard format for a witness statement, the following details should be included: -
 - i. The witness statement should be a summary or outline of the evidence to be given in more detailed form at the hearing.
 - ii. It is sufficient that the witness statement contains a synopsis of the evidence rather than a full verbatim account of what the witness will say at the hearing.
 - iii. The witness statement should only include events/incidents/actions that the person providing the evidence directly saw or heard or did;
 - iv. The witness statement⁴ should contain precise dates, or date ranges (i.e. on or about), on which the referenced events/incidents occurred;
26. The Court may extend the time for filing submissions on application to the Court where exceptional circumstances are shown for the delay.

⁴ The following is an example of the type of witness statement that would, at a minimum, be acceptable:
Ms. X, [POSITION IN THE COMPANY], will give evidence in relation to the daily and weekly rest breaks given to the employee. The witness will confirm how and when rest breaks are taken, the practice within the company, the procedures in place to encourage employees to take their breaks and details of the company’s records showing compliance with the statutory requirements.

27. Notwithstanding Rule 21, the Court may, at its discretion, require the parties to attend a case management conference in order to seek clarification on certain matters before a date for the hearing of the appeal is fixed.
28. A notice of the date, time and place of hearing shall be notified to the parties at the address notified to the Court.
29. An Appellant may withdraw an appeal by sending a notice of withdrawal to the Court in writing before the commencement of the hearing of the appeal.
30. An Appellant may withdraw an appeal after the commencement of the hearing of the appeal with leave of the Court.

Part III

Procedure at Hearings for all Part I and Part II Cases

31. The conduct of the hearing of an appeal will be regulated by the Chairman of the Division of the Court before which the appeal is being heard.
32. An appeal of an Adjudication Officer's Decision shall be by way of a de novo hearing of the complaint(s) to which the appeal relates.
33. A party to an appeal may be represented by⁵: -
 - (a) A Trade Union Representative;
 - (b) An official of a body that, in the opinion of the Court, represents the interests of employers;
 - (c) A practising Solicitor or Barrister;
 - (d) With the consent of the Court, any other person of their choosing.
34. Witnesses who intend to give evidence will be sworn or may make an affirmation.
35. The Court Secretary or any member of the Court may administer the oath or affirmation.
36. The Court Secretary shall announce the case and the parties shall stand when the Court enters and leaves the room.
37. Except in such cases as the Court considers it convenient to take the written submissions as read, each party shall read their submission and the other party will be afforded an opportunity to comment on the submission presented by the other party.
38. Witnesses may give evidence and can be cross-examined.

⁵ As per Section 44(9) of the Workplace Relations Act 2015

39. The Court may curtail the examination of a witness which it considers repetitive or irrelevant and may curtail cross-examination which it considers oppressive.
40. A member of the Court may address questions to a witness for the purpose of clarifying any incomplete or unclear part of his or her evidence. The reference in this Rule to a member of the Court includes the Chairman of the Division of the Court before which the case is being heard and the Ordinary Members of that Division.
41. The Court may, in its discretion, give a preliminary ruling on any aspect of the case where it is satisfied that time and expense may be saved by the giving of such a ruling.
42. Whenever it considers it necessary to do so, the Court may direct a party to furnish it with further information in writing on any matter arising in an appeal and may prescribe the time within which the information is to be provided.
43. Where a party provides further information in accordance with a direction given by the Court under Rule 42, a copy of the document containing the information shall be sent by that party to the other parties to the appeal and the other parties shall be entitled to furnish a response within such time as the Court may direct.
44. Where a party is directed to furnish further information in accordance with Rule 42 and fails to comply with the direction, or where a party fails to respond to information provided to that party in accordance with Rule 43, the Court may draw such inferences from that failure as it considers appropriate.
45. An application for a witness summons under Section 21 of the Industrial Relations Act 1946 shall be made to the Court in advance of the hearing. Before issuing a summons, the Court needs to be satisfied that the evidence the witness will give is relevant to the proceedings. Where the application is for a subpoena ad duces tecum (requiring the witness to produce documents), the Court should have material before it which establishes that the documents sought are relevant to the issues in the proceedings. Where the applicant has requested a witness to be summoned to give evidence on their behalf:
 - (a) The witness will appear as the applicant's witness and consequently, the applicant is not permitted to contradict any evidence that the witness may give;
 - (b) The applicant will be responsible for any expenses incurred by the witness in attending the hearing.
46. The Court may postpone or adjourn the hearing of an appeal either generally or from time to time on such terms as it considers appropriate.
47. Recording of Court proceedings is not permitted, other than by a recognised Court Stenographer. Where a party intends to engage the services of a Stenographer, it must notify the Court and the other side in advance of the hearing.

48. The Court may admit any duly authenticated written statement as *prima facie* evidence of any fact whenever it thinks it just and proper to do so.
49. The Court will give a decision in writing as soon as practicable after the close of the hearing. A single decision shall be issued and the existence of affirming or dissenting decisions shall not be disclosed.

Part IV

Industrial Relations Cases

The provisions of this Part of the Rules relate to the procedure to be used in industrial relations cases referred to the Court under, *inter alia*, the following: -

- Section 13(9) of the Industrial Relations Act, 1969 ('the 1969 Act') - an appeal of an Adjudication Officer's Recommendation under the 1969 Act;
 - Section 20 (1) of the 1969 Act - an investigation of a dispute directly referred by the worker/trade union;
 - Section 26(1) of the Industrial Relations Act 1990 ('the 1990 Act') - the parties to the dispute have requested the Court to investigate the dispute and referral to the Labour Court follows engagement at the Conciliation Service of the Workplace Relations Commission.
50. In accordance with Section 36(2) of the 1990 Act an appeal of an Adjudication Officer's Recommendation under Section 13(9) of the 1969 Act must be notified in writing to the Court within six weeks after the date of the Recommendation.
 51. The Court will inform the other party when such an appeal is made.
 52. Where a claim had been referred by a worker under the Section 20(1) of the 1969 Act the Court will inform the employer.
 53. Where a case has been referred at the request of both parties under Section 26(1) of the 1990 Act the Court will not investigate until duly notified by the Conciliation Service of the Workplace Relations Commission.
 54. The Court will contact the parties about a hearing date and venue.
 55. Not later than **seven working days** before the date fixed for the hearing, the parties shall send written submissions to the Court outlining the details of their case.
 56. The Court does not hear witness testimony in cases under the Industrial Relations Acts, therefore witness statement are not required in such cases.

Part V

Procedure at Hearings of Industrial Relations Cases

57. The conduct of the hearing of industrial relations cases will be regulated by the Chairman of the Division of the Court before which the case is being heard.
58. While it is not necessary to have representation at industrial relations cases, a party to a hearing may be represented by⁶: -
 - (a) A Trade Union Representative;
 - (b) An official of a body that, in the opinion of the Court, represents the interests of employers;
 - (c) With the consent of the Court, a practising Solicitor or Barrister;
 - (d) With the consent of the Court, any other person of their choosing.
59. The Court Secretary shall announce the case and the parties shall stand when the Court enters and leaves the room.
60. Except in such cases as the Court considers it convenient to take the written submissions as read, each party shall read their submission and the other party will be afforded an opportunity to comment on the submission presented by the other party.
61. Whenever it considers it necessary to do so the Court may direct a party to furnish it with further information in writing on any matter arising in a case and may prescribe the time within which the information is to be provided.
62. Where a party provides further information in accordance with a direction given by the Court under Rule 61, a copy of the document containing the information shall be sent by that party to the other party and the other party shall be entitled to furnish a response within such time as the Court may direct.
63. Where a party is directed to furnish further information in accordance with Rule 61 fails to comply with the direction, or where a party fails to respond to information provided to that party in accordance with Rule 62, the Court may draw such inferences from that failure as it considers appropriate.
64. The Court may postpone or adjourn the hearing of a case either generally or from time to time on such terms as it considers appropriate.

⁶ As per Section 20(6) of the Industrial Relations Act 1946, the Court may grant leave for a party to appear with legal representation in industrial relations cases if it is of the opinion that the matter in issue is of such nature that the party ought to be assisted by counsel or solicitor.

65. The Court will give its Decision/Recommendation in writing as soon as practicable after the close of the hearing.

Part VI

Compliance Notices

The provisions of this Part of the Rules relate to the procedure to be used in appeals against the serving of a compliance notice in accordance with Section 28 of the 2015 Act.

66. An appeal against the decision of an Inspector to issue a compliance notice under Section 28 of the 2015 Act shall be initiated within 42 days of the date on which the compliance notice was served using a form provided for that purpose. The notice of appeal shall contain a statement of the grounds of appeal.
67. The notice of appeal shall be accompanied by a copy of the compliance notice and a statement containing the following particulars:
- (a) The basis on which the compliance notice is opposed;
 - (b) The evidence that will be adduced in advancing the appeal;
 - (c) The names of witnesses (if any) that the employer proposes to call in support of the appeal (see Rule 9 for guidance);
 - (d) An outline of the evidence that the proposed witnesses are expected to give (see Rule 9 for guidance).
68. Where a statement is sent to the Court in accordance with Rule 66, six copies of the statement shall be furnished to the Court by the party concerned.⁷
69. A copy of the notice of appeal and of the statement referred to at Rule 66 shall be sent by the Court to the Inspector.
70. Within three weeks from the date of the aforementioned notification the Inspector will submit a replying statement.
71. A replying statement shall include the following particulars: -
- (a) The basis upon which the Inspector formed the opinion that the provision in issue had been contravened;
 - (b) The evidence that the Inspector proposes to adduce at the appeal;

⁷ The Labour Court is currently engaged in a digitisation programme which when completed will allow the Court to receive submissions electronically. The Court will announce when this process is complete, at which stage one electronic copy or six hard copies will be required.

(c) The names of witnesses (if any) that the Inspector proposes to call to give evidence at the appeal (see Rule 9 for guidance);

(d) An outline of the evidence that the proposed witnesses are expected to give (see Rule 9 for guidance).

72. On receipt of the replying statement the appeal will be set down for hearing.

73. The Inspector who issued the compliance notice may appear in person or may be represented at the hearing of the appeal.

74. The Inspector shall be entitled to be heard by the Court and may adduce evidence.

75. Subject to the discretion of the Court, witnesses may give evidence and be cross-examined.

76. As soon as may be after the close of the hearing the Court shall issue its determination and shall do one of the following: -

(a) Affirm the compliance notice;

(b) Withdraw the compliance notice;

(c) Withdraw the compliance notice and require the employer to whom the notice applies to comply with such directions as may be given by the Court.