



An Binse Achomhairc Fostaíochta  
**Employment Appeals Tribunal**

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# **Employment Appeals Tribunal**

## **Annual Report**

### **2015**

Presented to the Minister for Jobs, Enterprise and Innovation under  
Section 39 (18) of the Redundancy Payments Acts 1967 to 2014

# Contents

<b>Mission Statement</b>		<b>3</b>
<b>Chairman’s Foreword</b>		<b>4</b>
<b>Members of the Employment Appeals Tribunal</b>		<b>6</b>
<b>Chapter 1 – Case statistics</b>		
1.1	Tribunal News	8
1.2	Cases Referred in 2015	9
1.3	Cases Disposed of in 2015	10
1.4	List of Acts with no cases referred or disposed of in 2015	12
<b>Chapter 2 – Representation at Hearings</b>		
2.1	Cost and Representation	13
2.2	Representation in 2015	13
<b>Chapter 3 – Hearings</b>		
3.1	Attendance at Tribunal Hearings	15
3.2	Hearings and Venues	15
<b>Chapter 4 – Applications/Facilities</b>		
4.1	Tribunal Applications	17
4.2	Interpreters	18
4.3	Special Facilities/Accessibility	18
4.4	Determinations of the Tribunal	18
4.5	Withdrawing a case	18
<b>Chapter 5 – Employment Appeals Tribunal Records</b>		
5.1	Data Protection	20
5.2	Freedom of Information	20
5.3	Archiving of Files	20
5.4	Irish Language Scheme	21
<b>Chapter 6 – Dissolution of the Employment Appeals Tribunal</b>		
6.1	Workplace Relations Act 2015	22
6.2	Dissolution of the EAT	22
<b>Chapter 7 – Other Activities</b>		
7.1	Appeals to the Higher Courts	23
7.2	European Association of Labour Court Judges	23
<b>Appendices</b>		
<b>1</b>	History of the Tribunal	24
<b>2</b>	Overview of Legislation	25
<b>3</b>	List of EAT Booklets and Guidelines	26
<b>4</b>	Glossary of Terms	27
<b>5</b>	Advisory and Information Bodies	28



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## **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’.

## Chairman's Foreword

Dear Minister,

I am pleased to submit to you the 48<sup>th</sup> Annual Report of the Employment Appeals Tribunal for the year 2015, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2014.

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.

Under the recent reform, the Tribunal is being abolished. The 1<sup>st</sup> October 2015 was vesting day for the new structure as established by the Workplace Relations Act 2015. Thereafter, the Tribunal is receiving no claims, except claims for implementation of the Rights Commissioners' recommendations under certain legislation.

The large number of referrals that occurred during the economic downturn have now reverted to pre-2008 levels. For the nine month period to 1<sup>st</sup> October 2015 the Tribunal received 2,630 cases. As usual the highest category of referred cases is unfair dismissal, at 1,074. In 2015 the Tribunal disposed of 2,679 cases. This is due to the fact that the Tribunal is no longer dealing with a large number of straightforward redundancy cases which take a lot less time than unfair dismissal cases, which can be complex and time consuming.

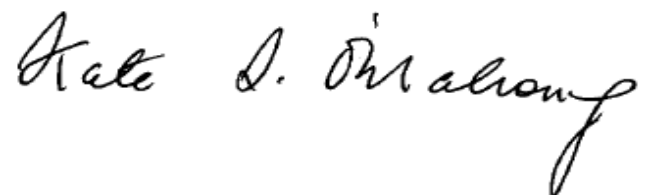
I would like to thank the members and the secretariat for their great work and commitment on behalf of the Tribunal during 2015. It is a credit to you all that you have maintained such a high level of service to those who rely on us.

The Tribunal extends its condolences to the wife and family of Mr Declan Winston and the wife and family of Mr Tadg O'Sullivan, both of whom passed away during 2015. Declan, was a long serving, gracious and respected member of the Tribunal who always had a pleasant word for everybody. Tadg was a great colleague, fair in his work and a pleasure to work with. Both Declan and Tadg are sadly missed by all on the Tribunal.

The Tribunal extends its thanks to both Mr Robert Prole and Mr Pat Casey, who resigned in 2015, for their interest and commitment to the Tribunal and its work. I want to wish them both well for the future.

I thank the Minister and the Department for facilitating the work of the Tribunal through the provision of resources in 2015.

Yours sincerely

A handwritten signature in black ink, reading "Kate T O'Mahony". The signature is written in a cursive style with a large, flowing 'K' and 'O'.

Kate T O'Mahony  
Chairman

## Members of the Tribunal

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

<sup>1</sup> (CR) refers to County Registrars

<sup>2</sup> During 2015 Mr Robert Prole and Mr Pat Casey resigned. Mr Declan Winston & Mr Tadg O'Sullivan passed away

## **2015 Composition of the Tribunal**

At the beginning of 2015 the Tribunal consisted of a Chairman, 44 Vice-Chairmen and a panel of 76 other members, nominated by the Irish Congress of Trade Unions and by organisations representative of employers. During 2015 two members resigned and two members passed away.

## **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.

# Chapter 1

## 1.1 Tribunal News 2015



In 2015, the Employment Appeals Tribunal:

Received **2,630<sup>3</sup>** cases

Disposed **2,679** cases

Held **1,146** sittings

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<sup>3</sup> From the 1<sup>st</sup> October 2015, as provided for in the Workplace Relations Act 2015, the Tribunal ceased to accept both direct claims and appeals. All cases lodged with the Tribunal before 1<sup>st</sup> October 2015 remained to be heard by the Tribunal. The Tribunal continued to accept and process implementations after that date.



## 1.2 Cases Referred in 2015 (9 months to 30 September)

### Overview of Cases referred

The figures below for first instance and appeals relate to the period 1<sup>st</sup> January – 30<sup>th</sup> September 2015. The Implementations figures are for a full year (12 months).

	First Instance (9 months)	Appeals (9 months)		Implementation (12 months)	Total
		By Employees	By Employers		
<b>Redundancy</b>	<b>384</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>384</b>
<b>Minimum Notice and Terms of Employment</b>	<b>465</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>465</b>
<b>Unfair Dismissal</b>	<b>920</b>	<b>76</b>	<b>35</b>	<b>43</b>	<b>1,074</b>
<b>Protection of Employees (Employers' Insolvency)</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Organisation of Working Time</b>	<b>111</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>111</b>
<b>Maternity Protection</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>14</b>
<b>Payment of Wages</b>	<b>0</b>	<b>77</b>	<b>69</b>	<b>0</b>	<b>146</b>
<b>Terms of Employment (Information)</b>	<b>0</b>	<b>38</b>	<b>28</b>	<b>54</b>	<b>120</b>
<b>European Communities (Transfer of Undertakings)</b>	<b>0</b>	<b>112</b>	<b>56</b>	<b>0</b>	<b>168</b>
<b>European Communities (Protection of Employment)</b>	<b>0</b>	<b>99</b>	<b>48</b>	<b>0</b>	<b>147</b>
<b>TOTAL</b>	<b>1,881</b>	<b>416</b>	<b>236</b>	<b>97</b>	<b>2,630</b>

The number of cases received in 2015 (2,630) was 37% lower than those received in 2014 (4,162). One of the main reasons for this reduction was that no new claims or appeals were referred to the Tribunal from the 1<sup>st</sup> October 2015, in accordance with the Workplace Relations Act 2015.

The top 3 categories of cases referred were

- |   |     |
|---|-----|
| (1) Unfair Dismissal (UD)                     | 41% |
| (2) Minimum Notice & Terms of Employment (MN) | 18% |
| (3) Redundancy (RP)                           | 15% |

## 1.3 Cases Disposed of in 2015

### Overview of Cases Disposed

The figures below for cases disposed for first instance, appeals and implementations are from 1<sup>st</sup> January – 31<sup>st</sup> December 2016 (12 months).

### First Instance

	Allowed	Dismissed	Withdrawn during Hearing	Withdrawn prior to hearing	Total
Redundancy	194	69	33	224	520
Minimum Notice and Terms of Employment	115	96	55	253	519
Unfair Dismissal	181	183	164	474	1,002
Protection of Employees (Employers' Insolvency)	20	2	0	0	22
Organisation of Working Time	29	29	18	62	138
<b>TOTAL</b>	<b>539</b>	<b>379</b>	<b>270</b>	<b>1,013</b>	<b>2,201</b>

### Appeals

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	43	22	10	80	155
Maternity Protection	0	0	1	0	1
Payment of Wages	59	19	5	89	172
Terms of Employment (Information)	33	9	3	48	93
Parental	1	1	0	1	3
<b>TOTAL</b>	<b>136</b>	<b>51</b>	<b>19</b>	<b>218</b>	<b>424</b>

#### Breakdown of Appeals based on cases initiated by Employees or Employers

	Upheld	Upset	Varied	Withdrawn	Total
Employees	95	34	8	130	267
Employers	41	17	11	88	157
<b>TOTAL</b>	<b>136</b>	<b>51</b>	<b>19</b>	<b>218</b>	<b>424</b>

### Implementations

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	18	0	0	8	26
Terms of Employment (Information)	19	0	0	9	28
<b>TOTAL</b>	<b>37</b>	<b>0</b>	<b>0</b>	<b>17</b>	<b>54</b>

The number of cases disposed decreased from 4,403 in 2014 to 2,679 in 2015, which was a decrease of 1,724 or 39.16%.

**Profile of cases disposed**

<b>Legislation</b>		<b>% of Total Disposed in 2015</b>	<b>2015</b>	<b>2014</b>
Redundancy Payment Acts 1967-2014	<b>RP</b>	<b>19.41</b>	<b>520</b>	<b>1059</b>
Minimum Notice and Terms of Employment Acts 1973-2005	<b>MN</b>	<b>19.37</b>	<b>519</b>	<b>927</b>
Unfair Dismissals Acts 1977-2007	<b>UD</b>	<b>44.16</b>	<b>1183</b>	<b>1500</b>
Protection of Employees (Employers' Insolvency) Acts 1984-2012	<b>I</b>	<b>0.82</b>	<b>22</b>	<b>9</b>
Organisation of Working Time Act 1997	<b>WT</b>	<b>5.15</b>	<b>138</b>	<b>314</b>
Maternity Protection Acts 1994 and 2004	<b>M</b>	<b>.04</b>	<b>1</b>	<b>4</b>
Payment of Wages Act 1991	<b>PW</b>	<b>6.42</b>	<b>172</b>	<b>428</b>
Terms of Employment (Information) Acts 1994-2014	<b>TE</b>	<b>4.52</b>	<b>121</b>	<b>162</b>
Parental Leave Acts 1998 and 2006	<b>PL</b>	<b>0.11</b>	<b>3</b>	<b>0</b>
<b>TOTAL</b>		<b>100%</b>	<b>2,679</b>	<b>4,403</b>

An increase or decrease in the number of cases disposed 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.

The largest category of claims disposed in 2015 was unfair dismissal claims at 44%, followed by Redundancy Payment at 19% and Minimum Notice at 19%.

The Tribunal incurred a number of staff losses and changes during 2014 and 2015, which also had a negative effect on the disposal rate.

The Tribunal awarded compensation amounting to **€3,362,842.15** in **212** Unfair Dismissal cases. The average compensation awarded by the Tribunal was **€15,862.46**. In addition to compensation, re-instatement was ordered in **3** cases and re-engagement was ordered in **4** cases.

***Profile of Unfair Dismissal Awards in 2015***

<b>Compensation Award €</b>	<b>Number</b>	<b>Compensation Award €</b>	<b>Number</b>
<b>0</b>	<b>5</b>	<b>5001-6000</b>	<b>11</b>
<b>1-250</b>	<b>1</b>	<b>6001-7000</b>	<b>5</b>
<b>251-500</b>	<b>2</b>	<b>7001-8000</b>	<b>13</b>
<b>501-750</b>	<b>0</b>	<b>8001-9000</b>	<b>2</b>
<b>751-1000</b>	<b>4</b>	<b>9001-10000</b>	<b>17</b>
<b>1001-2000</b>	<b>13</b>	<b>10001-15000</b>	<b>31</b>
<b>2001-3000</b>	<b>6</b>	<b>15001-20000</b>	<b>26</b>
<b>3001-4000</b>	<b>13</b>	<b>20001-25000</b>	<b>12</b>
<b>4001-5000</b>	<b>16</b>	<b>&gt;25001</b>	<b>35</b>

**1.4 List of Acts with no cases referred or disposed of in 2015**

- Adoptive Leave Acts 1995 and 2005
- Protection of Young Person (Employment) Act 1996
- Protection for Persons Reporting Child Abuse Act 1998
- Carer’s Leave Act 2001
- Competition Acts 2002 to 2014
- Consumer Protection Acts 2007 and 2014
- Chemicals Acts 2008 and 2010

## Chapter 2 – Representation at hearings

### 2.1 Cost and Representation

Bringing a claim to the Tribunal is a free service. A party to a hearing before the Tribunal may be heard in person, or may be represented by a trade union official, a representative of an employers' organisation, a solicitor, a barrister or, with the consent of the Tribunal, by any other person. If a party chooses to be represented they will be responsible for all the costs of such representation. The legislation does not require that a party be represented at a hearing.

The Tribunal may not award costs against any party unless, in its opinion, a party has acted frivolously or vexatiously. Such costs are confined to a specified amount in respect of travelling expenses and any other costs or expenses reasonably incurred by the other party in connection with the hearing, but shall not include any amount for the attendance of counsel or solicitors, officials of a trade union, or representatives from an employers' association.

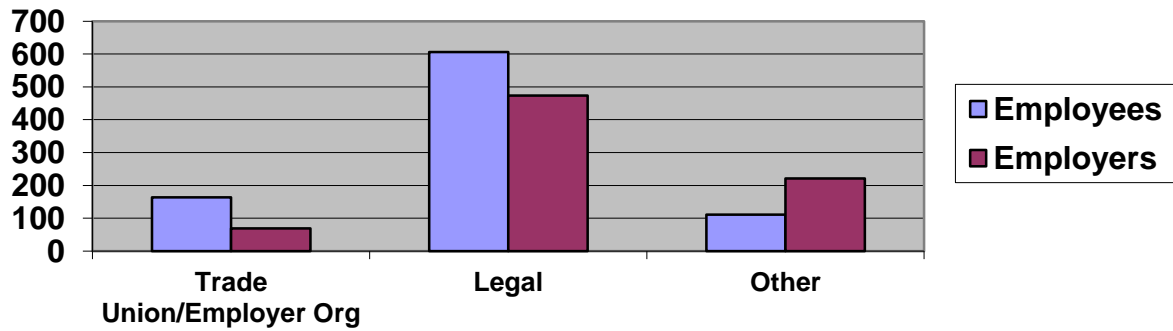
### 2.2 Representation in 2015

Details of the representation under the various Acts or combination of Acts in 2015 are as follows:

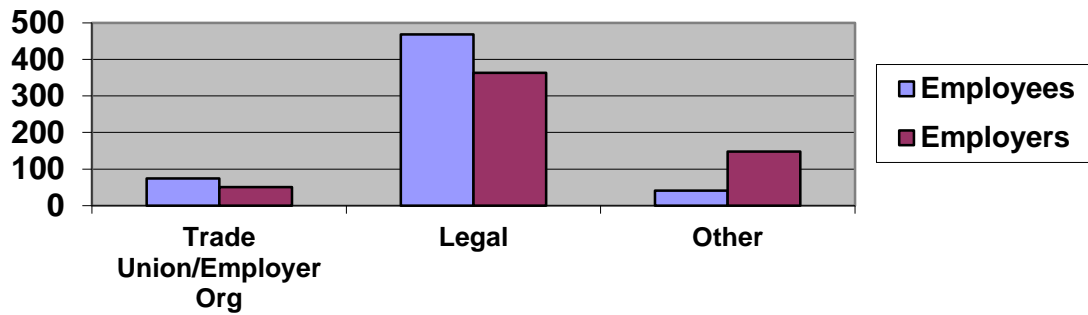
In 2015, 880 **employees** had representation at hearings before the Tribunal. Of these, 163 cases involved representation by Trade Unions, 606 by legal representatives and 111 by other persons. In this period, **employers** had representation in 764 cases. Of these 474 was by legal representatives, 221 by other persons and 69 by employers' associations.

It is notable that the highest level of representation is in unfair dismissal cases. In 2015 in such cases, 583 **employee** parties had representation (74 by trade unions, 468 by legal representatives and 41 by other persons) and 563 **employer** parties had representation (51 by employers' associations, 363 by legal representatives and 149 by other persons).

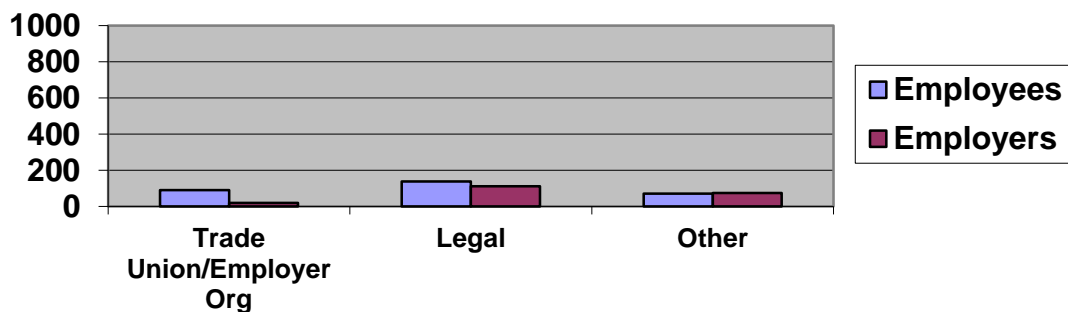
### Representation under all Acts in 2015



### Representation under Unfair Dismissal Acts in 2015



### Representation under all Acts excluding UD in 2015



## Chapter 3 – Hearings

### 3.1 Attending at Tribunal Hearings

Tribunal hearings are held in public, in accordance with statute. However, an application may be made to have a case heard *in camera* (private) in particular and rare circumstances.

The weekly schedule of Tribunal hearings is now published on the website [www.workplacerelations.ie](http://www.workplacerelations.ie). In addition to the parties to a particular case, Tribunal hearings are regularly 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 advisable for parties to contact the Tribunal secretariat in advance to ensure accommodation.

Information about the Tribunal's process can be found in its booklet '*Guidelines for Employees, Employers and Practitioners appearing before the Employment Appeals Tribunal*'. This booklet can be found on the Tribunal pages on [www.workplacerelations.ie](http://www.workplacerelations.ie)

### 3.2 Hearings and Venues

The national average waiting period in 2015 was **59** weeks, down from **66** weeks during 2014.

However, the waiting period does not tell the full story. Although the EAT conducts hearings in about **23** 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, five 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 2015 the Tribunal sat on **236** days and hearings were held at **23** 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.

<b>Leinster</b>	<b>Munster</b>	<b>Connaught</b>	<b>Ulster</b>
Carlow	Cork	Carrick on Shannon	Cavan
Dublin	Ennis	Castlebar	Letterkenny
Kilkenny	Killarney	Galway	Monaghan
Longford	Limerick	Roscommon	
Mullingar	Thurles	Sligo	
Portlaoise	Waterford		
Trim			
Tullamore			
Wexford			



## Chapter 4 – Applications/Facilities

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 in both Irish and English on the Tribunal's page of [www.workplacerelations.ie](http://www.workplacerelations.ie).

### 4.1 Tribunal Applications

Applications can be made for the postponement of a hearing, for witness summons and a summons for the production of documents, to expedite a hearing, to extend the hearing for longer period than initially allowed (half day), to withdraw a claim with liberty to re-enter where a settlement has been reached between the parties and extend the time for re-entry of the claim, if required. Applications must be made in front of a sitting Division of the Tribunal. Applications are taken twice a day in Davitt House (before 10am and 2pm daily) and relevant weekly locations. Late applications will go forward to the next sitting.

In recent years the Tribunal has received requests relating to the use of stenographers, Skype/Video conferencing and CCTV evidence. Information regarding these can be found in the Tribunal's booklet '*Guidelines for Employees, Employers, and Practitioners appearing before the Employment Appeals Tribunal*'.

#### ***Postponements***

When cases are set down for hearing by the Tribunal, it is the Tribunal's aim that 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 five 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 2015, the total number of postponement applications was **550** of which **388** were granted and **162** refused. This resulted in **149.5** lost sitting days. This compares with a total of **559** postponement applications for 2014 of which **333** were granted, **226** were refused and resulted in **84.5** lost sitting days.

#### **4.2 Interpreters**

If a party feels that an interpreter is essential to the hearing of the claim, they can apply to the Tribunal secretariat by letter or email ([EAT@djei.ie](mailto:EAT@djei.ie)) for an interpreter, indicating the language required. The Tribunal asks that such requests are made at least two weeks in advance of the hearing date.

In 2015, **281** language requests were made and these included, *inter alia*, Polish, Bengali and Tagalog. This compares with **198** in 2014, an increase of 42%.

#### **4.3 Special Facilities/Accessibility**

The Tribunal's offices at Davitt House in Dublin are fully accessible and one of the rooms is fitted with a hearing loop system. The Tribunal, on request, will take all practicable steps to provide special facilities for a person with disabilities and/or other special needs. During 2015 the Tribunal accommodated **3** requests for audio equipment.

Parties are asked to notify the Tribunal secretariat well in advance of the hearing if special facilities are required.

#### **4.4 Determinations of the Tribunal**

The Tribunal maintains a public 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 its offices in Davitt House, 65A Adelaide Road, Dublin 2. Determinations are also available on the website.

#### **4.5 Withdrawing a Case**

A case can only be withdrawn by the claimant/appellant or their representative. Parties can withdraw a case by advising the secretariat by letter, fax or email and using the word 'withdraw' in the contents of the correspondence. A respondent cannot withdraw a case on behalf of a claimant. Where a party is seeking to withdraw a case with liberty to re-enter (in

cases where the settlement may break down), they must do so in front of a sitting division of the Tribunal.

# Chapter 5 – Employment Appeals Tribunal Records

## 5.1 Data Protection

The Employment Appeals Tribunal holds data on all applications received. Data Protection is the safeguarding of the privacy rights of individuals in relation to the processing of personal data. The Data Protection Acts 1988 and 2003 confer rights on individuals as well as responsibilities on those persons processing personal data. Personal data, as covered by the Data Protection Acts, relates to the information on individuals and or sole traders only.

## 5.2 Freedom of Information

The FOI Act 2014 provides that every person has the following legal rights:

- the right to access official records held by Government Departments and all public bodies that conform to the provisions of Section 6 of the Act;
- the right to have personal information held on them corrected or updated where such information is incomplete, incorrect or misleading; and
- the right to be given reasons for decisions taken by public bodies that affect them.

The FOI Act 2014 brings the Employment Appeals Tribunal within its remit from 14 April 2015. From 14 April 2015, a person can seek access to any records relating to them personally, no matter when they were created. They can ask for any other records created after 21 April 2008. Requests under the Act should be sent, either in writing or by email, to the Freedom of Information Officer, Employment Appeals Tribunal, Davitt House, 65A, Adelaide Road, Dublin 2; Fax:+353 (1) 631 3266/ 3329; e-mail: [eat@djei.ie](mailto:eat@djei.ie). Further information can be found on the EAT page of the website.

From 14 April 2015, the Tribunal received 20 requests under Freedom of Information.

## 5.3 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 6<sup>th</sup> 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.

In 2015 the Tribunal began this process with files completed prior to and including 2003.

#### **5.4 Irish Language Scheme**

The Official Languages Act 2003 provides for the preparation by public bodies of a Language Scheme detailing the services which they will provide:

- through the medium of Irish,
- through the medium of English, and
- through the medium of Irish and English

and the measures to be adopted to ensure that any service not currently provided by the body through the medium of the Irish language will be so provided within an agreed timeframe.

The Tribunal's Language Scheme has been confirmed by the Minister for Arts, Heritage and the Gaeltacht and will shortly be published on the Tribunal's website in Irish and English.

During 2015 the Tribunal arranged for the following to be translated into Irish:

- Customer Service Charter
- Annual Report
- Guidelines for Employees, Employers, and Practitioners appearing before the Employment Appeals Tribunal

In addition to the above one Irish language interpreter was provided at a hearing.

# **Chapter 6 – Dissolution of the Employment Appeals Tribunal**

## **6.1 Workplace Relations Act 2015**

The Workplace Relations Act 2015 (No.16 of 2015) provides for the establishment of the Workplace Relations Commission (WRC). Under the Act, the WRC assumes the roles and functions previously carried out by the National Employment Rights Authority (NERA), Equality Tribunal (ET), Labour Relations Commission (LRC), Rights Commissioners Service (RCS), and the first-instance functions of the Employment Appeals Tribunal (EAT). The Act also provides for the expansion of the Labour Court with the effect that, from the 1<sup>st</sup> October 2015, the Labour Court has sole appellate jurisdiction in all disputes arising under employment rights enactments.

From October 2015, the Employment Appeals Tribunal no longer accepts claims or appeals, which must instead be referred to the WRC or the Labour Court respectively. The Tribunal retained its implementation function in respect of Rights Commissioners' recommendations.

## **6.2 Dissolution of the EAT**

During 2015, the Tribunal worked closely with the Department and the other Workplace Relations bodies to progress the Minister's reform agenda, the main impact of which will be, vis-à-vis the Tribunal, the winding down of its operations and its ultimate dissolution. All cases already lodged with the Tribunal before 1<sup>st</sup> October 2015 (termed 'legacy cases') will be finalised by the Tribunal itself. The Tribunal is working to expedite its legacy cases and will, consequently, continue in existence for a period of time in parallel to the new structures. It is the Tribunal's intention to complete this work as efficiently as possible with a view to allowing its dissolution take place.

## **Chapter 7 – Other Activities**

### **7.1 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 2014, the Tribunal was notified of three 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](http://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 131 cases (both appeals and enforcements) progressed to the Circuit Court.

### **7.2 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. A representative of the Tribunal participated in the 19<sup>th</sup> Annual conference co-ordinated by the Association on “Workers Rights versus the business imperative – the clash between the social and economic dimensions” in June 2015 in Helsinki. 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.

## Appendix 1: History and Composition of the Tribunal

The Redundancy Payments Act of 1967, which established the Redundancy Appeals Tribunal, was enacted on 18 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 22 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 18 April 1968. Between that date and 31 December 1968, the Tribunal sat on 75 days and heard a total of 133 appeals. 83 of those appeals were heard in Dublin, and the remaining 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. Today, the Employment Appeals Tribunal continues the work started over 40 years ago.

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.



## Appendix 2: Overview of Legislation

The Employment Appeals Tribunal is a statutory body established to deal with and adjudicate on employment disputes under the following statutes:

**Redundancy Payments Acts 1967 to 2014**

**Minimum Notice and Employment Acts 1973 to 2005**

**Unfair Dismissals Acts 1977 to 2007**

**Protection of Employees (Employers' Insolvency) Acts 1984 to 2012**

**Organisation of Working Time Act 1997**

**Maternity Protection Acts 1994 and 2004**

**Payment of Wages Act 1991**

**Terms of Employment (Information) Acts 1994 to 2014**

**Adoptive Leave Acts 1995 and 2005**

**Protection of Young Person (Employment) Act 1996**

**Parental Leave Acts 1998 and 2006**

**Protections for Persons Reporting Child Abuse Act 1998**

**European Communities (Protection of Employment) Regulations 2000**

**Carer's Leave Act 2001**

**Competition Acts 2002 to 2014**

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

**Consumer Protection Acts 2007 and 2014**

**Chemicals Acts 2008 and 2010**

These Acts have been amended by the Workplace Relations Act 2015. However, the Tribunal must operate, in relation to dealing with its legacy cases, on the basis of the unamended Acts.

## Appendix 3: List of EAT Booklets and Guidelines

The booklets/Guidelines below are available on the Employment Appeals Tribunal's page on [www.workplacerelations.ie](http://www.workplacerelations.ie) unless otherwise stated.

1. *'Guidelines for Employees, Employers, and Practitioners appearing before the Employment Appeals Tribunal'* [October 2015 version] *(available in Irish and English)*
2. *Customer Service Charter 2015* *(available in Irish and English)*
3. *Appeal and implementation procedures open to employees who are in receipt of decisions from the Employment Appeals Tribunal* [July 2013 version] *(available in Irish and English)*
4. *Appeal and implementation procedures open to employers who are in receipt of decisions from the Employment Appeals Tribunal* [July 2013 version] *(available in Irish and English)*
5. *Irish Language Scheme 2015-2018* *(to be available in Irish and English)*
6. *Freedom of Information Publication Scheme 2016-2019* *(to be available in Irish and English)*

## Appendix 4: Glossary of Terms

<b>Claimant</b>	the person bringing the case.
<b>Respondent</b>	the person or company against whom the case is brought
<b>Appellant</b>	the person or company appealing a decision.
<b>Division</b>	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.
<b>Withdrawn</b>	an application can only be withdrawn by the claimant or the claimant's representative.
<b>Settlement</b>	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.
<b>Liberty to re-enter</b>	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.
<b>Disposed</b>	cases that are withdrawn prior to a hearing, withdrawn during a hearing or on which a determination issues.
<b>Representation</b>	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.
<b>Determination</b>	a determination is the decision of the Tribunal recorded in a document signed by the chairman and sealed with the seal of the Tribunal.
<b>Register</b>	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 5: Advisory and Information Bodies

### Information and Customer Service

Workplace Relations Commission  
O'Brien Road  
Carlow  
R93 W7W2  
**Tel:** 059 9178990 or locall 1890808090  
[www.workplacelrelations.ie](http://www.workplacelrelations.ie)

### Adjudication Service

Workplace Relations Commission  
Tom Johnson House  
Haddington Road  
Dublin 4  
D04 AE64  
**Tel:** 01 6313380  
[www.workplacelrelations.ie](http://www.workplacelrelations.ie)

### The Labour Court

Tom Johnson House  
Haddington Road  
Dublin 4  
**Tel:** 01 6136666 or locall 1890220228  
[www.workplacelrelations.ie](http://www.workplacelrelations.ie)

### The Companies Registration Office

Parnell House  
14 Parnell Square  
Dublin 1  
**Tel:** +353 1 8045200  
[www.cro.ie](http://www.cro.ie)

### Redundancy Section

Department of Social Protection  
Block C  
The Earlsfort Centre  
Lower Hatch Street  
Dublin 2  
**Tel:** 1890 800 699  
[www.welfare.ie](http://www.welfare.ie)

### Citizens Information

**Tel:** +353 12 452 1600 or LoCall 1890 777 121 or +353 21 452 1600  
Check [www.citizensinformation.ie](http://www.citizensinformation.ie) for your nearest information centre

### Inspection and Enforcement Service

Workplace Relations Commission  
O'Brien Road  
Carlow  
R93 W7W2  
**Tel:** 059 9178800 or locall 1890220100  
[www.workplacelrelations.ie](http://www.workplacelrelations.ie)

### Conciliation and Mediation Services

Workplace Relations Commission  
Tom Johnson House  
Haddington Road  
Dublin 4  
D04 AE64  
**Tel:** 01 6136700 or locall 1890220227  
[www.workplacelrelations.ie](http://www.workplacelrelations.ie)

### Department of Jobs, Enterprise and Innovation

23 Kildare Street  
Dublin 2  
**Tel:** +353 1 6312121 or LoCall 1890220222  
[www.djei.ie](http://www.djei.ie)

### The Courts Service

15 - 24 Phoenix Street North  
Smithfield  
Dublin 7  
**Tel:** + 353 1 888 6000  
[www.courts.ie](http://www.courts.ie)

### Insolvency Section

Department of Social Protection  
Block C  
The Earlsfort Centre  
Lower Hatch Street  
Dublin 2  
**Tel:** 1890 800 699  
[www.welfare.ie](http://www.welfare.ie)

### Revenue Commissioners

Check [www.revenue.ie](http://www.revenue.ie) for your local revenue office

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