

Labour Relations Commission

LRC



Labour Relations Commission

**Annual Report 2012**



Labour Relations Commission

## **Annual Report 2012**

Presented to the Minister for Jobs, Enterprise and Innovation  
Mr Richard Bruton, T.D.

in accordance with Section 27(3) of the Industrial Relations Act, 1990

including the Commission's audited accounts for 2011 and  
the unaudited accounts for 2012

## Abbreviations and Acronyms

ADR	Alternative Dispute Resolution	IMF	International Monetary Fund
AIB	Allied Irish Banks	IR	Industrial Relations
CIDT	Construction Industry Disputes Tribunal	IRN	Industrial Relations News
CIPD	Chartered Institute of Personnel Development	IRO	Industrial Relations Officer
CRO	Case Resolution Officer	IVEA	Irish Vocational Education Association
CSO	Central Statistics Office	JIC	Joint Industrial Council(s)
DAA	Dublin Airport Authority	JLC	Joint Labour Committee(s)
DJEI	Department of Jobs, Enterprise and Innovation	LETB	Local Education and Training Board
EAT	Employment Appeals Tribunal	LRC	Labour Relations Commission
ECB	European Central Bank	NEES	National Employment and Entitlements Service
ERIR	Employment Rights and Industrial Relations	NEET	Not in Employment, Education or Training
ERO	Employment Regulation Order	NERA	National Employment Rights Authority
ERS	Early Resolution Service	NIS	National Internship Scheme
ESB	Electricity Supply Board	OPW	Office of Public Works
EU	European Union	PMDS	Performance Management & Development System
FDI	Foreign Direct Investment	PSA	Public Service Agreement
FMCS	Federal Mediation and Conciliation Service	RCS	Rights Commissioner Service
FRS	Financial Reporting Standard(s)	REA	Registered Employment Agreement
GPS	Global Positioning System	SI	Statutory Instrument
HSE	Health Service Executive	SIPTU	Services, Industrial, Professional, and Technical Union
IBEC	Irish Business and Employers' Confederation	SME	Small and Medium Enterprise(s)
IBOA	Irish Bank Officials' Association	TD	Teachta Dála (Member of the Irish Parliament)
IBRC	Irish Bank Resolution Corporation	VEC	Vocational Educational Committee
ICT	Information and Communications Technology	WRC	Workplace Relations Commission
ICTU	Irish Congress of Trade Unions	WTO	World Trade Organisation
ILO	International Labour Organisation		

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## Mission

*“To promote the development and improvement of Irish industrial relations policies, procedures and practices through the provision of appropriate, timely and effective services to employers, trade unions and employees.”*

## Functions

The Commission carries out this mission by providing the following specific services:

- ▶ an industrial relations Conciliation Service
- ▶ an industrial relations Advisory Service
- ▶ a Workplace Mediation Service
- ▶ a Rights Commissioner Service
- ▶ assistance to Joint Labour Committees and Joint Industrial Councils in the exercise of their functions

The Commission undertakes other activities of a developmental nature relating to the improvement of industrial relations practices including:

- ▶ the review and monitoring of developments in the area of industrial relations
- ▶ the preparation, in consultation with the Social Partners, of codes of practice relevant to industrial relations
- ▶ industrial relations research and publications
- ▶ organisation of seminars and conferences on industrial relations and human resource management issues

## Members and Officers of the Commission

Board and Chief Executive of The Labour Relations Commission 2012



*Standing left to right:*

- ▶ **Iarla Duffy**  
nominated to the Board by the Minister,  
Member of Audit Committee
- ▶ **Peter McLoone**  
nominated to the Board by the Irish Congress of  
Trade Unions (ICTU)
- ▶ **Gerard Barry**  
nominated to the Board by the Minister,  
Chairman of Audit Committee
- ▶ **John Hennessy**  
nominated to the Board by the Irish Business and  
Employers' Confederation (IBEC)

*Seated left to right:*

- ▶ **Brendan McGinty**  
nominated to the Board by the Irish Business and  
Employers Confederation (IBEC)  
Member of Audit Committee
- ▶ **Kieran Mulvey**  
Chief Executive, Labour Relations Commission
- ▶ **Breege O'Donoghue**  
nominated to the Board by the Minister
- ▶ **Fergus Whelan**  
nominated to the Board by the Irish Congress of  
Trade Unions (ICTU)

## Meetings of the Board/Senior Management Team

The current Board was re-appointed by the Minister for a period of up to one year with effect from the 7th July 2012, or until the dis-establishment of the Labour Relations Commission, whichever is the earlier. The term of office of the Board expires on 7th July 2013.

The Board met on 11 occasions in 2012 to discuss and review the Commission's strategy, budget, operational activities and its business plan and to decide upon areas of Commission policy and corporate governance. The Senior Management Team, consisting of the Chief Executive and the Heads of Divisions meet on a regular basis between meetings of the Board.

The Senior Management Team of the Commission consists of:

- ▶ Mr Kieran Mulvey  
Chief Executive,
- ▶ Ms Freda Nolan  
Director of Advisory Services Division,
- ▶ Mr Kevin Foley, Director and Ms Anna Perry,  
Deputy Director, Conciliation Services Division
- ▶ Mr Eddie Nolan  
Director of Corporate and Financial Services,  
Secretary to the Board and Audit Committee.  
Head of the Rights Commissioner Service.  
(Eddie Nolan served up to June 2012.)

## Board Meetings in 2012

- ▶ 2nd February 2012
- ▶ 23rd March 2012
- ▶ 12th April 2012
- ▶ 26th April 2012
- ▶ 31st May 2012
- ▶ 21st June 2012
- ▶ 19th July 2012
- ▶ 12th September 2012
- ▶ 25th October 2012
- ▶ 23rd November 2012
- ▶ 20th December 2012

# Chairperson's Report



The Board of the Commission is supportive of the current Ministerial initiative by Richard Bruton, T.D. to restructure, rationalise and reform our employment dispute resolution architecture. This is an important contribution to public service reform under the terms of the Public Sector Reform Programme of the Government. The Commission has in fact in its Strategy Statements over the years, advocated such an approach in bringing necessary synergies in the area of the statutory dispute resolution bodies.

The Board of the Commission, however, is concerned that certain vital corporate features of the current system should be retained in any legislative restructuring.

The Board of the Commission is the only statutory board of any of the current statutory employment related dispute resolution bodies. Since its establishment in 1991, under the Industrial Relations Act, 1990, the Commission has operated as an independent body with overall statutory responsibility for promoting good industrial relations within Ireland.

The Commission and its services have made a major contribution to the human resource / industrial relations environment.

Maintaining both the actuality and perception of independence, corporate status and operational budgetary control is essential to the effective delivery of its services.

Both union and employer bodies and indeed the Government have valued and accepted this independent function since the inception of the Commission and this in turn has led to an unprecedented level of assistance by the Commission towards industrial peace, public service / private sector reform and business re-configuration and restructuring.

The perception of independence is as essential and as vital a commodity as actual statutory independence in the terms of any future legislative provisions. This has been never more evident and more necessary than in the role adopted by the Commission in the negotiation of the "Croke Park" and the recently concluded "Haddington Road" Agreements.

The Workplace Relations Commission will have under its remit four previously distinct and stand-alone dispute resolution / employment law jurisdictional bodies and this will require a delicate and sensitive balancing act between the culture of procedures adopted in addressing "disputes of interest" with those of "employment rights investigations".

It is essential, if the new Commission is to succeed, that it merges successfully those different structures, "cultures", functions and personnel of the bodies and which have a long tradition between them. This will involve also a strong supportive relationship from our client base in union / employer organisations and the legal profession.



Successful implementation of the new services and their integration will require “buy in” from unions, employers and individual users of those services. This will be achieved more successfully if the Workplace Relations Commission is seen as an independent body and not awaiting policy or budgetary decisions from other sources or operating as an “Office” of a Government Department.

The Board of the Commission has operated very successfully over the last 22 years. The representative nature and operational size of the Board has provided a solid body of experience, involvement and strategic focus of the milieu within which the services of the Commission operates. Successive Boards have had positive and constructive working relationships with various Ministers, the Department and the ICTU / IBEC and other representative organisations. It has avoided controversy and any lapse of corporate governance or financial oversight. It is seen to be independent in all its functions and as such has integrity, credibility and neutrality.

Over the years the Board has undertaken many significant initiatives, has promulgated several strategic policy documents and has engaged in a continuous level of “applied and focused” research with key University institutions on matters pertaining to industrial relations, human resources management and employment law. This facility should be protected if the Commission is to continue to provide a framework for future policy formation and independent advice to the Social Partners and Government.

Finally, I would wish to take this opportunity to acknowledge the continuous support of the Minister, Richard Bruton, T.D. and the Secretary General of the Department, John Murphy and his staff. They have always been supportive of the Commissions’ endeavours.

The Staff of the Commission continue to be as hardworking as ever - from our staff at Reception to each of our services.

The Board would wish at this particular time to especially acknowledge the work of the Chief Executive, Kieran Mulvey and in particular also the unstinting commitment to the work of the Commission by the Directors of Services - Kevin Foley, Freda Nolan and Anna Perry.

The previous Director of Corporate Services and Secretary to the Board, Eddie Nolan, took up the post of Finance Officer to the Department of Jobs, Enterprise and Innovation in June 2012. John Fallon, Senior Industrial Relations Officer and Michael Rooney, Rights Commissioner, retired in late 2012. On behalf of the Board I want to thank them for their excellent and dedicated service over the years and to wish them well in the future.



**Breege O’Donoghue**

*Chairperson*

July 2013

# Chief Executive's Review 2012



The last number of years have had a profound impact on both Irish politics and upon the economy in general. Ireland has suffered one of the worst fiscal impacts of all countries during the current financial and economic recession.

As the period of "financial adjustment" continues there are some hopeful signs that the EU / ECB / IMF bailout and its terms under the "Troika" agreement may be completed in 2014 / 15.

If this is the fiscal scenario then the State will have returned to economic sovereignty by 2016 or earlier. This does not mean however that the adverse fiscal and budgetary measures will be discontinued. Quite the contrary. Once Ireland returns to the markets to assist in achieving its borrowing targets, a more global transparent focus will be applied to the policies of the State and the strategies it will be adopting in seeking to address and to fund its public expenditure, pay and pension requirements and to accelerate employment and economic growth in the internal market.

It is hoped that the sacrifices being made now in the austerity period will lead to more positive, benign but controlled budgetary policies from 2016 onwards and henceforth avoid the national economic disasters of 2008 / 2009.

This will require continued oversight on the utilisation of public finances and the adoption of a more competitive national and multinational enterprise economy in Ireland. The trends in these directions lead to a more positive outlook for our economy.

Collective bargaining since 2008 has retained its rigour and essential features - a voluntarist and "no nonsense" approach towards meeting the crisis in our social and economic environment and utilising the Labour Relations Commission, the Labour Court and appropriate statutory dispute resolution bodies. Significant changes have been negotiated in all of our major enterprise sectors, including manufacturing, services, I.T., pharmachem, State commercial entities (RTE, An Post, ESB, Bord Gáis, DAA, Public Transport) and the extended and the extremely radical adjustment of our financial services, building societies, credit institutions and the banking sector.

Of particular assistance in the private sector has been the renewal of the "IBEC / ICTU National Protocol for the Orderly Conduct of Industrial Relations and Local Bargaining in the Private Sector" in October 2012.

This Protocol, first agreed in 2010, has been updated and remains effective until the end of 2013 and represents agreed commitments to underpinning industrial peace and stability between our representative national employer and trade union bodies.

A firm and significant example of the "Protocol" in action was the assistance of IBEC / ICTU in addressing complex and highly charged industrial relations situations in Aer Lingus / DAA on matters relating to the Irish Airlines Superannuation Scheme and the involvement of the Commission and the Labour Court in its potential resolution.

In our public services - Health, Education, Local Authorities, Security, State Agencies and Public

Administration - major reorganisation, cost adjustments, pay and pension reductions have been facilitated by the voluntary negotiation and conclusion of difficult national collective bargaining agreements as exemplified in the Croke Park Agreement (2010 - 2014) and now the new Haddington Road Agreement (2013 - 2016).

All of the above have been achieved by consultation, negotiation and agreement between the parties and is a significant tribute to the level of leadership in political, trade union and public service management organisations in addressing the outcomes of the current recessionary environment and the major impact it has had on public services, budgets, pay and pensions.

These negotiations have contributed significantly to a period of industrial relations stabilisation, with very little downtime in enterprises / services and a continued and essential economic environment of industrial peace.

Contrast this with other countries in the European Union undergoing equally significant budgetary, employment or trading difficulties and where political protest and industrial unrest have become features of their political and industrial milieu.

Inevitably the current crisis will pass. However the key questions which industrial relations / human resource practitioners will ask is how we, as a "coalition of diverse interests" have weathered that storm and whether we have learned new methods by which we can improve our employee engagement and bargaining structures into the future?

The Commission, in its seminal research and publication of "Human Resource in the Recession: Managing and Representing People at Work in Ireland", has documented this impact and initiated this debate.

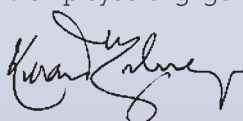
Change is inevitable but the inevitability of change should force us to be capable of re-assessing the valuable lessons learned and adapting them to the changing workplace in Ireland and the requirement for existing and future employee / employer engagement.

Finally, as we enter the 2013 calendar year, the Minister for Jobs, Enterprise and Innovation will have substantially progressed his policy target of creating a world-class dispute resolution service - "The Workplace Relations Commission".

As Chief Executive of the Labour Relations Commission since its establishment in January 1991, I will have a particular personal note of sadness at the demise of our current corporate brand - one which I feel has served the interests of employers and trade unions over the last 22 years and with the best interests of all of our clients at the centre of each of the services and our activities - Advisory, Conciliation, Rights.

The "Labour Relations Commission" has become synonymous with successful dispute resolution in the national psyche.

It is vitally important that in the new proposed statutory entity (WRC) that the essential core and functionality of our current services are not lost - they have all proven their worth time and time again. It is essential that we keep that corporate experience, expertise and concept of essential public service at the core of all we do. The Minister, Richard Bruton, T.D, has signalled clearly and unambiguously his political and legal intention of ensuring those core values are retained in any future Commission and that collective bargaining, employment rights resolution and pro-active employer / employee engagement are centrepiece.



**Kieran Mulvey**

*Chief Executive*

July 2013



# Chapter 1

## Major Developments in 2012

### 2012: Review of Industrial Relations and Related Developments

Industrial relations in 2012 continued to be negatively affected by the gravity of the country's financial and economic crisis. Many workers continued to experience unemployment or erosion of working conditions, although there were indications of a modest pick-up in private sector productivity-related pay settlements in specific sectors. In the public service, the Public Service Agreement (2010-2014) - known as the 'Croke Park Agreement' - continued to be observed, with significant savings accruing to the Exchequer. Nonetheless, in late 2012 the Government signalled to the public service unions that it would have to extract a further €1 billion in payroll costs by the end of 2015 in order to meet its 'Troika' (ECB, EU and IMF) targets. Preparatory talks were commenced under the auspices of the Labour Relations Commission in December, with a view to the conclusion of an extension to the Croke Park Agreement in early 2013. Separately, there were a number of important legislative developments, such as the Protection of Employees (Temporary Agency Work) Act 2012, and work continued apace on the new Workplace Relations Commission.

## Political & Economic Developments

A key task for the Government, led by Taoiseach, Enda Kenny, was the passing in a referendum (by a 60.3% to 39.7% majority) of the Fiscal Stability Treaty (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) 2012. The effect of the Treaty was to strengthen the rules designed to make governments keep a balance between their income and their spending. This in turn provided a critical backdrop to public service expenditure in the context of the Croke Park Agreement.

*(It should be noted that a key goal of the Government all through its term was finally to be achieved in February 2013, allowing it to swap €28 billion of high-interest promissory notes, which were used to 'bail out' Anglo Irish Bank (now IBRC) in 2009 for long-term government debt. This may assist in easing the Government's Budget arithmetic at the end of 2013 (i.e. Budget 2014) by up to €1 billion).*

## The Social Partners

The Fine Gael-Labour coalition Government continued its policy of bipartite relations with the two main social partner bodies, the Irish Business & Employers Confederation (IBEC) and the Irish Congress of Trade Unions (ICTU). Tripartism had been the norm through successive social partner agreements between 1987 until late 2009, but this way of mediating relationships between government, unions and employers remained out of vogue throughout 2012 and seems unlikely to be revived in the short to medium term.

Nonetheless, many observers suggested that the 'Croke Park Agreement', covering the public service (see above) and the 2010 private sector voluntary 'protocol', which provides for modes of behaviour and preferred procedural steps on collective bargaining, are legacies of the social partnership approach. Both are also pragmatic responses to the crisis: the Croke Park arrangement is regarded by proponents as a system that provides trade union input within a context of a Government decision to reduce payroll costs; the private sector protocol is a practical voluntary system of managing wage claims where they arise.

## Collective Agreements

**Public service:** In the public service, the Croke Park Agreement maintained a (four-year) pay freeze, and included commitments by the Government not to implement compulsory redundancies. In return, unions signed up for a 'transformation' programme, expected to yield major productivity improvements and efficiencies - as well as a broad commitment to maintain industrial peace.

The Croke Park Implementation Body, set up to oversee the implementation of the agreement, reported that €891 million in payroll and non-payroll savings were made in the second year of the agreement (June 2011 to June 2012), on top of savings worth €597 million in its first year. This brought the total savings to €1.49 billion over its first two years.

Pay bill savings reported under the Agreement are based on the average annualised savings per employee arising from the reduction in staff numbers across the public service during the relevant review period as well as other reductions in the costs of the public service pay bill.

The Implementation Body stated that the number of staff reduced in the public service “has already surpassed the original 25,000 target by 2014 in the National Recovery Plan and is on target to meet the new target of 37,000 by 2015”.

Separately, the Department of Public Expenditure and Reform strongly refuted allegations made in some media outlets that savings under the Agreement, as reported by the Implementation Body, were overstated. The Department said that the estimated savings reports from every Department “are verified by the Secretary General of each Department as accounting officer”. In addition, external accountants (Grant Thornton) are engaged by the Implementation Body to independently evaluate samples of savings reported.

Meanwhile, changes in the state pension rate bands came into effect in September 2012 for new entrants. A move to a ‘total contributions’ approach for determining eligibility for the State pension is planned in 2020 to replace the current averaging system. These reforms will ensure that the level of pension paid will be directly proportionate to the number of social insurance contributions made by a person over a working life.

**Private Sector:** There is currently no national-level collective agreement governing private sector pay, notwithstanding voluntary agreement on the private sector protocol.

According to an IBEC survey, a majority of private sector firms continued to freeze pay and a minority planned to cut wages, while around 25% envisaged they would be in a position to pay some form of pay rise in 2012. Where pay rises did occur, largely in the exporting sector, the ‘median figure’ was around 2%. Generally, employers were adept at including an

element of conditionality in their pay agreements to boost productivity.

SIPTU, the largest trade union for private sector workers said its target was an average 2% pay rise per year across various sectors.

## Wage-setting Mechanisms

A new legal framework for sectoral wage-setting systems was put in place through the Industrial Relations (Amendment) Act, 2012, which sets the new ground rules for the establishment and updating of Employment Regulation Orders (EROs) and Registered Employment Agreements (REAs), which can set binding minimum pay and conditions in sectors that employ up to 300,000 workers.

The legislation had been required for two reasons: firstly, a High Court ruling in July 2011 struck out all existing EROs as unconstitutional; and secondly, the EU/ECB/IMF Troika stipulated in Ireland’s bailout programme that these sectoral wage mechanisms be reviewed.

## Sectoral Level Agreements

A legally enforceable Registered Employment Agreement (REA) for the Electrical Sector provided for pay cuts of between 5-10%. But at the end of the year it had yet to be registered, which it had to be before becoming enforceable in law.

In the contract cleaning industry (25,000 workers) a legally enforceable Registered Employment Agreement (REA), one of the last under old legislation, was concluded with SIPTU. It ruled that the same pay and conditions should apply as were in

force under a previous Employment Regulation Order (ERO) which had been struck out in the High Court. This REA applied for pre-agreed time limit of six months, between February and August 2012, after which it expired without renewal. A proposal for a similar REA was agreed after August but was not registered as of end 2012.

In the security guarding industry, a proposed REA was agreed between the social partners in that sector, which abolished a separate lower pay rate for new workers, but also reduced the level of overtime and premium payments payable. This agreement was not registered as of the end of 2012.

## Key Local Level Agreements

**Garda Síochána:** A comprehensive working time agreement was combined with new rosters for An Garda Síochána, which gives effect to the EU Working Time Directive. Agreed on a pilot basis in direct negotiations between Garda management and four representative bodies, a core feature of the agreement is that it accords with up-to-date health and safety concerns. The achievement of what was the first change in rosters in the police force in almost 40 years, also demonstrated the potential for change and reform under the Croke Park Agreement.

**ESB:** At the state utility, ESB, a 5-year cost reduction plan set out how €140m in savings could be achieved through a continuing wage freeze and changes in profit share arrangements, performance-related payments, reduced overtime, reduced allowances and lower subsistence rates. The agreement included a voluntary severance plan that was to make up a major proportion of the total savings target. The agreement also included a unique 'interlock' mechanism, which meant that any of the company's

business units that fell short of specific savings target would have to make these up by agreement. Failing that, the savings would be made by way of a binding determination from the ESB Joint Industrial Council.

**Coillte:** A transformation agreement was aimed at ending incremental pay and hierarchical grading structures at the state forestry company, Coillte. The agreement was to be registered with the Labour Court. It covers around 300 IMPACT office based professional grades across the company. Pay in Coillte was historically linked to public service pay rates, with increments paid in accordance with public service procedures.

## Trends in Redundancy Pay

A 2012 survey provided the first really clear picture of how enhanced redundancy payouts have performed since the onset of the current recession in 2008. The authors, Brian Sheehan and Colman Higgins of IRN, concluded that it would be a surprise if the previous gradual upward trend in redundancy settlements during the so-called 'Celtic Tiger' boom years between the mid-1990s and 2007 had not been affected by the crisis. However, the level of enhanced redundancy payable since the start of the recession is not an even one, according to their report (*Redundancy Settlements in the Crisis, 2008-2012*).

The survey found that downward pressure on payments has been evident in those areas with a direct or indirect link to the state, in particular: the direct public service; commercial semi-state bodies; banks that were formerly privately owned and which are now almost wholly state-owned or dependent on the state.

In the State-dependent banking sector, the Department of Finance - on behalf of the Government

- set down a strict maximum level of redundancy pay that could apply in future. This ended high level severance arrangements at major banks like AIB and Bank of Ireland. Voluntary redundancy terms for thousands of bank workers would have to conform to the basic terms offered to HSE workers in late 2010: three weeks pay for each year of service, plus statutory entitlement.

In the private sector, the survey focused mostly on unionised firms, although it did include a number of significant non-union companies such as giant multinationals, Intel and Dell. Where the crisis has bitten deepest, the survey says, severance payouts have fallen off to the greatest extent. The areas with the highest settlements in the private sector remained pharmaceuticals and medical device manufacturers.

## **Legislative Changes**

The Protection of Employees (Temporary Agency Work) Act 2012 was published following the failure of the social partners to agree a derogation that would exempt agency workers on shorter assignments from the equal treatment provisions of the EU Directive from day one. Therefore, Ireland was compelled to adopt the default provisions in the Directive. The Industrial Relations (Amendment) Act, 2012, sets new ground rules for the establishment and updating of Employment Regulation Orders (EROs) and Registered Employment Agreements (REAs), which can set binding minimum pay and conditions in low wage sectors. Exemptions of employers on the basis of inability to pay can also be sought under the new provisions.

The substantive content of a new Family Leave Bill was announced in December 2012, which will

implement the EU Parental Leave Directive 2010 into Irish national law, but will also consolidate other existing legislation on family leave, such as maternity, parental, adoptive and carers' leave, into a single piece of legislation.

## **Collective Bargaining**

The issue of collective bargaining remained highly contentious in 2012. The coalition Government promised to implement new rights to engage in collective bargaining in the wake of a 2007 judgment by the Supreme Court in the 'Ryanair' case which - in the view of trade unions - hindered their ability to avail of Industrial Relations Acts (2001 and 2004). The Acts regulate procedures on union representation rights for union members in non-union workplaces.

The Fine Gael and Labour Government, in their joint Programme for Government, stated:

"We will reform the current law on employees' right to engage in collective bargaining (the Industrial Relations (Amendment) Act 2001), so as to ensure compliance by the State with recent judgments of the European Court of Human Rights."

In 2012, the Minister for Jobs, Enterprise and Innovation, Richard Bruton, T.D. asked formally for submissions to a consultation process on legislation for collective bargaining, as promised in the Joint Programme. The deadline for submissions was set at the end of February 2013. A Bill was expected to emerge by mid- 2013 in time for enactment by the end of 2013, a year that is highly significant to trade unions because it is the one hundredth anniversary of the '1913 lockout'.



## Industrial action and other forms of protest

There was a very low level of official industrial conflict in 2012. Data from the Central Statistics Office shows that there were 8,486 days lost in 2012 in just five industrial disputes (see page 16). This compares with 3,695 days lost in 2011 in 8 disputes. This suggests that despite the break-up of social partnership in 2009, levels of industrial strife, particularly in the private sector, remain at the low levels experienced over the past decade or so.

Official figures do not, however, provide a complete picture of workplace conflict. The number of disputes referred to the various State dispute resolution bodies has continued to mount, a reflection perhaps of the fact that conflict at work has not disappeared - more that it has become increasingly absorbed by institutions and procedures, as well as becoming more individualised.

The figures, for example, do not encompass lengthy protest actions at Vita Cortex or Lagan Brick, because no days were lost due to the fact in each case production at the respective plants had already ceased. These types of disputes, which are not recorded in official dispute statistics, have become more prevalent since the onset of the recession.

It should be recorded that the Vita Cortex dispute - where workers were seeking enhanced severance - became something of a *cause célèbre*, with the Taoiseach, Enda Kenny, commenting: "The workers have displayed enormous dignity and fortitude throughout their almost 20-week campaign". The former Vita Cortex staff were also guests of honour at a gala premiere of a documentary on their protest at the 57th Cork Film Festival, called '161 Days'.

Given the economic crisis, it is also important to record that there were no major demonstrations during 2012, in contrast to the peaceful public service trade union protest in 2009 over imposition of the public sector pension levy and the large scale protest organised by ICTU in 2010.

## Employment

As part of a wider 'action plan for jobs 2012', the Government continued in 2012 with its National Internship Scheme, providing 5,000 work experience placements in the private, public and voluntary sectors. This scheme provides work experience placements for interns for a 6 to 9 month period. A weekly allowance of €50 per week on top of the existing social welfare entitlement is payable for the period of the internship.

The NIS is aimed at graduates and other categories of mainly young people not in employment, education or training (NEET) and is designed to provide job seekers with a 'bridge into work' via opportunities to enhance their current skills and develop new ones. The criteria for application are people who are on the Unemployment Live Register and have been in receipt of Jobseekers Allowance/Benefit or signing on for credits for at least 3 months.

More broadly, a major reform of labour market activation schemes was continuing in 2012, on the back of recommendations in 2010 by the EU/ECB/IMF 'Troika' group that fundamental changes were required to better coordinate and condense policy in this area.

Subsequently, major structural labour market activation initiatives are being rolled out by the

Department of Social Protection, with the Department taking over the previous employment services division of FAS, the national state employment and training agency, which is being disbanded. This major reform is viewed as key to the roll-out of the National Employment and Entitlements Service (NEES), which rebrands the old 'dole' offices or 'employment exchanges'. Meanwhile, the FÁS training aspects will be subsumed within the Department of Education & Skills, operating closely with slimmed-down 16 regional education committees to be called Local Education and Training Boards (LETBs).

## Trends in Cost Reduction

The widespread belief that the Irish labour market was somehow uniquely responsive in terms of pay cuts rather than employment cuts was flatly contradicted by research based on earnings figures provided by the Central Statistics Office (CSO). Falls in average earnings - such as reductions in core basic pay, cuts in the level or rates of premium payments, overtime and allowances - were significant in some cases, but the report found these were rarely introduced without cuts in job numbers.

The findings were presented to the *Statistical and Social Inquiry Society of Ireland (SSISI)* on February 9, 2012 in a special paper prepared by Kieran Walsh, a senior statistician at the CSO. Mr Walsh updated previous research, also published by the CSO in mid-2012. The study compared the changes between the first three quarters of 2009, 2010 and 2011, with the findings suggesting that employers remain wedded to the traditional method of cutting costs by shedding jobs. Kieran Walsh observed: "Whether enterprises are increasing or decreasing their wage bill, it is a

relative rarity for this to be done without involving employment levels as part of the change".

## Workplace Relations Commission (WRC)- work continued

Work continued on the new Workplace Relations Commission, which is aimed at delivering a "world-class workplace relations service and employment rights framework that serves the needs of employers and employees and provides maximum value for money."

A two-tier Workplace Relations structure is envisaged through merging the activities of the National Employment Rights Authority, the Labour Relations Commission, the Equality Tribunal and the first instance functions of the Labour Court and the Employment Appeals Tribunal into a new Body of First Instance - the Workplace Relations Commission (WRC). The appellate functions of the Employment Appeals Tribunal will be incorporated into an expanded Labour Court.

## Commemorative Publication

The Commission also published a collection of essays by a variety of experts, each of whom played either a direct role within the employment relations arena or who engaged in commentary, assessment and analysis of key events and trends - since the establishment of the LRC in 1991.

Entitled, *'The Labour Relations Commission: Recalling 21 Years - 1991-2012'*, and edited by Brian Sheehan, the book includes contributions from a range of major players from the Commission itself (Chair,

Breege O'Donoghue and Chief Executive, Kieran Mulvey), IBEC (the former Director General, Turlough O'Sullivan), ICTU (the former Assistant General Secretary, Tom Wall).

Others contributors were: Ray McGee, former Deputy Labour Court Chairman; Niall Saul, HR consultant and former senior HR Director; Professor Bill Roche of UCD; Declan Morrin of the WTO and a former Head of the LRC Advisory Service; Tony

Bregazzi, former Rights Commissioner; Professor Paul Teague of Queens University; Liam Doherty, HR Consultant; Marguerite Bolger, Employment Lawyer; and Ingrid Miley, RTE Industry Correspondent. The current Director of the LRC Advisory Service, Freda Nolan, oversaw the project.

*(A printable PDF of this limited publication in book form is available free from the Commission's website).*

## Industrial Disputes involving Stoppages of Work (Disputes in Progress During Year)

### Industrial Disputes in Progress (Number) by Economic Sector NACE Rev 2 and Year

	2008	2009	2010	2011	2012
Agriculture, forestry and fishing (A)	0	..	..	..	..
Industry (B to E)	3	5	4	1	2
Construction (F)	1	1	..	1	..
Wholesale and retail trade, repair of motor vehicles and motorcycles (G)	1	4	3	..	1
Transportation and storage (H)	3	2	2	1	2
Accommodation and food service activities (I)	0	..	..	1	..
Information and communication (J)	0	..	..	..	..
Financial, insurance and real estate activities (K,L)	0	2	..	1	..
Professional, scientific and technical activities (M)	0	..	..	..	..
Administrative and support service activities (N)	0	1	4	..	..
Public administration and defence, compulsory social security (O)	1	4	..	1	..
Education (P)	0	1	..	..	..
Human health and social work activities (Q)	1	4	1	..	..
Other NACE activities (R to U)	2	1	..	2	..
All NACE economic sectors	12	23*	14	8	5

SOURCE: Central Statistics Office, Ireland

*\*The one-day National Public Sector dispute involved workers and days lost across Sectors O, P and Q, therefore the sum of the disputes will not add to the overall total for 2009.*

# Workplace Relations Reform



## Introduction

The Minister for Jobs, Enterprise and Innovation, Mr Richard Bruton, T.D. proposes to replace the current complex and outdated workplace relations individual employment and equality rights dispute resolution system with a more efficient and user-friendly two-tier structure. This reform will deliver a modern, user-friendly, world-class workplace relations system that will provide significant benefits for its users and society as a whole. The reform will make a substantial contribution to better business regulation, employee relations and public service reform. It will greatly improve the service for users while at the same time saving money for the taxpayer. It is proof that the public sector can be reformed in a way that benefits all.

## The Need for Reform

The current system for resolving individual disputes related to the workplace is wasteful, both in terms of state resources and those of the users. It is also frustrating for employers, employees and professionals representing them. The system has been the subject of much analysis involving eight reports in as many years. Some of the criticisms of the system outlined in these reports include:

- ▶ Five organisations with overlapping, but completely separate objectives and operations
- ▶ So complex that even experienced practitioners find it difficult to comprehend
- ▶ Claims are often referred to the wrong forum or under the wrong statute: they sometimes become statute barred before the error is discovered
- ▶ Lack of consistency between, and in some cases, within the bodies regarding the degree of formality of hearings, rules of evidence and the use of adversarial or inquisitorial procedures
- ▶ Overly legalistic with many users feeling the need to incur legal expenses
- ▶ A set of circumstances arising in respect of a single employee and single employer can give rise to a number of claims, which must be processed through different fora to obtain redress
- ▶ Different routes of appeal can apply for issues arising out of the same set of circumstances in the same employment
- ▶ Irrational and inequitable variations in how compensation is calculated and in remedies available - no reasons are given for decisions in some cases
- ▶ Duplication of functions between the bodies results in "forum shopping"
- ▶ Delays are excessive
- ▶ Poor value for money

## Consultations

Two public consultation processes have been undertaken. The first concluded in September 2011. The synthesis of submissions and most of the submissions received in response to that consultation are available on the Workplace Relations Website - [Summary & Analysis of Reform Submissions October 2011](#).

The many positive suggestions that emerged from that process have helped to inform the design and delivery of the reform to date. They also influenced the proposals set out in the [Blueprint to Deliver a World-Class Workplace Relations Service](#) published in April 2012.

The *Blueprint* document set out, in considerable detail, how it is proposed to reform the workplace relations structures and processes. It was published in order to provide a further opportunity for consultation. All of the submissions received in response are available on the Workplace Relations Website in a single document called [Blueprint Consultation Responses, May 2012](#).

In July 2012 the Minister published the Policy Document, [Legislating for a World-Class Workplace Relations Service](#). It responded to many of the submissions received in response to the *Blueprint* and set out in detailed narrative format the core principles that will be incorporated into the proposed new structures and processes.

## The new Structures

The Minister proposes to establish a two-tier Workplace Relations structure with two statutorily independent bodies replacing the current five. There

will be a new single body of first instance to be called the Workplace Relations Commission and a separate appeals body, which will effectively be an expanded Labour Court.

The new Workplace Relations Commission (WRC) will incorporate the functions of the Labour Relations Commission (including the Rights Commissioner Service), the Equality Tribunal, the Employment Appeals Tribunal (first instance jurisdiction only), and the National Employment Rights Authority (NERA). In addition, the WRC will provide an Early Resolution Service to facilitate and encourage the resolution of individual complaints at as early a stage as possible and so obviate the need for formal adjudication or investigation, to the greatest extent possible. The four bodies listed above will then be dis-established following the transfer of their functions to the Workplace Relations Commission (WRC).

All first instance complaints will be made to the Workplace Relations Commission where three options for resolving complaints will be available - early resolution, inspection and adjudication. All appeals will be to the Labour Court with the only further appeal being to the High Court on a point of law.

The Labour Court will be retained as a stand-alone statutory body and will be the single appellate body to deal with all appeals from the WRC. The Labour Court will continue to deliver all of its existing services (other than the small number of first instance functions transferring to the WRC) in addition to taking on the appellate functions of the EAT. The Labour Court will be given the necessary additional resources to fulfil this role.

## Progress to Date

Substantial progress has already been delivered in terms of the reform programme and a number of important priority actions have been successfully delivered.

These include:

- ▶ A new single contact portal called "Workplace Relations Customer Services" has replaced the five separate entry points.
- ▶ Complaints are now acknowledged, on average, within a week of receipt. This was previously taking up to eight months in some cases.
- ▶ The employer is also notified, on average, within a week of the complaint being lodged thus increasing the possibility of a resolution being reached without the need for a hearing. Again this was taking up to eight months in some cases.
- ▶ There are now no backlogs for Rights Commissioner hearings.
- ▶ A Single Complaint Form that deals with over 100 first instance complaints has replaced the 30 forms previously in use.
- ▶ A new workplace relations interim website [www.workplacerelations.ie](http://www.workplacerelations.ie) is in place.
- ▶ A pilot Early Resolution Service is operating.
- ▶ A Single Shared Corporate Service has been established.
- ▶ New business processes have been designed.
- ▶ The Equality Tribunal has transferred from the Department of Justice and Equality to the Department of Jobs, Enterprise and Innovation.
- ▶ A Draft Scheme of Bill for the enabling legislation has been prepared and approved for priority drafting by Government
- ▶ A Director Designate and Senior Management Team for the WRC have been put in place.

## The Workplace Relations Bill

The reform will be given statutory effect through the Workplace Relations Bill which the Minister aims to publish in 2013. This legislation will provide for the orderly wind down of the LRC, NERA, the EAT and the Equality Tribunal and the transfer of the services of the LRC, NERA and the Equality Tribunal together with the first instance functions of the EAT and the Labour Court to the Workplace Relations Commission. The appellate functions of the EAT will be amalgamated into a reconfigured Labour Court.

In July 2012, the Scheme of Bill was approved by the Government for priority drafting. Work is well advanced on the preparation of the legislative programme and detailed design necessary to deliver the reform and the Bill is currently at drafting stage in the Attorney General's Office. This involves amending 22 pieces of employment legislation, 12 sections in other legislation and 71 statutory instruments.

## Further Administrative Changes Proposed

Pending the enactment of the legislation the Minister proposes to continue to progress the reform on an administrative basis.

## Services to be delivered by the WRC

The WRC will develop and deliver a suite of high quality and responsive services. It will deliver a marked and measurable improvement in the quality of services provided to users of the State's workplace dispute resolution services including better and faster vindication of employees' rights and entitlements delivered through a modern, user-friendly service. Details of the services that will be provided by the WRC are set out below.

## Advisory and Information Services

This service will combine the functions currently performed by the LRC Advisory Service (including code of practice functions), NERA information service and the information functions currently carried out for the Equality Tribunal, EAT, Labour Court and Rights Commissioners Service and information on parental leave currently provided by the Equality Authority.

The service will continue to assist employers and employees to build and maintain positive working relationships and will work with them to develop and implement on-going effective mechanisms for building harmonious relationships and solving problems. This service will be available to employers, employees and trade unions in non-dispute situations to develop effective industrial relations and equality practices, procedures and structures that best meet their needs.

The specific functions will include:

- ▶ Devising and delivering education, awareness and information programmes
- ▶ Providing an advisory service promoting best practice in the workplace
- ▶ Providing employment information by phone and electronic methods
- ▶ Carrying out Industrial Relations Audits <sup>1</sup>
- ▶ Conducting appropriate research
- ▶ Establishing Joint Working Parties
- ▶ Implementing Frequent Users Initiatives
- ▶ Preparing and supporting the implementation of Codes of Practice

## Conciliation and Early Resolution Service

There will be a dedicated division within the WRC focused entirely on providing a full suite of timely and effective early resolution options to parties engaged in either disputes of right or of interest. These will include alternative dispute resolution services delivered through appropriately trained officers - so as to obviate, where possible, the need for the parties concerned to avail of the adjudication services of the WRC (and the Labour Court, on appeal).

Delivery of a pilot Early Resolution Service commenced in May 2012. The Pilot is currently being evaluated and the lessons learned will be applied to the mainstream service in time.

The Early Resolution Service has drawn from the considerable experience in alternative dispute resolution and problem-solving that has been developed over a number of years by Rights Commissioners, Equality Mediation Officers and Conciliation Officers. Subject to further development, and the outcome from the evaluation of the Pilot Scheme referred to above, it is proposed that the ERS will work as follows:

- ▶ Parties named in first instance complaints/referrals to the Workplace Relations Commission may be offered early intervention; participation in the process will be voluntary.
- ▶ Those who opt for ERS will be assigned to a Case Resolution Officer.
- ▶ The Case Resolution Officer will contact the parties or their representatives in order to:
  - Help establish the facts at issue and discuss the options that are open;

<sup>1</sup> This service will be provided at the request of employers/trade unions on a similar basis to the service currently provided by the LRC

- Help each party to understand how the other side views the case and explore with all parties how it might be resolved without a formal hearing/inspection;
- Discuss any proposals that either side has for a settlement that both sides would find acceptable.
- ▶ Case Resolution Officers will not impose solutions, but will explore the issues involved and try to help settle differences in a way that is acceptable to the parties concerned.
- ▶ A range of early intervention tools will be deployed by the ERS - from simple telephone contact with both parties up to scheduled face to face meetings - as appropriate to the circumstances of the parties and the issues in dispute in a given case.
- ▶ Deliberations during the process will remain confidential to the parties and the Case Resolution Officer.
- ▶ In cases of right, the outcome of the process will be a confidential, binding, written agreement which can be enforced by either party in the District Court.
- ▶ In cases of interest, the outcome will be a confidential, possibly binding, non-enforceable agreement between the parties.

The WRC will also carry out the conciliation functions currently undertaken by the LRC. The WRC will continue to provide conciliation as a voluntary process involving a facilitated search for agreement between disputing parties where they have failed to resolve the issue themselves.

## Adjudication

All complaints previously within the first instance jurisdiction of the Rights Commissioner Service, the Equality Tribunal, the Employment Appeals Tribunal and the Labour Court will be referable to the WRC Adjudication Service. A hearing will be convened, in private, before a single WRC Adjudicator sitting alone.

Reasoned decisions will issue in all decided employment rights and equal status cases; written recommendations/determinations will issue in all cases of interest referred to the adjudication service. Decisions of all decided employment rights and equality cases will be published on [www.workplacerelements.ie](http://www.workplacerelements.ie).

Adjudicators will be drawn from a diverse panel, which will include experienced industrial relations and HR practitioners, civil servants and employment lawyers with appropriate skills/qualifications. Subject to the overarching requirement to act judicially and with due regard to the principles of natural and constitutional justice, WRC Adjudicators will have a level of discretion to determine their own procedures in the conduct of hearings. They will be empowered to take evidence on oath and to summon witnesses and documents. The emphasis will be on utilising an inquisitorial (as opposed to an adversarial) approach in so far as possible.

## Compliance Service

The functions undertaken by the National Employment Rights Authority (NERA) to date in promoting a culture of compliance with employment legislation will be continued by the proposed Compliance Service of the new Workplace Relations



Commission. Officers previously referred to as Labour Inspectors or NERA Inspectors will be re-named as Compliance Officers of the WRC. These officers will continue to engage with employers and their representative organisations to this end; they will continue to inspect individual employers' employment records with a focus on achieving voluntary compliance in the first instance where non-compliance is detected. The Minister proposes to supplement the existing statutory powers of Labour/NERA inspectors by introducing new mechanisms in the Workplace Relations Bill 2012 that are designed to be effective instruments, including compliance and fixed-charge notices.

## **The Labour Court**

The Labour Court will be retained as a stand-alone statutory body and will continue to deliver all of its existing services (other than the small number of first instance functions transferring to the WRC). The Labour Court will thus hear all appeals from the Workplace Relations Commission in all complaints of right and of interest. The Court will therefore retain its existing appellate function under both the Industrial Relations Acts 1946-2004 and a range of employment rights enactments. The Court will also acquire the current appellate jurisdiction of the Employment Appeals Tribunal. The Labour Court will be given the necessary additional resources to fulfil this role.

Either party to a first instance hearing will have the right to appeal the decision of a WRC Adjudicator. The Labour Court will act as a court of final appeal for all adjudication decisions of the Workplace Relations Commission, subject to the right of either party to bring a further appeal from a determination of the Labour Court to the High Court on a point of law only.

Some amendments will be made to the procedural rules which currently apply to the conduct of the Court's business to facilitate, for example, the hearing of cases in public. In addition, it is proposed to provide for the making of regulations by the Minister for the purpose of facilitating the active management of cases by the Labour Court. This will ensure that hearings focus on the issues which the Court will have to resolve so as to fairly dispose of the case. It will lead to greater efficiency and better use of the resources available to the Court. In particular, such regulations may provide that certain specified preliminary applications or procedural matters can be dealt with by the Chairman or a Deputy-chairman sitting alone.

A system of pre-hearing reviews will be put in place in which either the Chair or a Deputy Chair of the Court will review the file and the decision of the first instance adjudication, and ascertain the issues between the parties. He or she will then ascertain the likely duration of the hearing required to deal with the case. In appropriate cases, the Court may convene a pre-hearing case management conference with the principal representatives of the parties, so as to ensure that the time allocated to the hearing is used efficiently. Case management conferences will be taken by the Chair or a Deputy Chair of the Court sitting alone.

## **Enforcement of Awards**

The difficulty experienced by successful complainants before the various employment rights adjudication bodies in enforcing awards made by those bodies in their favour is very unsatisfactory.

Any system of employment rights adjudication which is not backed up by an efficient and effective enforcement regime for successful complainants lacks credibility. If employees, who have been denied their statutory entitlements, and their representatives, are to have faith in the proposed new system an effective, inexpensive and easily-navigated process needs to be put in place.

Accordingly, the Minister proposes to put in place a more robust method of enforcement of awards. It is proposed that there will be an Enforcement Section within the new structures that will implement the revised enforcement system, where the District Court will have considerable enforcement powers in relation to decisions of Adjudication Officers of the WRC and determinations of the Labour Court.

## Conclusion

The root-and-branch reform of the employment dispute resolution system proposed by the Minister will deliver a range of real and practical benefits for all users and stakeholders in the system:

- ▶ **Less red tape and bureaucracy:** In the future all complaints will be made on one form to a single body of first instance. It is proposed to similarly consolidate respondents' forms into one single form. Complainants will be required to give more detailed information in relation to their complaints; if they have multiple complaints these will be dealt with in one location and employers will only have to engage with, or defend themselves in one first instance body. This means that the concept of "forum shopping" will be a thing of the past; all complaints from an individual complainant will be heard together by the same adjudicator, at the same venue and on the same day, resulting in considerable time and costs savings for respondents faced with defending multiple complaints;
- ▶ **Increased emphasis on early resolution:** Considerable resources will be applied within the new system to help parties to resolve the issues between them efficiently and inexpensively through early resolution and thus avoid the need for a hearing and the possible associated costs;
- ▶ **More rational system with standardised procedures:** Less time and effort will be required to understand and navigate the new system. Those who are unhappy with the outcome of adjudication at first instance for example will have only to consider a single appeal option (to the Labour Court); standard limitation and appeal periods will be applied across the full suite of employment legislation.

Further information on the Reform Programme is available on the Workplace Relations interim website [www.workplacerelements.ie](http://www.workplacerelements.ie).





## Chapter 2

### Labour Relations Commission Services

#### OUTTURN OF THE SERVICES IN 2012

- ▶ Corporate Services and Board
  - ▶ Conciliation Service
  - ▶ Advisory Service
- ▶ Rights Commissioner Service

## Summary of Costs of Providing the Services

The following table provides a summarised breakdown of the unaudited expenditure per Division during 2012. The figures are reflective of actual spend and do not incorporate adjustments, such as depreciation, that might be applicable and

subsequently agreed in the course of formal audit and final presentation of the accounts for the period. The process of examination of the accounts by the Office of the Comptroller and Auditor General has commenced at this time of writing. The audited accounts will be published when the Comptroller and Auditor General has completed the annual review and issued the relevant certification.

## Breakdown of Summary Costs across Divisions 2012

	Administration	Board	Conciliation Service	Advisory Service	Rights Commissioner Service	Total
	€	€	€	€	€	€
Salaries	113,806	0	1,354,768	311,655	681,018	2,461,247
Fees	0	92,340	0	0	1,168,585	1,260,925
Travel & Subsistence	23,054	5,278	76,516	11,425	145,270	261,543
Rental of Meeting Rooms	0	0	0	0	99,425	99,425
Stationery, Supplies, Communications	16,854	0	68,702	13,899	69,080	168,535
Utilities, Operations & Maintenance	21,590	0	90,678	17,272	86,360	215,899
Consultancy and Professional Fees	47,903	0	0	0	10,416	58,319
Printing, Training	665	0	20,308	11,984	333	33,290
Total	223,872	97,618	1,610,972	366,235	2,260,487	4,559,183
% of Total (rounded figures)	5%	2%	35%	8%	50%	100%

# Advisory Services Division 2012



## ADVISORY SERVICES OVERVIEW

*“To work closely with employers, trade unions and employees to promote, develop and implement best industrial relations policies, practices and procedures, in order to enhance the economic well-being of the enterprise and assist in employment creation and retention.”*

The Advisory Service is focused upon working with employers, employees and Trade Unions in order to develop positive Industrial Relations practices, structures and procedures. Its primary objective is to help build and maintain positive working relationships and effective prevention and dispute resolution mechanisms in the workplace. The Service can advise and assist on any aspect of Industrial Relations in Irish workplaces. The Service operates from the premise that all disputes, be they collective or individual, are best resolved within the workplace, and the assistance it offers is very much focused around enhancing the capacity of organisations and their employees to manage their industrial relations ‘in house’.

The Service was delivered by 3 Advisory Officers.

## Services Delivery

While assistance is customised to the particular needs of each workplace, the type of assistance offered can be categorised as follows:

## Training

The delivery of training on a variety of aspects of the employment relationship is a key element of the Service’s remit in order to enhance Industrial Relations capacity building in Irish workplaces by delivering proactive dispute preventative programmes.

The Service has developed and continues to deliver a variety of programmes around workplace procedures - Grievance, Disciplinary and Dignity, Communications and Consultation, the Negotiation Process and support in the management of workplace change generally. Programmes are tailored to suit the requirements of individual organisations, both large and small, in the private and public sectors.

The focus of the training programmes provided by the Commission, which are delivered on site by our team of experienced practitioners, from both Advisory and Conciliation Divisions, is to enhance the capability of workplaces and their employees to develop and operate effective Industrial Relations processes and procedures.

## Industrial Relations Reviews

Reviews of Industrial Relations involve an in-depth assessment of Industrial Relations in workplaces with a view to identifying problem areas, making recommendations around improved practices and procedures and working with all concerned to implement improvements. A typical review could

involve a number of information gathering processes including individual interviews/questionnaires, email surveys and focus groups. The key object in a typical review is to accurately identify problem areas and to work with all concerned to develop effective remedies.

## Joint Working Parties

A Joint Working Party is a joint management/employee process facilitated by the Service to implement recommendations made arising from a review of Industrial Relations. The process is designed to give all those concerned a direct involvement in developing mutually acceptable solutions to their difficulties.

## Facilitation

The Service provides a facilitation service focused around a variety of workplace issues including the implementation of work practice change and the development of improved workplace procedures. The focus of the facilitation service is to assist the parties to reach mutually acceptable solutions.

## Voluntary Dispute Resolution

The Service facilitates the procedure prescribed in the Code of Practice on Voluntary Dispute Resolution (Statutory Instrument (SI) 76 of 2004) which provides a framework for the processing of disputes arising in situations where collective bargaining is not in place.

## Workplace Mediation

Workplace mediation is delivered by a joint Advisory and Conciliation Service team. Overview and details are outlined under Conciliation Service activity.

## Research

The Service is responsible for the Commission's remit to conduct research into matters relevant to Industrial Relations and to review and monitor relevant developments in Industrial Relations generally. In this regard, the following activity took place during the period:

► ***“The Labour Relations Commission Recalling 21 years: 1991-2012”***

A publication to mark the 21st anniversary of the Labour Relations Commission (LRC), was published. The book includes contributions from a range of major players in the industrial relations and employment rights arena.

A soft copy of the publication is available on the Commission's website [www.lrc.ie](http://www.lrc.ie)

► ***Innovations in Conflict Management in Organisations***

A joint ACAS/LRC research project on Innovations in Conflict Management in Organisations was approved by the Board in 2012 and commenced in 2013.

► ***Early Resolution Service (Mid-term review)***

The Advisory Service carried out a mid-term evaluation of the Early Resolution Service (Pilot Phase).

## 2012 Activity Breakdown/Resources

Project Type	Project Number
SI76	2
Facilitation/ Joint Working Parties	24
IR Reviews	7
Training	23

Note: the project number figure relates to the actual projects and not to the number of meetings.

# Conciliation, Workplace Mediation and Early Resolution Services Division

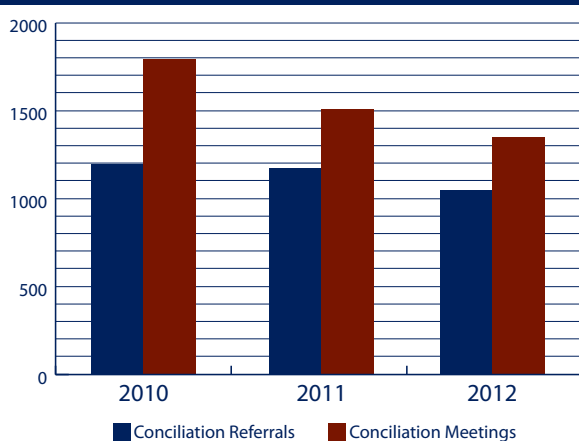
*“The Division will provide an impartial, timely and effective suite of Conciliation, Mediation and Facilitation Services operating to a continually high standard in both the public and private sectors”*

The Division focussed in 2012 on providing a timely delivery of a flexible, responsive service designed to meet the needs of parties in dispute or with issues to resolve in Irish workplaces. The primary value and function of the service is that it is available to provide a high quality resource at the appropriate moment in any given dispute situation. The delivery of that high quality service was the challenge met in 2012 by the Division’s team of nine Conciliator/Mediators, five Case Resolution Officers and seven support staff.

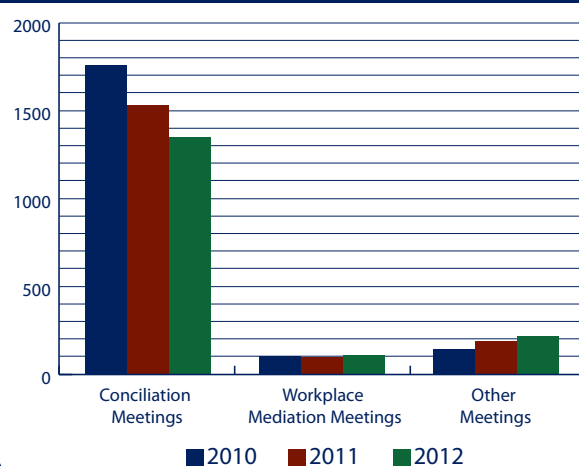
## Activity Summary 2012

Category	Total to end of December 2011	Total to end of December 2012
<b>Conciliation</b>		
Referrals	1,155	1,055
Conferences	1,532	1,351
Other Meetings (Facilitation, CIDT, JLC’s, Mediation etc)	191	218
<b>Total Number of Meetings</b>	<b>1,723</b>	<b>1,682</b>
Labour Court Referrals	180	147
<b>Mediation</b>		
Referrals	45	54
Meetings (incl Advisory Staff)	100	113

Number of Cases referred to the Conciliation Service 2010-2012



Number of Meetings facilitated by the Conciliation Service 2010-2012



## Conciliation Services Activity

The Conciliation Service referred 147 disputes to the Labour Court in 2012 and achieved a settlement rate at conciliation in the year of 86% of all disputes referred to it (1,055), which compared with 84% in 2011 and was at a level consistent with that which the Service expects to achieve.



A considerable amount of the activity delivered by the service was in assisting parties with issues arising in the course of implementation of the Public Service Agreement 2010 to 2014 and the general industrial relations implications of reductions in public spending and efforts to achieve increased cost efficiencies. The Service also assisted in dispute resolution in a very broad range of industries throughout the economy with many cases involving cost-cutting rationalisation proposals, pension scheme re-structuring and pay adjustments.

The number of referrals to conciliation in 2012 was 1,055. This was a marginal fall from 1,155 in 2011, probably reflecting the on-going difficult economic environment. The number of actual meetings convened by the Service in 2012 was 1,682, a marginal decline on the figure of 1,723 for 2011. The proportion of conferences to referrals is a function of a number of factors including the complexity and difficulty of cases and the high level conciliation input required in rationalisation/cost reduction disputes.

## **The Workplace Mediation Service**

The Workplace Mediation Service provides a tailored response to particular types of issues and disputes emerging in workplaces, particularly suitable to address disputes involving individual or small groups who are experiencing interpersonal differences, conflicts and difficulties working together.

This Service is delivered by a team of mediators drawn from the Conciliation and Advisory Services and is managed by the Conciliation Service. During 2012 a total of 54 referrals were received, up from 45 referrals in 2011. Some 24 referrals were received from the private sector and 30 from the public sector. There was a mixture of cases concerning individual

employees, with a small number involving small groups of employees. Typical issues arising in cases referred for mediation include matters involving interpersonal workplace relationships and grievance and disciplinary procedures generally.

## **Chairing of Negotiating Fora**

The Division provides Chairpersons to a range of negotiating fora. During 2012 the Division chaired the Health Service National Joint Council, the Teacher's Conciliation Council, the Local Authority National Council, the Civil Service Implementation Group, the Prison Service Conciliation and Monitoring Forum, the Institutes of Technology Negotiating Forum and the Construction, Electrical Contracting, Printing, State Industrial JIC's.

## **Irish Vocational Education Association (IVEA) Appeals Procedures -**

### ***Stage 3 Appeals under Bullying, Harassment, Sexual Harassment Codes***

In 2010, the Commission agreed to appoint one of its officers to act as Independent Appeals Officer under the provisions of the Codes of Practice for Dealing with Complaints of Bullying, Harassment, Sexual Harassment in VEC Workplaces. In 2012, the Commission received three appeals under the Code.

## **IVEA Appeals Procedures -**

### ***Grievance Stage 4 Appeals***

In 2010, the Commission agreed to a joint request from the unions and management in the VEC Sector to appoint one of its officers to act as Independent Appeals Officer for Stage 4 grievances for staff not

covered under the Industrial Relations Act. In 2012, the Commission heard one appeal under the Grievance Procedure.

### **IVEA Appeals Procedures - *Disciplinary Stage 4 Appeals***

In 2011, the Commission agreed to a joint request from the unions and management in the VEC sector to appoint one of its officers to act as Independent Appeals officer for Stage 4 appeals under the nationally agreed disciplinary procedures for the sector. In 2012, the officer heard one appeal.

### **Construction Industry Disputes Tribunal**

The parties to the Construction Industry's Registered Employment Agreement have developed a Construction Industry Disputes Tribunal to cater for the particular needs of the sector. The Tribunal is chaired by officers of the Conciliation Services Division. The administration of the Tribunal is also undertaken by the Division. During 2012, a total of 15 new cases were referred to the Tribunal. Nine cases were assigned for a full Tribunal hearing and 2 were withdrawn. In the remainder of cases no agreement was found between the parties to attend a hearing of the Tribunal.

### **Health Sector Affirmation/ Adjudication Process**

The Conciliation Services Division administrative team provide an administrative role in terms of the affirmation /adjudication process for the HSE and the parties attached to the Health Sector Agreement of the PSA 2010-2014. This service was established to act as the focal point for referral of unresolved

matters which fall under paragraphs 2.9.12, 2.9.13, 2.9.14 and 6.1 of the Health Service Redeployment Protocol. This is an administrative function which involves the organisation and distribution of cases to the team of adjudicators. During 2012, a total of 22 referrals were received which required the organisation of 14 hearings involving approximately 188 staff of the Health Service throughout the country.

### **Training inputs provided by the Conciliation Service 2012**

Responsibility for the co-ordination of the Commission's support for stakeholders through the delivery of tailored training programmes is with the Advisory Research Division and officers of the Conciliation Service continued to participate in this work during 2012.

In addition, however, the Conciliation Services Division continued to respond to requests and opportunities to promote the work of the Division by providing speakers and facilitators to client training programmes with a focus on the process of conciliation and its value as a dispute resolution tool. Officers of the Division presented at eleven training courses organised for recently appointed shop stewards as well as full time officials involving both SIPTU and MANDATE and four information sessions for staff of the Department of Jobs, Enterprise and Innovation (DJEI) interested in becoming members of the Early Resolution Service.

The Division also made conciliation related presentations to the IVEA HR Forum, the IVEA Staff Seminar, two presentations to the ACCS, three for staff and union representatives of Noonans, two for Symantec, three for the Brothers of Charity, one for Skills Net, two for Citizens Information Centres, three for NERA, one for Capital Productions, one for Cork

City Council, one for Allianz, two for IMPACT, one for Loreto College and one for the DAA. The Conciliation Services Division also hosted representatives from the Federal Mediation and Conciliation Service (FMCS) on a visit to Ireland.

## **Early Resolution Service**

The proposals of the Minister for Jobs, Enterprise and Innovation to reform the Employment Rights institutions of the State provide for the development of a two tiered structure with a body of first instance to be called the "Workplace Relations Commission" (WRC) and a single appellate body, the Labour Court. It is envisaged that the WRC will play a key role in encouraging employers and employees to resolve issues at an early stage and thereby reduce the number of cases going forward for investigation or adjudication.

In May 2012, pending the establishment of the WRC, the Labour Relations Commission oversaw and managed the introduction of a new "Early Resolution Service" on a pilot basis. The rationale for establishing the service was to give parties to a referral to a Rights Commissioner or the Employment Appeals Tribunal an opportunity of availing of a neutral and impartial third party to assist them in resolving their issue without the need for a formal hearing and adjudication. The service is an extension of the conciliation type approach already provided by the Commission, in collective industrial disputes, to individual rights based claims and grievances. As with conciliation, participation in the process, and any agreements/settlements reached, is entirely voluntary.

The service is provided by Case Resolution Officers (CROs) based in the Commission's offices in Tom Johnson House, Beggar's Bush, Dublin 4. In the early development and implementation stages of the

project, the CRO's were strongly supported by the Commission's Conciliation and Advisory officers and Rights Commissioners. Over the course of 2012, the CROs contacted parties in selected cases appearing to have potential for early resolution across the spectrum of employment rights and industrial relations legislation. Parties or their representatives were contacted promptly by a CRO and offered the service on a voluntary basis. In cases where both parties agreed to participate, the CROs used telephone and email communication to explore, on a non-prejudicial basis, possible avenues of agreement. Where parties declined to use the service, or where attempts at agreement were unsuccessful within a period of approximately six weeks, the cases were forwarded to the Rights Commissioner Service or the EAT as appropriate for arrangement of a formal hearing. (No details of a CRO's interaction with parties are disclosed to the adjudication body).

The Service ran as a Pilot for learning and evaluation purposes for six months from May to November 2012 and an early resolution service was offered in 1,209 cases in that period. In 178 cases the CROs were unable to make contact with either or both parties and those cases were then forwarded to the relevant adjudication body for scheduling. Of the remaining 1,031 cases, 251 declined the service - mainly because it was felt by either or both parties that the case required a formal investigation and decision. In the remaining 780 cases, or 76% of those where contact could be made, the parties accepted the offer of assistance and participated in efforts to find a resolution. In 253 of these cases, the dispute was either resolved with the CRO's assistance or subsequently withdrawn - a success rate of 32% in terms of the cases in which there was actual engagement.

A noticeable feature of the pilot was that the success rate rose from a relatively low base at the outset as the CROs gained experience in dealing with cases under 15 different pieces of legislation. An interim internal evaluation of the project produced good feedback from service users and the service was

continued beyond the end of the initial six months' pilot phase pending an external evaluation to be carried out in 2013.

The detail of cases settled and where parties could not be contacted or declined engagement with the ERS is shown below:

Complaints to the Rights Commissioner Service (RCS)	Cases	Complaints to the Employment Appeals Tribunal (EAT)	Cases
Unable to contact parties	108	Unable to contact the parties	70
Declined ERS	153	Declined ERS	98
Settled (via agreement or withdrawal following ERS intervention)	187	Settled (via agreement or withdrawal following ERS intervention)	66
(% of RCS cases that engaged with ERS)	36%	(% of EAT cases that engaged with ERS)	25%

The breakdown (by legislation) of the referrals assigned during the pilot, is as follows:

Legislation	RCS	EAT
EC (Safeguarding of Employees Rights on Transfer of Undertakings) (Amendment) Regulations 2003	17	0
Industrial Relations Acts 1969-1990	96	0
Maternity Protection Acts 1994-2004	6	0
National Minimum Wage Act 2000	16	1
Minimum Notice & Terms of Employment	0	113
Organisation of Working Time Act 1997	117	34
Parental Leave Act 1998	1	0
Payment of Wages Act 1991	262	0
Protection of Employees (Fixed Term Work) Act 2003	21	0
Protection of Employees (Part Time Work) Act 2001	4	0
Protection of Employees (Temporary Agency Worker) Act 2012	7	0
Redundancy Payment Acts 1967-2007	0	172
Safety, Health and Welfare at Work Act 2005	9	0
Terms of Employment Information Acts 1994-2001	104	0
Unfair Dismissals Acts 1977-2007	116	113

# Rights Commissioner Service Overview

The Rights Commissioner Service, an independent group of industrial relations experts within the Labour Relations Commission, was set up in 1970 to resolve disputes involving individuals and small groups of workers on day-to-day industrial relations issues. Over the past forty years the focus has shifted to complaints being brought by more and more workers under a substantial and growing volume of labour law. The Commissioners are competent and experienced men and women drawn from trade union and business circles, with considerable knowledge of labour law and with experience of dispute resolution in the workplace. The approach of the Service, now as in 1970, is to seek to address problems in ways that are speedy, non-legalistic and solution-oriented.

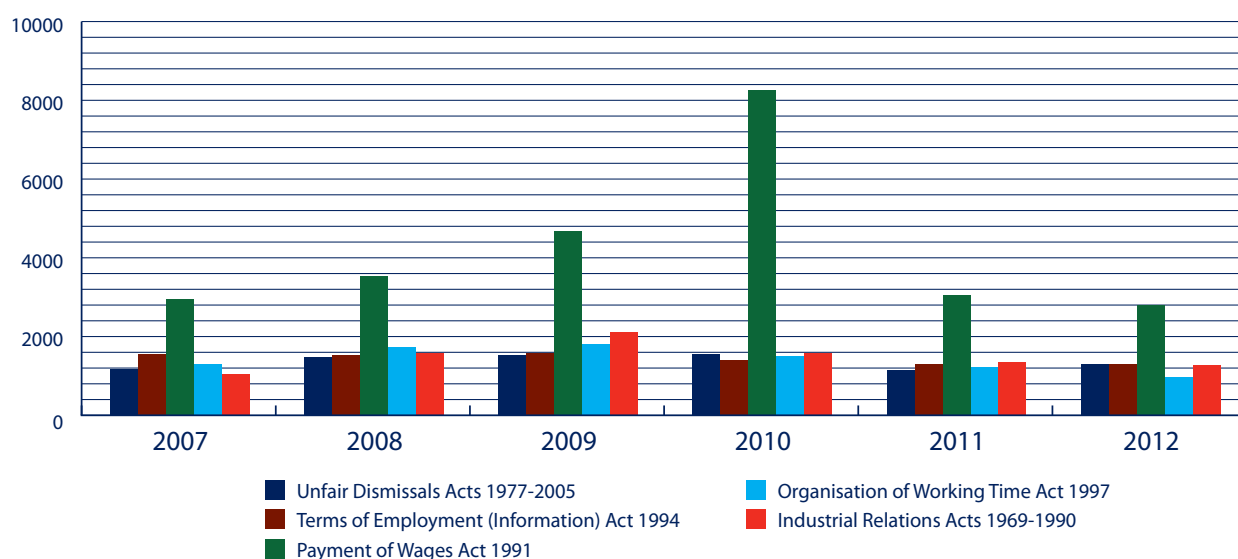
There was an unprecedented level of Referrals to the Service in the last decade (2002-2012). Some 8,852

referrals were received in 2012. This volume of referrals presented a major challenge, particularly, from data entry to the scheduling of meetings and to recommendation stage.

With the assistance of staff from within the other Divisions of the Commission, and in particular, staff of the National Employment Rights Authority (NERA), the situation was eventually brought back to a satisfactory level. At the end of 2012 an offer of a first Hearing (for Referrals) was made in the region of about 8-12 weeks, inclusive of the statutory 3-week 'holding' provided for in legislation, generally.

While work progressed in dealing with the volume of the caseload on hand, the Staff of the Service were also required to participate in the various working groups which had commenced tasks associated with the initiative to implement a streamlining of the work

Referrals Received by Act



of the various Employment Rights bodies. These activities included, in particular, the introduction of a new composite electronic single complaint form, a restructuring of the initial management of referrals on receipt, the updating of the Commission's website and involvement in the preparatory work relating to the design and commissioning of an ICT solution to replace the disparate customer relationship management systems deployed at present within the Workplace Relations Bodies.

## Adjournments

The level of adjournment requests continues to be a matter for on-going attention.

## Retirement

In December 2012, Michael Rooney, Rights Commissioner, retired after many years of service. The Commission was assisted considerably by Mr. Rooney during his period of office. The number of Commissioners now stands at 13 operating to various patterns of agreed attendance.

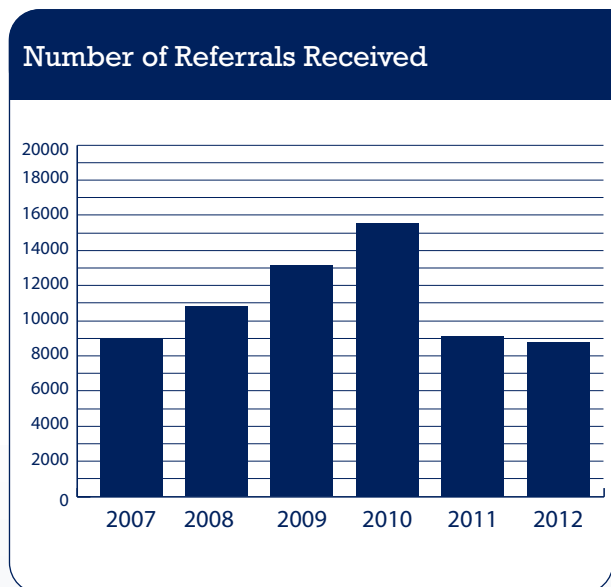
In common with other Public Service employments, a general moratorium on staff recruitment has had an impact on the Service at various levels, including at operational management level.

While, 8,852 referrals were received in 2012, the bulk of the referrals were received under the following five Acts:

Statistics on Referrals Received by Act	2007	2008	2009	2010	2011	2012
Industrial Relations Acts 1969-1990	1,182	1,470	1,521	1,542	1,143	1,304
Organisation of Working Time Act 1997	1,541	1,516	1,577	1,396	1,288	1,308
Payment of Wages Act 1991	2,961	3,540	4,681	8,266	3,040	2,806
Terms of Employment (Information) Act 1994	1,295	1,722	1,812	1,514	1,233	957
Unfair Dismissals Acts 1977-2007	1,038	1,566	2,110	1,588	1,355	1,271

The Protection of Employees (Temporary Agency Workers) Act 2012 came into effect in 2012:

Referrals for Protection of Employees (Temporary Agency Workers) Act, 2012	
2012	171



### Statistics on Referrals Received

2007	9,077
2008	10,900
2009	13,256
2010	15,671
2011	9,206
2012	8,852

### List of the EU Directives, the Acts and the Regulations under which the Rights Commissioners have a function

1. Industrial Relations Act, 1969 (No. 14 of 1969)
2. Industrial Relations Act, 1976 (No. 15 of 1976)
3. Unfair Dismissals Act, 1977 (No. 10 of 1977)
4. Industrial Relations Act, 1990 (No. 19 of 1990)
5. Payment of Wages Act, 1991 (No. 25 of 1991)
6. Unfair Dismissals (Amendment) Act, 1993 (No. 22 of 1993)
7. Terms of Employment (Information) Act, 1994 (No. 5 of 1994)
8. Maternity Protection Act, 1994 (No. 34 of 1994)
9. Adoptive Leave Act 1995 (No. 2 of 1995)
10. Maternity Protection (Disputes and Appeals) Regulations, 1995 (S.I. No. 17 of 1995)
11. Protection of Young Persons (Employment) Act, 1996 (No. 16 of 1996)
12. Organisation of Working Time Act, 1997 (No. 20 of 1997)
13. Parental Leave Act, 1998 (No. 30 of 1998)
14. Protection for Persons Reporting Child Abuse Act, 1998 (No. 49 of 1998)
15. Parental Leave (Disputes and Appeals) Regulations, 1999 (S.I. No. 6 of 1999)
16. National Minimum Wage Act, 2000 (No. 5 of 2000)
17. National Minimum Wage Act, 2000 (Commencement) Order, 2000 (S.I. No. 96 of 2000)
18. National Minimum Wage Act, 2000 (National Minimum Hourly Rate of Pay) Order, 2000 (S.I. No. 95 of 2000)
19. National Minimum Wage Act, 2000 (National Minimum Hourly Rate of Pay) (No. 2) Order, 2000 (S.I. No. 201 of 2000)
20. European Communities (Protection of Employment) Regulations, 2000 (S.I. No. 488 of 2000)
21. Carer's Leave Act, 2001 (No. 19 of 2001)
22. Protection of Employees (Part-Time Work) Act, 2001 (No. 45 of 2001)
23. Competition Act, 2002 (No. 14 of 2002)

24. Protection of Employees (Fixed-Term Work) Act 2003 (No. 29 of 2003)
25. European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003)
26. National Minimum Wage Act 2000 (National Minimum Hourly Rate of Pay) Order 2003 (S.I. No. 250 of 2003)
27. Industrial Relations (Miscellaneous Provisions) Act 2004 (No. 4 of 2004)
28. Maternity Protection (Amendment) Act 2004 (No. 28 of 2004)
29. Safety, Health and Welfare at Work Act 2005 (No.10 of 2005)
30. National Minimum Wage Act 2000 (National Minimum Hourly Rate of Pay) Order 2005 (S.I. No. 203 of 2005)
31. Adoptive Leave Act 2005 (No. 25 of 2005)
32. Competition (Amendment) Act 2006 (No. 4 of 2006)
33. Employees (Provision of Information and Consultation) Act 2006 (No. 9 of 2006)
34. Parental Leave (Amendment) Act 2006 (No. 13 of 2006)
35. Employment Permits Act 2006 (No. 16 of 2006)
36. National Minimum Wage Act 2000 (National Minimum Hourly Rate of Pay) Order 2006 (S.I. No. 667 of 2006)
37. European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006 (S.I. No. 507 of 2006)
38. European Communities (European Public Limited-Liability Company) (Employee Involvement) Regulations 2006 (S.I. No. 623 of 2006)
39. Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (No. 27 of 2007)
40. Consumer Protection Act 2007 (No. 19 of 2007)
41. Health Act 2007 (No. 23 of 2007)
42. European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007 (S.I. No. 259 of 2007)
43. European Communities (Occurrence Reporting in Civil Aviation) Regulations 2007 (No. 285 of 2007)
44. Chemicals Act 2008 (No. 13 of 2008)
45. Charities Act 2009 (No. 6 of 2009)
46. National Asset Management Agency Act 2009 (No. 34 of 2009)
47. Labour Services (Amendment) Act 2009 (No. 38 of 2009)
48. European Communities (Working Conditions of Mobile Workers Engaged in Interoperable Cross-border Services in the Railway Sector) Regulations 2009 (S.I. No. 377 of 2009)
49. Inland Fisheries Act 2010 (No. 10 of 2010)
50. Prevention of Corruption (Amendment) Act 2010 (No. 33 of 2010)
51. Financial Emergency Measures in the Public Interest Act 2010 (No. 38 of 2010)
52. National Minimum Wage Act 2000 (Section 11) Order 2011 (S.I. No. 13 of 2011)
53. Industrial Relations Act, 1946 (No. 26 of 1946)
54. Central Bank (Supervision and Enforcement) Act, 2013
55. Criminal Justice Act 2011 (No. 21 of 2011)



# Corporate Services

## Corporate Service Overview

The office of Director of Corporate Services is a shared post incorporating responsibility for matters pertaining to the maintenance of the premises (Tom Johnson House and Lansdowne House) and related services, compliance with all requirements arising within the financial and corporate governance areas, acting as Secretary to the Board as well as Secretary to the Audit Committee. In these tasks, the Director is assisted by one Higher Executive Officer and one Executive Officer. The Director is also Head of the Rights Commissioner Service.

## Board Meetings

There were eleven meetings of the Board in 2012.

Board member attendance during the year was as follows:	
Ms Breege O'Donoghue	11
Mr Brendan McGinty	8
Mr Fergus Whelan	9
Mr Gerard Barry	11
Mr Iarla Duffy	11
Mr John Hennessy	11
Mr Peter McLoone	11

## Code of Practice for the Governance and Conduct of the LRC

The Board applies procedures in accordance with the Code of Practice for the Governance of State Bodies. In addition, the Board and Commission have acted in accordance with the terms of the organisations own "Code of Practice for the Governance and Conduct of the LRC".

## Audit Committee

The Audit Committee met on four occasions in 2012.

The role of the Audit Committee, as part of the ongoing systematic review of the control environment and governance procedures within the Commission, is to report to and advise the Accounting Officer and the Board on internal control matters. The Internal Audit function is outsourced to an independent practitioner and Audit plans are considered and approved by the Committee as required and in the context of a structured programme of activity which ensures that every relevant aspect of Commission activity is examined over a predefined timescale.

In its consideration of Audit plans, the Committee is always mindful of developments such as updated Guidelines on Corporate Governance, best practice and the related increasing range and detail of compliance obligations on both the organisation and individual management personnel as new legislation, regulation and codes of practice are enacted.

The Audit Committee, having considered relevant reports from the Auditor, concluded that there was an effective system of internal controls in operation in the Commission.

All Board members, Rights Commissioners and relevant officers of the Commission were advised of their obligations under the Ethics in Public Office Acts.

## Performance Management Development System (PMDS)

The Commission is committed to ensuring that best practice is employed in the delivery of all aspects of the PMDS so as to enhance the development of its staff and to ensure a pathway for constructive two-way communication is in place. Role Profiles and Interim Reviews were completed in a timely fashion

for all staff members of the Commission. The provision of upward feedback is encouraged as a feature of the process. The Commission will fully play its part in ensuring that imminent improvements and enhancements to the process will be supported.

### Prompt Payment of Accounts

The 15-day prompt payment rule was extended to include the Health Service Executive, the Local Authorities, State Agencies, and all other Public Sector Bodies, (with the exception of the commercial semi-State bodies). Relevant details, as required under the new rules, are published on the Commission's website.

### Report on Compliance with the Provisions of the Prompt Payment of Accounts Act

The payment practices of the Labour Relations Commission, as required by the Act, are reported on below for the year ended 31 December 2012:

1. In accordance with Government decision S29296 of 2 March 2011, the Labour Relations Commission is committed to making every

effort to pay suppliers within 15 days of receipt of a valid invoice.

2. Specific procedures are in place to track all invoices and ensure that payments are made before the due date. Invoices are registered daily and payments are issued as required to ensure timely compliance.
3. Where necessary, prompt payment interest will be paid in accordance with guidelines issued by the Department of Jobs, Enterprise & Innovation.
4. Quarterly Prompt Payment Reports are published under the 'Information for Suppliers' section of the website.

The unaudited accounts for 2012 are included in this Report. The process of examination of the accounts by the Office of the Comptroller and Auditor General has now commenced. The submission of the Audited Accounts to the Minister and the process of laying the Accounts before the Oireachtas will be completed as expeditiously as possible once the auditing procedures and the Report of the Comptroller and Auditor General are concluded.

### Period Covered: 1 January to 31 December 2012

Details	Number	Value (€)	Percentage (%) of total number of payments made
Total payments made in 2012	1363	606,780.95	(100%)
Number of payments made within 15 days	1359	605,773.63	99%
Number of payments made within 16 days to 30 days	5	1,007.32	1%
Number of payments made in excess of 30 days	0	0	0
Disputed Invoices	0	0	0





# Chapter 3

## Audited Accounts

### FINANCIAL STATEMENTS 2011

For the year ended 31 December 2011

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# Statement of Responsibilities of the Commission

For the year ended 31 December 2011

## Statement of Responsibilities of the Commission

Section 31(1) of the Industrial Relations Act 1990 requires the Commission to prepare Financial Statements in such form as may be approved by the Minister for Jobs, Enterprise and Innovation after consultation with the Minister for Finance. In preparing those statements, the Commission is required to:

- ▶ select suitable accounting policies and apply them consistently;
- ▶ make judgements and estimates that are reasonable and prudent;
- ▶ prepare the Financial Statements on the going concern basis unless it is inappropriate to presume that the Commission will continue in operation;
- ▶ state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;

The Commission is responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the Commission and which enable it to ensure that the Financial Statements comply with Section 31(1) of the Act. The Commission is also responsible for safeguarding the assets of the Labour Relations Commission and for taking reasonable steps for the prevention and detection of fraud and other irregularities.



Chairperson

*Date: 23 November 2012*



Commission Member

*Date: 23 November 2012*

# Statement of Internal Financial Control

For the year ended 31 December 2011

## Responsibility on Internal Financial Control

As Chairman, I acknowledge the responsibility of the Labour Relations Commission for ensuring that an effective system of internal financial control is maintained and operated.

The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

- ▶ Identifying the nature, extent and financial implication of risks facing the Commission including the extent and categories which it regards as acceptable;
- ▶ Assessing the likelihood of identified risks occurring - a risk register is in place;
- ▶ Assessing the Commission's ability to manage and mitigate the risks that do occur; and
- ▶ Assessing the costs of operating particular controls relative to the benefit obtained

## Key Control Procedures

The Commission has taken steps to ensure an appropriate control environment is in place by:

- ▶ Clearly defining management responsibilities and powers;
- ▶ Establishing formal procedures for monitoring the activities and safeguarding the assets of the Commission; and
- ▶ Developing a culture of accountability across all levels of the Commission

The Commission has established procedures to identify and evaluate business risks by:

The system of internal financial control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular, it includes:

- ▶ A comprehensive budgeting system with a monthly budget which is reviewed and agreed by the Commission;
- ▶ Regular reviews by the Commission of periodic and annual financial reports which indicate financial performance against forecasts;
- ▶ Setting targets to measure financial and other performance;

- ▶ Clearly defined purchasing and approval guidelines; and
- ▶ Formal project management disciplines.

The Commission employed a consultant, on a contract basis, as internal auditor to conduct a review of the effectiveness of the system of internal controls.

The Commission's monitoring and review of the effectiveness of the system of internal financial control is informed by the work of the Internal Auditor, the Audit Committee, the executive managers within the Commission who have responsibility for the development and maintenance of the financial control framework, and comments made by the Comptroller and Auditor General in his management letter or other reports.

## Annual Review of Controls

I confirm that for the year ended 31 December 2011 the Commission conducted a review of the effectiveness of the system of internal financial controls.

Signed on behalf of the Labour Relations Commission



**Breege O'Donoghue** *Chairperson*

*Date: 23 November 2012*

# Report of the Comptroller and Auditor General

For the year ended 31 December 2011



## Comptroller and Auditor General

### Report for presentation to the Houses of the Oireachtas

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#### Labour Relations Commission

I have audited the financial statements of the Labour Relations Commission for the year ended 31 December 2011 under the Industrial Relations Act 1990. The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Generally Accepted Accounting Practice in Ireland.

#### Responsibilities of the Commission

The Commission is responsible for the preparation of the financial statements, for ensuring that they give a true and fair view of the state of the Commission's affairs and of its income and expenditure, and for ensuring the regularity of transactions.

#### Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors.

#### Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of



- ▶ whether the accounting policies are appropriate to the Commission's circumstances, and have been consistently applied and adequately disclosed
- ▶ the reasonableness of significant accounting estimates made in the preparation of the financial statements, and
- ▶ the overall presentation of the financial statements.
- ▶ my audit noted any material instance where moneys have not been applied for the purpose intended or where the transactions did not conform to the authorities governing them, or
- ▶ the Statement on Internal Financial Control does not reflect the Commission's compliance with the Code of Practice for the Governance of State Bodies, or
- ▶ I find there are other material matters relating to the manner in which public business has been conducted.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

## Opinion on the Financial Statements

In my opinion, the financial statements, which have been properly prepared in accordance with Generally Accepted Accounting Practice in Ireland, give a true and fair view of the state of the Commission's affairs at 31 December 2011 and of its income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Commission. The financial statements are in agreement with the books of account.

## Matters on which I Report by Exception

I report by exception if

- ▶ I have not received all the information and explanations I required for my audit, or

I have nothing to report in regard to those matters upon which reporting is by exception.



**Andrew Harkness**

*For and on behalf of the  
Comptroller and Auditor General  
30 November 2012*

# Statement of Accounting Policies

For the year ended 31 December 2011

## 1 Basis of Accounting

These financial statements have been prepared under the accruals method of accounting, except as stated below, and in accordance with generally accepted accounting principles under the historical cost convention. Financial Reporting Standards recommended by the recognised accountancy bodies are adopted, as they become operative. The unit of currency in which the Financial Statements are denominated is Euro.

## 2 Oireachtas Grants

Income is accounted for on the basis of:

- ▶ Cash receipts from the Department of Jobs, Enterprise and Innovation;
- ▶ Payments made by the Department of Jobs, Enterprise and Innovation on behalf of the Commission.

## 3 Fixed Assets and Depreciation

The Labour Relations Commission adopts a minimum capitalisation threshold of €1,000. Fixed assets are stated at their cost less accumulated depreciation. Depreciation is charged at rates calculated to write off the cost of each asset over its expected useful life on a straightline basis as follows:

Furniture, Fixtures and Fittings	10% Per Annum
Equipment	20% Per Annum

## 4 Capital Account

The capital account represents the unamortised amount of income used to purchase fixed assets and the value of assets transferred to the Commission.

## 5 Pensions

The Commission operates a non-contributory defined benefit pension scheme for one Officer which is funded annually on a pay-as-you-go basis from monies provided by the Department of Jobs, Enterprise and Innovation. Pension Scheme liabilities are measured on an actuarial basis using the projected unit method. Pension costs reflect pension benefits earned in the period. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

Actuarial gains or losses arising on scheme liabilities are reflected in the Statement of Total Recognised Gains and Losses and a corresponding adjustment is recognised in the amount recoverable from the Department of Jobs, Enterprise and Innovation.

Pension liabilities represent the present value of future pension payments earned to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from the Department of Jobs, Enterprise and Innovation.

## 6 Stocks

Stocks of publications and stationery have no net realisable value and are not regarded as assets.

# Income and Expenditure Account

For the year ended 31 December 2011

	Notes	€	2011 €	2010 €
<b>Income</b>				
Oireachtas grants	1		4,958,078	5,107,946
Net deferred funding for pensions	5(a)		137,000	139,000
			<u>5,095,078</u>	<u>5,246,946</u>
Transfer (to)/from Capital Account	2		51,722	78,778
			<u>5,146,800</u>	<u>5,325,724</u>
<b>Expenditure</b>				
Salaries and related costs	3	3,867,422		3,851,539
Travel and subsistence		284,624		316,485
Commission members' fees	6	92,340		92,340
Rental of meeting rooms		123,479		135,706
Stationery and office supplies		36,277		34,069
Postage, carriage and telephone		160,844		168,703
Entertainment and catering		11,047		14,430
Research		14,280		78,172
Utilities & Office maintenance		170,937		181,075
Audit fee		8,225		7,700
Consultancy and professional fees		77,957		108,571
Miscellaneous		37,554		48,404
Printing		26,640		20,260
Training		14,305		24,572
Pension costs		137,000		139,000
Refurbishment		—		18,503
Depreciation		86,917		88,836
Loss on disposal of fixed assets		591		9,532
			<u>5,150,439</u>	<u>5,337,897</u>
<b>Deficit for year</b>			(3,639)	(12,173)
Balance at 1st. January			96,540	108,713
31st. December			<u>92,901</u>	<u>96,540</u>

The results for the year relate to continuing operations.

The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date: 23 November 2012



Chief Executive  
Date: 23 November 2012

# Statement of Total Recognised Gains & Losses

For the year ended 31 December 2011

	Notes	2011 €	2010 €
Deficit for the year		(3,639)	(12,173)
Experience gains on pension scheme liabilities		57,000	139,000
Changes in assumption underlying the present value of pension scheme liabilities		—	—
<b>Actuarial gain on pension liabilities</b>		57,000	139,000
<b>Adjustment to deferred pension funding</b>	5(e)	(57,000)	(139,000)
<b>Total recognised loss for the year</b>		<b>(3,639)</b>	<b>(12,173)</b>

The results for the year relate to continuing operations.  
The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date: 23 November 2012



Chief Executive  
Date: 23 November 2012

# Balance Sheet

As at 31 December 2011

	Notes	€	2011 €	2010 €
<b>Fixed Assets</b>	9		172,841	224,563
<b>Current Assets</b>				
Debtors and prepayments	10	100,056		105,712
Cash at bank and on hand	11	80,719		85,527
		<u>180,775</u>		<u>191,239</u>
<b>Current Liabilities</b>				
Creditors (amounts falling due within one year)	12	87,875		94,700
		<u>87,875</u>		<u>94,700</u>
<b>Net Current Assets</b>			<u>92,900</u>	<u>96,539</u>
<b>Total Assets less Current Liabilities before Pension</b>			265,741	321,102
Deferred pension funding	5(d)		1,380,000	1,300,000
Pension liabilities	5(b)		(1,380,000)	(1,300,000)
<b>Total Assets less Current Liabilities</b>			<u>265,741</u>	<u>321,102</u>
<b>Represented by:</b>				
Capital Account	2		172,840	224,562
Income and expenditure account			92,901	96,540
			<u>265,741</u>	<u>321,102</u>

The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date: 23 November 2012



Chief Executive  
Date: 23 November 2012

# Notes to the Financial Statements

For the year ended 31 December 2011

	2011 €	2010 €
<b>1 Oireachtas Grants</b>		
The Department of Jobs, Enterprise and Innovation provided grant funding during the year as follows:		
Paid over to the Labour Relations Commission	1,009,000	1,150,000
Paid directly by the Department	3,949,078	3,957,946
	<u>4,958,078</u>	<u>5,107,946</u>
<b>2 Capital Account</b>		
Balance at 1st January	224,562	303,340
<b>Transfer from Income and Expenditure Account</b>		
Income applied to purchases of Fixed Assets	35,786	19,590
Net book value of assets disposed	(591)	(9,532)
Amortisation in line with depreciation	(86,917)	(88,836)
	<u>(51,722)</u>	<u>(78,778)</u>
Balance at 31st. December	<u>172,840</u>	<u>224,562</u>
<b>3 Salaries and Related Costs</b>		
All staff, other than the Chief Executive and the 15 Rights Commissioners, are Civil Servants assigned to the Commission by the Department of Jobs, Enterprise and Innovation.		
The charge of €3,867,422 (2010: €3,851,539) includes fees of €1,284,719 (2010: €1,291,233) payable to the 15 Rights Commissioners.		
The total number of staff employed at 31 December 2011 was 50 (2010: 48) with a salary cost of €2,582,994 (2010: €2,499,110).		
<b>4 Chief Executive</b>		
The Chief Executive received salary payments of €168,000 (2010: €167,603). No bonus payments were made in the year. The Chief Executive received an amount of €10,071 (2010: €12,303) in respect of travel and subsistence. The Chief Executive pension entitlements do not extend beyond the standard entitlements in the model public sector defined benefit superannuation scheme.		

# Notes to the Financial Statements (continued)

For the year ended 31 December 2011

	2011 €	2010 €
<b>5 Pension</b>		
<b>(a) Analysis of total pension costs charged to Expenditure</b>		
Current service costs	66,000	68,000
Interest on Pension Scheme Liabilities	71,000	71,000
Pension charge in year	<u>137,000</u>	<u>139,000</u>
<b>(b) Movement in net pension liability during the financial year</b>		
Net pension liability at 1 January	1,300,000	1,300,000
Current service cost	66,000	68,000
Interest cost	71,000	71,000
Actuarial gain	(57,000)	(139,000)
Pensions paid in the year	–	–
Net pension liability at 31st. December	<u>1,380,000</u>	<u>1,300,000</u>
<b>(c) Net deferred funding for pension</b>		
The Net Deferred Funding for Pensions recognised in Income and Expenditure was as follows:		
Funding Recoverable in respect of current year pension costs	137,000	139,000
State Grant applied to pay pensioners	0	0
	<u>137,000</u>	<u>139,000</u>

## (d) Deferred funding for pensions

The Commission recognises these amounts as an asset corresponding to the unfunded deferred liability for pension on the basis of the set of assumptions described above and a number of past events. These events include the statutory basis for the establishment of the pension schemes, and the policy and practice currently in place in relation to funding public service pensions including the annual estimates process.

The Commission has no evidence that this funding will not continue to meet such sums in accordance with current practices. The deferred funding asset for pension as at 31st. December 2011 amounted to €1,380,000 (2010: €1,300,000).

# Notes to the Financial Statements (continued)

For the year ended 31 December 2011

	2011	2010
<b>(e) History of defined benefit obligations</b>		
Defined benefit obligations	€1,380,000	€1,300,000
Experience losses/(gains) on scheme liabilities:		
Amount	€(57,000)	€(139,000)
Percentage of scheme liabilities	(4%)	(11%)
The cumulative actuarial loss recognised in the Statement Total Recognised Gains and Losses amounts to €228,000.		
<b>(f) General description of the scheme</b>		
<p>The pension scheme is a defined benefit salary pension arrangement with benefits and contributions defined by reference to current "model" public sector scheme regulations. The valuation used for FRS17 (Revised) disclosures has been based on a full actuarial valuation on January 28th, 2012 by a qualified independent actuary taking account of the requirements of the FRS in order to assess the scheme liabilities at 31st, December 2011.</p> <p>The principal actuarial assumptions were as follows:</p>		
Rate of increase in salaries	4%	4%
Rate of increase in pensions in payment	4%	4%
Discount rate	5.5%	5.5%
Inflation rate	2%	2%
Average life expectancy:		
Male aged 65	22	22
Female aged 65	25	25
<b>6 Commission Members' Fees</b>		
The annual fees payable to Commission Members are as follows:		
	€	€
Chairperson	20,520	20,520
Ordinary Members	71,820	71,820
	<u>92,340</u>	<u>92,340</u>
<b>7 Commission Members' Fee List</b>		
		<b>Fees €</b>
Breege O'Donoghue (Chairperson)		20,520
Gerard Barry		11,970
Iarla Duffy		11,970
Brendan McGinty		11,970
John Hennessy		11,970
Peter McLoone		11,970
Fergus Whelan		11,970
The amount paid to Commission Members in 2011 in respect of:		
Mileage expenses		3,223
Subsistence expenses		1,232
Total paid in 2011		<u>4,455</u>



# Notes to the Financial Statements (continued)

For the year ended 31 December 2011

	€	€	€
<b>8 Rent &amp; Rates</b>			
The Commission operates from offices provided on a rent free basis by the Office of Public Works.			
	<b>Furniture, Fixtures &amp; Fittings</b>	<b>Equipment</b>	<b>Total</b>
<b>9 Fixed Assets</b>			
<b>Cost</b>			
At 1 January 2011	440,609	681,624	1,122,233
Additions In Year	–	35,786	35,786
Disposals In Year *	(3,500)	(85,444)	(88,944)
At 31 December 2011	<u>437,109</u>	<u>631,966</u>	<u>1,069,075</u>
<b>Accumulated Depreciation</b>			
At 1 January 2011	281,335	616,335	897,670
Charge for Year	38,156	48,761	86,917
Depreciation on Disposals	(2,909)	(85,444)	(88,353)
At 31 December 2011	<u>316,582</u>	<u>579,652</u>	<u>896,234</u>
<b>Net book values</b>			
At 31 December 2011	<u>120,527</u>	<u>52,314</u>	<u>172,841</u>
At 31 December 2010	<u>159,274</u>	<u>65,289</u>	<u>224,563</u>

\*Note: Disposals for Equipment is high due to a number of items which were disposed of in previous years were still listed on the Asset Register. The equipment disposed of was fully depreciated.

# Notes to the Financial Statements (continued)

For the year ended 31 December 2011

	2011 €	2010 €
<b>10 Debtors &amp; Prepayments</b>		
Debtors	5,167	12,739
Prepayments	16,622	14,706
OPW	78,267	78,267
	<u>100,056</u>	<u>105,712</u>
<b>11 Bank &amp; Cash</b>		
Current account	79,181	84,031
Deposit account	1,333	1,333
Petty cash	205	163
	<u>80,719</u>	<u>85,527</u>
<b>12 Creditors</b>		
Accruals	79,650	86,475
Audit fee	8,225	8,225
	<u>87,875</u>	<u>94,700</u>

## 13 Related Party Transactions

The Labour Relations Commission is an independent statutory body under the aegis of the Department of Jobs, Enterprise and Innovation. The Commission received grant aid from the Department of Jobs, Enterprise and Innovation and, due to various material transactions, this Department is regarded as a related party.

The Board adopted procedures in accordance with the Code of Practice for the Governance of State Bodies in relation to the disclosure of interest by the Board members and these procedures have been adhered to in the year.

There were no transactions in the year in relation to the Board's activities in which the Board members had any beneficial interest.

# Notes to the Financial Statements (continued)

For the year ended 31 December 2011

## 14 Going Concern

The Minister for Jobs, Enterprise and Innovation announced in July 2011 that he wished to reform the operation of the Employment Rights and Industrial Relations (ERIR) functions of the Department. The proposed reform is to streamline the State's five employment rights bodies: The Labour Relations Commission (LRC), National Employment Rights Authority (NERA), The Labour Court, Employment Appeals Tribunal (EAT) and Equality Tribunal.

As a result of the above it is intended by the Minister to cease the operation of the Labour Relations Commission as an independent statutory body including the role of Chief Executive and his Accounting Officer statutory responsibilities, its functions as an office of the Department through the establishment of a newly constituted Workplace Relations Commission.

As the functions, operations, staff, assets and liabilities of the Labour Relations Commission will be transferred to the new Workplace Relations Commission on a going concern basis, the accounts have been prepared on a going concern basis.

## 15 Approval of Financial Statements

These financial statements were approved by the Board on the 23rd November 2012.



# Financial Statements 2012

## UNAUDITED ACCOUNTS

For the year ended 31 December 2012

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# Statement of Responsibilities of the Commission

For the year ended 31 December 2012

Section 31(1) of the Industrial Relations Act 1990 requires the Commission to prepare Financial Statements in such form as may be approved by the Minister for Jobs, Enterprise and Innovation after consultation with the Minister for Finance. In preparing those statements, the Commission is required to:

- ▶ select suitable accounting policies and apply them consistently;
- ▶ make judgements and estimates that are reasonable and prudent;
- ▶ prepare the Financial Statements on the going concern basis unless it is inappropriate to presume that the Commission will continue in operation;
- ▶ state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;

The Commission is responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the Commission and which enable it to ensure that the


Financial Statements comply with Section 31(1) of the Act. The Commission is also responsible for safeguarding the assets of the Labour Relations Commission and for taking reasonable steps for the prevention and detection of fraud and other irregularities.



**Breege O'Donoghue**

*Chairperson*

Date:



**Gerard Barry**

*Commission Member*

Date:

# Statement on Internal Financial Control

For the year ended 31 December 2012

## Responsibility on Internal Financial Control

As Chairperson, I acknowledge the responsibility of the Labour Relations Commission for ensuring that an effective system of internal financial control is maintained and operated.

The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

## Key Control Procedures

The Commission has taken steps to ensure an appropriate control environment is in place by:

- ▶ Clearly defining management responsibilities and powers;
- ▶ Establishing formal procedures for monitoring the activities and safeguarding the assets of the Commission; and
- ▶ Developing a culture of accountability across all levels of the Commission

The Commission has established procedures to identify and evaluate business risks by:

- ▶ Identifying the nature, extent and financial implication of risks facing the Commission including the extent and categories which it regards as acceptable;
- ▶ Assessing the likelihood of identified risks occurring - a risk register is in place;
- ▶ Assessing the Commission's ability to manage and mitigate the risks that do occur; and
- ▶ Assessing the costs of operating particular controls relative to the benefit obtained

The system of internal financial control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:

- ▶ A comprehensive budgeting system with a monthly budget which is reviewed and agreed by the Commission;

- ▶ Regular reviews by the Commission of periodic and annual financial reports which indicate financial performance against forecasts;
- ▶ Setting targets to measure financial and other performance;
- ▶ Clearly defined purchasing and approval guidelines; and
- ▶ Formal project management disciplines.

The Commission employed a consultant, on a contract basis, as internal auditor to conduct a review of the effectiveness of the system of internal controls.

The Commission's monitoring and review of the effectiveness of the system of internal financial control is informed by the work of the Internal Auditor, the Audit Committee, the executive managers within the Commission who have responsibility for the development and maintenance of the financial control framework and comments made by the Comptroller and Auditor General in his management letter or other reports.

## Annual Review of Controls

I confirm that for the year ended 31 December 2012 the Commission conducted a review of the effectiveness of the system of internal financial controls.

Signed on behalf of the Labour Relations Commission:



**Breege O'Donoghue**

*Chairperson*

Date:

# Report of the Comptroller and Auditor General

For the year ended 31 December 2012

The process of finalising the audit of the Commission's accounts for 2012 has commenced at this time of writing.

The audited accounts will be published when the Comptroller and Auditor General has completed the annual review and issued the relevant certification.



# Statement of Accounting Policies

For the year ended 31 December 2012

## 1 Basis of Accounting

These financial statements have been prepared under the accruals method of accounting, except as stated below, and in accordance with generally accepted accounting principles under the historical cost convention. Financial Reporting Standards recommended by the recognised accountancy bodies are adopted, as they become operative. The unit of currency in which the Financial Statements are denominated is Euro.

## 2 Oireachtas Grants

Income is accounted for on the basis of:

- ▶ Cash receipts from the Department of Jobs, Enterprise and Innovation;
- ▶ Payments made by the Department of Jobs, Enterprise and Innovation on behalf of the Commission.

## 3 Fixed Assets and Depreciation

The Labour Relations Commission adopts a minimum capitalisation threshold of €1,000. Fixed assets are stated at their cost less accumulated depreciation. Depreciation is charged at rates calculated to write off the cost of each asset over its expected useful life on a straight-line basis as follows:

Furniture, Fixtures and Fittings	10% Per Annum
Equipment	20% Per Annum

## 4 Capital Account

The capital account represents the unamortised amount of income used to purchase fixed assets and the value of assets transferred to the Commission.

## 5 Pensions

The Commission operates a non-contributory defined benefit pension scheme for one Officer which is funded annually on a pay-as-you-go basis from monies provided by the Department of Jobs, Enterprise and Innovation. Pension Scheme liabilities are measured on an actuarial basis using the projected unit method. Pension costs reflect pension benefits earned in the period. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable and offset by grants received in the year to discharge pension payments.

Actuarial gains or losses arising on scheme liabilities are reflected in the Statement of Total Recognised Gains and Losses and a corresponding adjustment is recognised in the amount recoverable from the Department of Jobs, Enterprise and Innovation.

Pension liabilities represent the present value of future pension payments earned to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from the Department of Jobs, Enterprise and Innovation.

## 6 Stocks

Stocks of publications and stationery have no net realisable value and are not regarded as assets.

# Income and Expenditure Account

For the year ended 31 December 2012

	Notes	€	2012 €	2011 €
<b>Income</b>				
Oireachtas grants	1		4,597,572	4,958,078
Net deferred funding for pensions	5(c)		142,000	137,000
			<u>4,739,572</u>	<u>5,095,078</u>
Transfer (to)/from Capital Account	2		40,628	51,722
			<u>4,780,200</u>	<u>5,146,800</u>
<b>Expenditure</b>				
Salaries and related costs	3	3,629,832		3,867,422
Travel and subsistence		261,543		284,624
Commission members' fees	6	92,340		92,340
Rental of meeting rooms		99,995		123,479
Stationery and office supplies		41,641		36,277
Postage, carriage and telephone		127,172		160,844
Entertainment and catering		3,936		11,047
Research		–		14,280
Utilities & Office maintenance		178,659		170,937
Audit fee		8,225		8,225
Consultancy and professional fees		50,653		77,957
Miscellaneous		33,301		37,554
Printing		12,989		26,640
Training		20,301		14,305
Pension costs		142,000		137,000
Refurbishment		23,412		–
Depreciation		62,975		86,917
Loss on disposal of fixed assets		–		591
			<u>4,788,974</u>	<u>5,150,439</u>
<b>Deficit for year</b>			(8,774)	(3,639)
Balance at 1st. January			92,901	96,540
Balance at 31st. December			<u>84,127</u>	<u>92,901</u>

The results for the year relate to continuing operations.

The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date:



Chief Executive  
Date:

# Statement of Total Recognised Gains & Losses

For the year ended 31 December 2012

	Notes	2012 €	2011 €
Deficit for the year		(8,774)	(3,639)
Experience gains on pension scheme liabilities		52,000	57,000
Changes in assumption underlying the present value of pension scheme liabilities		—	—
<b>Actuarial gain on pension liabilities</b>		52,000	57,000
<b>Adjustment to deferred pension funding</b>	5(e)	(52,000)	(57,000)
<b>Total recognised loss for the year</b>		<b>(8,774)</b>	<b>(3,639)</b>

The results for the year relate to continuing operations.  
The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date:



Chief Executive  
Date:

# Balance Sheet

As at 31 December 2012

	Notes	€	2012 €	2011 €
<b>Fixed Assets</b>	9		132,213	172,841
<b>Current Assets</b>				
Debtors and prepayments	10	107,633		100,056
Cash at bank and on hand	11	74,151		80,719
		<u>181,784</u>		<u>180,775</u>
<b>Current Liabilities</b>				
Creditors (amounts falling due within one year)	12	97,658		87,875
		<u>97,658</u>		<u>87,875</u>
<b>Net Current Assets</b>			<u>84,126</u>	<u>92,900</u>
<b>Total Assets less Current Liabilities before Pension</b>			216,339	265,741
Deferred pension funding	5(d)		1,470,000	1,380,000
Pension liabilities	5(b)		(1,470,000)	(1,380,000)
<b>Total Assets less Current Liabilities</b>			<u>216,339</u>	<u>265,741</u>
<b>Represented by:</b>				
Capital Account	2		132,212	172,840
Income and expenditure account			84,127	92,901
			<u>216,339</u>	<u>265,741</u>

The Statement of Accounting Policies and Notes 1 to 15 form part of these Financial Statements.



Chairperson  
Date:



Chief Executive  
Date:

# Notes to the Financial Statements

For the year ended 31 December 2012

	2012 €	2011 €
<b>1 Oireachtas Grants</b>		
The Department of Jobs, Enterprise and Innovation provided grant funding during the year as follows:		
Paid over to the Labour Relations Commission	889,000	1,009,000
Paid directly by the Department	3,708,572	3,949,078
	<u>4,597,572</u>	<u>4,958,078</u>
<b>2 Capital Account</b>		
Balance at 1st January	172,840	224,562
<b>Transfer from Income and Expenditure Account</b>		
Income applied to purchases of Fixed Assets	22,347	35,786
Net book value of assets disposed	-	(591)
Amortisation in line with depreciation	(62,975)	(86,917)
	<u>(40,628)</u>	<u>(51,722)</u>
Balance at 31st. December	<u>132,212</u>	<u>172,840</u>
<b>3 Salaries and Related Costs</b>		
All staff, other than the Chief Executive and the 13 Rights Commissioners, are Civil Servants assigned to the Commission by the Department of Jobs, Enterprise and Innovation.		
The charge of €3,629,832 (2011: €3,867,422) includes fees of €1,076,245 (2011: €1,284,719) payable to the 13 Rights Commissioners.		
The total number of staff employed at 31 December 2012 was 47 (2011 - 50) with a salary cost of €2,461,247 (2011: €2,582,994).		
<b>4 Chief Executive</b>		
The Chief Executive received salary payments of €168,000 (2011: €168,000). No bonus payments were made in the year. The Chief Executive received an amount of €12,322 (2011: €10,071) in respect of travel and subsistence. The Chief Executive pension entitlements do not extend beyond the standard entitlements in the model public sector defined benefit superannuation scheme.		

# Notes to the Financial Statements (continued)

For the year ended 31 December 2012

	2012 €	2011 €
<b>5 Pension</b>		
<b>(a) Analysis of total pension costs charged to Expenditure</b>		
Current service costs	66,000	66,000
Interest on Pension Scheme Liabilities	76,000	71,000
	<u>142,000</u>	<u>137,000</u>
Pension charge in year		
<b>(b) Movement in net pension liability during the financial year</b>		
Net pension liability at 1st. January	1,380,000	1,300,000
Current service cost	66,000	66,000
Interest cost	76,000	71,000
Actuarial gain	(52,000)	(57,000)
Pensions paid in the year	–	–
	<u>1,470,000</u>	<u>1,380,000</u>
Net pension liability at 31st. December		
<b>(c) Net deferred funding for pension</b>		
The Net Deferred Funding for Pensions recognized in Income and Expenditure was as follows:		
Funding Recoverable in respect of current year pension costs	142,000	137,000
State Grant applied to pay pensioners	0	0
	<u>142,000</u>	<u>137,000</u>

## (d) Deferred funding for pensions

The Commission recognises these amounts as an asset corresponding to the unfunded deferred liability for pension on the basis of the set of assumptions described above and a number of past events. These events include the statutory basis for the establishment of the pension schemes, and the policy and practice currently in place in relation to funding public service pensions including the annual estimates process.

The Commission has no evidence that this funding will not continue to meet such sums in accordance with current practices. The deferred funding asset for pension as at 31st. December 2012 amounted to €1,470,000 (2011: €1,380,000).

# Notes to the Financial Statements (continued)

For the year ended 31 December 2012

	2012	2011
<b>(e) History of defined benefit obligations</b>		
Defined benefit obligations	€1,470,000	€1,380,000
Experience losses/(gains) on scheme liabilities:		
Amount	€(52,000)	€(57,000)
Percentage of scheme liabilities	(4%)	(4%)
The cumulative actuarial loss recognised in the Statement Total		
Recognised Gains and Losses amounts to €280,000.		
<b>(f) General description of the scheme</b>		
<p>The pension scheme is a defined benefit salary pension arrangement with benefits and contributions defined by reference to current "model" public sector scheme regulations. The valuation used for FRS17 (Revised) disclosures has been based on a full actuarial valuation on February 15th, 2013 by a qualified independent actuary taking account of the requirements of the FRS in order to assess the scheme liabilities at 31st. December 2012.</p> <p>The principal actuarial assumptions were as follows:</p>		
Rate of increase in salaries	4%	4%
Rate of increase in pensions in payment	4%	4%
Discount rate	5.5%	5.5%
Inflation rate	2%	2%
Average life expectancy:		
Male aged 65	22	22
Female aged 65	25	25
<b>6 Commission Members' Fees</b>		
The annual fees payable to Commission Members are as follows:	€	€
Chairperson	20,520	20,520
Ordinary Members	71,820	71,820
	<u>92,340</u>	<u>92,340</u>
<b>7 Commission Members' Fee List</b>		<b>Fees €</b>
Breege O'Donoghue (Chairperson)		20,520
Gerard Barry		11,970
Iarla Duffy		11,970
Brendan McGinty		11,970
John Hennessy		11,970
Peter McLoone		11,970
Fergus Whelan		11,970
The amount paid to Commission Members in 2012 in respect of:		
Mileage expenses		3,861
Subsistence expenses		1,417
Total paid in 2012		<u>5,278</u>

# Notes to the Financial Statements (continued)

For the year ended 31 December 2012

	€	€	€
<b>8 Rent &amp; Rates</b>			
The Commission operates from offices provided on a rent free basis by the Office of Public Works (OPW).			
	<b>Furniture, Fixtures &amp; Fittings</b>	<b>Equipment</b>	<b>Total</b>
<b>9 Fixed Assets</b>			
<b>Cost</b>			
At 1 January 2012	437,109	631,966	1,069,075
Additions In Year	18,179	4,168	22,347
Disposals In Year	-	(51,635)	(51,635)
At 31 December 2012	<u>455,288</u>	<u>584,499</u>	<u>1,039,787</u>
<b>Accumulated Depreciation</b>			
At 1 January 2012	316,582	579,652	896,234
Charge for Year	40,235	22,740	62,975
Depreciation on Disposals	-	(51,635)	(51,635)
At 31 December 2012	<u>356,817</u>	<u>550,757</u>	<u>907,574</u>
<b>Net book values</b>			
At 31 December 2012	<u>98,471</u>	<u>33,742</u>	<u>132,213</u>
At 31 December 2011	<u>120,527</u>	<u>52,314</u>	<u>172,841</u>



# Notes to the Financial Statements (continued)

For the year ended 31 December 2012

	2012 €	2011 €
<b>10 Debtors &amp; Prepayments</b>		
Debtors	13	5,167
Prepayments	29,602	16,622
OPW	78,018	78,267
	<u>107,633</u>	<u>100,056</u>
<b>11 Bank &amp; Cash</b>		
Current account	72,583	79,181
Deposit account	1,333	1,333
Petty cash	235	205
	<u>74,151</u>	<u>80,719</u>
<b>12 Creditors</b>		
Accruals	89,433	79,650
Audit fee	8,225	8,225
	<u>97,658</u>	<u>87,875</u>

## 13 Related Party Transactions

The Labour Relations Commission is an independent statutory body under the aegis of the Department of Jobs, Enterprise and Innovation. The Commission received grant aid from the Department of Jobs, Enterprise and Innovation and, due to various material transactions, this Department is regarded as a related party.

The Board adopted procedures in accordance with the Code of Practice for the Governance of State Bodies in relation to the disclosure of interest by the Board members and these procedures have been adhered to in the year.

There were no transactions in the year in relation to the Board's activities in which the Board members had any beneficial interest.

# Notes to the Financial Statements (continued)

For the year ended 31 December 201

## 14 Going Concern

The Minister for Jobs, Enterprise and Innovation announced in July 2011 that he wished to reform the operation of the Employment Rights and Industrial Relations (ERIR) functions of the Department. The proposed reform is to streamline the State's five employment rights bodies: The Labour Relations Commission (LRC), National Employment Rights Authority (NERA), The Labour Court, Employment Appeals Tribunal (EAT) and Equality Tribunal.

As a result of the above it is intended by the Minister to cease the operation of the Labour Relations Commission as an independent statutory body including the role of Chief Executive and his Accounting Officer statutory responsibilities, its functions as an office of the Department through the establishment of a newly constituted Workplace Relations Commission.

As the functions, operations, staff, assets and liabilities of the Labour Relations Commission will be transferred to the new Workplace Relations Commission on a going concern basis, the accounts have been prepared on a going concern basis.

## 15 Approval of Financial Statements

These financial statements were approved by the Board on the .....





## Labour Relations Commission

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