

The following notes are a guide to the appeal and implementation procedures open to EMPLOYERS who are in receipt of decisions from the Employment Appeals Tribunal

Appeal and Implementation Procedures

(A) Appeal Procedures

Redundancy & Insolvency Payments, Minimum Notice, Payment of Wages, Adoptive & Parental Leave, Protection of Young Persons, Maternity Protection, Terms of Employment, Transfer of Undertaking Regulations

Employers who receive decisions, which are not favourable to them, are advised that there is little to be gained from entering into correspondence with the Tribunal or with the Department of Jobs, Enterprise and Innovation regarding the decisions. The decision of the Tribunal on any question referred to it is final and conclusive, subject only to the right of appeal by a dissatisfied party to the High Court on a point of law.

Unfair Dismissals

An employer dissatisfied with a determination of the Tribunal in regard to a claim under the Unfair Dismissals Acts 1977 to 2007, may appeal to the Circuit Court. This must be done within 6 weeks from the date on which the determination is communicated to the parties. If you wish to exercise this right, you should refer to the relevant Circuit Court Rules. A copy of the Notice of Appeal should be sent to the Employment Appeals Tribunal.

Organisation of Working Time

Employers, who receive determinations which are not favourable to them, and who wish to appeal, should refer to the appeals procedures applicable to the Act with which the Holiday/Public Holiday complaint was associated.

Protection for Persons Reporting Child Abuse

An employer dissatisfied with a determination of the Tribunal in regard to a claim under this Act may appeal to the High Court on a point of law. This must be done within 6 weeks from the date on which the determination is communicated to the parties.

(B) Implementation Procedures

Redundancy Payments

If your former employee has obtained a favourable decision from the Tribunal in regard to redundancy entitlement, you should arrange to pay the lump sum, or balance of lump sum, without the employee having to take the initiative in the matter. You are advised that failure to make a payment consequent on a decision of the Tribunal leaves your former employee with the option of applying to the Minister for Social Protection for the payment. In such event you may leave yourself open to civil proceedings and their attendant costs. Please contact Redundancy Section, Department of Social Protection. See also www.welfare.ie for further details. For general redundancy information please contact the Workplace Relations Commission, Information and Customer Service at Lo call No: 1890 80 80 90¹ or 059 9178990.

¹ Note that the rates charged for the use of 1890 (LoCall) numbers may vary among different service providers

Minimum Notice

If the Tribunal, under the Minimum Notice and Terms of Employment Acts, 1973 to 2005, has awarded your former employee compensation, you should pay the compensation without undue delay. Under the existing law, compensation awarded by the Tribunal is recoverable as a simple contract debt in a District Court. Alternatively, proceedings for recovery may be instituted and maintained on behalf of the employee by the Minister for Jobs, Enterprise and Innovation or the employee's Trade Union. In the event of the employee's Trade Union, or the Minister for Jobs, Enterprise and Innovation exercising this right, you may leave yourself open to the attendant costs of civil proceedings.

Unfair Dismissals

If your former employee has obtained a favourable determination from the Tribunal and you are not appealing the determination to the Circuit Court within the time limit set out in the Acts, you should comply with the terms of the determination. You are advised that failure to do so leaves the Minister for Jobs, Enterprise and Innovation or your employee with the option of instituting enforcement proceedings against you in the Circuit Court. In the event of the employee or the Minister for Jobs, Enterprise and Innovation exercising this right, you may leave yourself open to the attendant costs of civil proceedings.

Payment of Wages

If your employee has obtained a favourable determination from the Tribunal, you should comply with its terms within the period specified in the determination or, where no such period is specified, within 6 weeks of the determination. You are advised that failure to do so leaves your employee with the option of enforcing the determination as if it were an order of the Circuit Court. In the event of the employee exercising this right you may leave yourself open to the attendant costs of civil proceedings.

Organisation of Working Time

In the event of an employer failing to comply with a decision of the Tribunal under this Act, the employee concerned may seek to implement the enforcement procedures applicable to the Act with which the Holiday/Public Holiday complaint was associated.

Terms of Employment Information

An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks, unless the determination is under appeal to the High Court. If the employer fails to implement such a determination, the employee concerned, or the employee's trade union, or the Minister for Jobs, Enterprise and Innovation, on behalf of the employee, may apply to the District Court for an order seeking enforcement of the determination. In the event of the employee, the employee's trade union or the Minister exercising this right you may leave yourself open to the attendant costs of civil proceedings.

Insolvency Payments

If any employer is insolvent for the purposes of the Insolvency Payments Acts, certain awards made by the Tribunal to employees may be payable from the Social Insurance Fund, subject to statutory limits regarding the number of weeks and the weekly rate of pay. Also, it is essential that the award/determination shall have been made not earlier than the commencement of the relevant period, which is defined under the acts as the period of eighteen months preceding the relevant date. The relevant date may vary according to the circumstances of each case and may be the date of insolvency or the date of the relevant decision/determination (whichever is the later) or the date of termination of employment. See www.welfare.ie for further information. .

Transfer of Undertaking Regulations

An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks of the date on which the determination was communicated to the parties. If an employer does not carry out, within the said 6-week period, the terms specified in a determination of the Tribunal (which has not been appealed), a claim may be made to the Circuit Court for an order directing the employer to implement the determination of the Tribunal. The claim for this implementation may be made by the employee concerned or, with the consent of the employee, or any trade union (of which the employee is a member), or the Minister, if the Minister considers it appropriate

Maternity Protection

If your employee has obtained a favourable determination from the Tribunal and you are not appealing a determination to the High Court on a point of law, you should comply with its terms within 4 weeks, or any other date so specified by the Tribunal. Proceedings may be instituted in the Circuit Court by the employee, or by the Minister for Justice and Equality on behalf of an employee, if it is considered appropriate, for redress under the Act against an employer who does not comply with a determination. In the event of the employee or the Minister exercising this right you may leave yourself open to the attendant costs of civil proceedings.

Adoptive & Parental Leave

If your employee has obtained a favourable determination from the Tribunal and you are not appealing a determination to the High Court on a point of law, you should comply with its terms without undue delay. The employee, or Minister for Justice and Equality on behalf of the employee, may institute proceedings in the Circuit Court for redress under the Acts against an employer who has not complied with the terms of the Tribunal's determination. In the event of the employee or the Minister exercising this right you may leave yourself open to the attendant costs of civil proceedings.

Protection of Young Persons

An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks, unless the determination is under appeal in the High Court. If the employer fails to implement such a determination, the parent or guardian of the employee concerned, the trade union of the young person concerned, or the Minister for Jobs, Enterprise and Innovation on behalf of the employee, may apply to the District Court for an order directing the employer to carry out the determination. In the event of the employee, the employee's trade union or the Minister exercising this right you may leave yourself open to the attendant costs of civil proceedings.

Protections of Persons Reporting Child Abuse

An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks unless the determination is under appeal to the High Court. If the employer fails to implement such a determination, the employee concerned, or the employee's Trade Union, or the Minister, on behalf of the employee, may apply to the Circuit Court for an order seeking enforcement of the determination.

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Disclaimer:

This information sheet is intended to give a general guidance to employers about appeals and implementation procedures.

Every effort has been made to ensure that the information provided is accurate and up-to-date. The information provided is of a general nature and will not address the specific circumstances of a particular individual. It is not a complete or authoritative statement of the law and is not a legal interpretation. If you have an enquiry about your particular query you should contact Workplace Relations Commission, Information & Customer Service at 1890 80 80 90² or 059 9178990. If you need professional or legal advice you should consult a suitably qualified person.

The Employment Appeals Tribunal and its servants assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up-to-date nature of the information provided at this time and do not accept any liability whatsoever arising from any errors or omissions.

² Note that the rates charged for the use of 1890 (LoCall) numbers may vary among different service providers*