

# Employment Appeals Tribunal

## Annual Report

### 2014

Presented to the Minister for Jobs, Enterprise and Innovation under  
Section 39 (18) of the Redundancy Payments Acts 1967 to 2007



An Binse Achomhairc Fostaíochta  
**Employment Appeals Tribunal**

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## **Employment Appeals Tribunal's Mission Statement**

‘To provide an inexpensive and relatively informal means for the adjudication of disputes on employment rights under the body of legislation that comes within the scope of the Tribunal’.

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[www.workplacerelations.ie](http://www.workplacerelations.ie)

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# Chairman's Foreword

Dear Minister

I am pleased to submit to you the 47<sup>th</sup> Annual Report of the Employment Appeals Tribunal for the year 2014, in accordance with Section 39 (18) of the Redundancy Payments Acts 1967 to 2007.

The Tribunal is an independent quasi-judicial body. Uniquely among all employment bodies, it exclusively deals with individual employment rights issues. It has jurisdiction under several pieces of legislation to deal with issues that arise either during the course of employment or on the termination of the employment relationship, the latter forming the most significant part of its work.

The disputes arising on the termination of the employment relationship are heard under the Unfair Dismissals Acts, the Redundancy Acts, the Minimum Notice and Terms of Employment Acts and the Protection of Employees (Employer's Insolvency) Acts. Complaints against the Decision of the Minister for Social Protection on employees' rights when an employer had been declared insolvent are also made directly to the Tribunal. Finally, claims in respect of holiday entitlements existing at the time of the termination of the employment relationship may be included with any other claim, appeal or complaint instituted before the Tribunal.

Being a body that deals mainly with termination of employment cases, the prevailing economic climate has a direct impact on the Tribunal's workload.

Between this year and last year as we approach our pre-recession equilibrium there is an almost negligible decrease of just six fewer cases being referred to the Tribunal in 2014. As opposed to the other categories of cases which are mostly decreasing, the number of Unfair Dismissal cases referred increased. These increased from 1,578 to 1,648 (70 cases over 2013). It must be noted that the increase in Unfair Dismissal cases is significant for the Tribunal in that it is these cases, being complex and contested, that require the greater use of resources. Likewise, the number of Minimum Notice cases referred increased to 817, an increase of 116 over the previous year.

The Tribunal disposed 4,403 cases in 2014 which represents a 17% decrease over the 2013 figure of 5,304. A major factor in this decrease was the reduced volume of straightforward Redundancy cases that could be disposed relatively speedily. This was a notably smaller decrease than that which occurred in 2013.

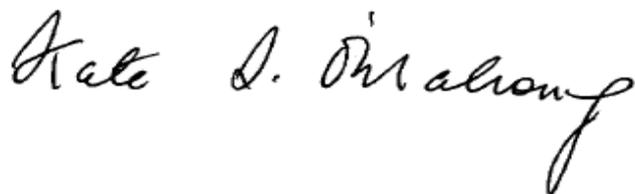
In its appellate jurisdiction the greater number of appeals received by the Tribunal deals with disputes occurring during the course of the employment relationship. The Tribunal has a dual jurisdiction under the Unfair Dismissals Acts in that, as well as hearing Unfair Dismissal cases at first instance, it also hears appeals of Rights Commissioners' recommendations on Unfair Dismissal claims. This dual jurisdiction of the Tribunal under the Unfair Dismissals Acts is a most attractive feature of the Acts which allows the parties the option of having their cases heard informally and in private with an appeal to the Tribunal or having it heard at first instance by the Tribunal in a more formal and public forum. The dispute in Unfair Dismissal cases is the most important right of employees and many wish to have their 'day in court'.

I thank the Minister and the Department for facilitating the work of the Tribunal through the provision of resources in 2014. I thank the members for their usual co-operation, commitment and dedication to the work of the Tribunal. I wish to offer a special word of thanks to member Mr Tony Kelly, who resigned during the course of 2014, for his valued contribution to the Tribunal and wish him well in his future pursuits.

A big 'thank you' to the Secretary, Ms Frances Gaynor, for her continued support and commitment to the work of the Tribunal. I would like in particular to express my gratitude to the secretaries and administrative staff, who despite limited resources, are continuing to maintain a high level of service. This is very much appreciated.

The Tribunal extends its condolences to the wife and family of the late Mr Leachlain S O'Catháin, a much valued and very committed member of the Tribunal, who died during 2014. Leachlain gave great service to the Tribunal over a long number of years and his professionalism and his love of the Irish language as well his courteous approach made him a most valuable member of the Tribunal. Ar dheis Dé go raibh a anam.

Yours sincerely

A handwritten signature in black ink that reads "Kate T. O'Mahony". The signature is written in a cursive, flowing style.

Kate T O'Mahony  
Chairman

## Members of the Tribunal

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

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

<sup>2</sup> During 2014 Mr Tony Kelly resigned & Mr Leachlain S O'Catháin passed away



## Tribunal News 2014

In 2014, the Employment Appeals Tribunal:

Received **4,162** cases

Disposed **4,403** cases

Held **1,284** sittings

### Comparison with 2013

Category	2013	2014
Cases Referred	4,168	4,162
Cases Disposed	5,304	4,403
Sittings	1,352	1,284

# Overview of Tribunal's Work in 2014

## Cases Referred

2013	2014	Difference
4,168	4,162	-0.1%

The number of cases received in 2014 was 0.1% lower than those received in 2013.

The number of appeals against the recommendations of the Rights Commissioners also saw a decrease. The number received in 2014 (695) was 18% lower than the 2013 figure of 845 and 49% lower than those received in 2012 (1,349). The level of Unfair Dismissal cases as a percentage of overall cases referred continued to rise in 2014.

The top 3 categories of cases referred were

- |   |     |
|---|-----|
| (1) Unfair Dismissal (UD)                     | 40% |
| (2) Redundancy (RP)                           | 22% |
| (3) Minimum Notice & Terms of Employment (MN) | 20% |

### Profile of Cases Referred

Legislation		% of Total referred in 2014	2014	2013
Redundancy Payment Acts 1967-2007	RP	22.20%	924	988
Minimum Notice and Terms of Employment Acts 1973-2005	MN	19.63%	817	701
Unfair Dismissals Acts 1977-2007	UD	39.60%	1,648	1,578
Protection of Employees (Employers' Insolvency) Acts 1984-2012	I	0.55%	23	9
Organisation of Working Time Act 1997	WT	4.45%	185	190
Maternity Protection Acts 1994 and 2004	M	0.05%	2	4
Payment of Wages Act 1991	PW	8.26%	344	433
Terms of Employment (Information) Acts 1994-2012	TE	3.89%	162	193
Parental Leave Acts 1998 and 2006	PL	0.07%	3	0
European Communities (Protection of Employment) Regulations, 2000	PE	0%	0	9
European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003	TU	1.30%	54	63
<b>TOTAL</b>		<b>100%</b>	<b>4,162</b>	<b>4,168</b>

## Cases Disposed

2013	2014	Difference
5,304	4,403	17%

The number of cases disposed decreased from 5,304 in 2013 to 4,403 in 2014, which was a **decrease** of 901 or 17%.

An increase or decrease in the number of cases disposed can be the result of a number of variables, primarily, the type of cases to be heard. As a result of the streamlining of cases by the Tribunal over the last number of years, the majority of cases now left to be heard are Unfair Dismissal cases. These cases by their nature can be more complicated and protracted which can mean that more time is allocated to a fewer number of cases, resulting in a decrease in the number of cases disposed.

The largest category of claims disposed in 2014 was unfair dismissal claims at 34%, followed by Redundancy Payment at 24% and Minimum Notice at 21%. This mirrors the top three categories of cases referred to the Tribunal, and also reflects the increasing level of Unfair Dismissal cases as a percentage of overall cases coming before the Tribunal.

### *Profile of cases disposed*

Legislation		% of Total Disposed in 2014	2014	2013
Redundancy Payment Acts 1967-2007	RP	24%	1059	1,425
Minimum Notice and Terms of Employment Acts 1973-2005	MN	21%	927	1,101
Unfair Dismissals Acts 1977-2007	UD	34%	1500	1,669
Protection of Employees (Employers' Insolvency) Acts 1984-2012	I	0.2%	9	25
Organisation of Working Time Act 1997	WT	7%	314	474
Maternity Protection Acts 1994 and 2004	M	0.1%	4	10
Payment of Wages Act 1991	PW	9.7%	428	396
Terms of Employment (Information) Acts 1994-2012	TE	4%	162	202
Parental Leave Acts 1998 and 2006	PL	0%	0	2
<b>TOTAL</b>		<b>100%</b>	<b>4,403</b>	<b>5,304</b>

## Cases referred and disposed in 2014

### Redundancy Payments Acts 1967 to 2007

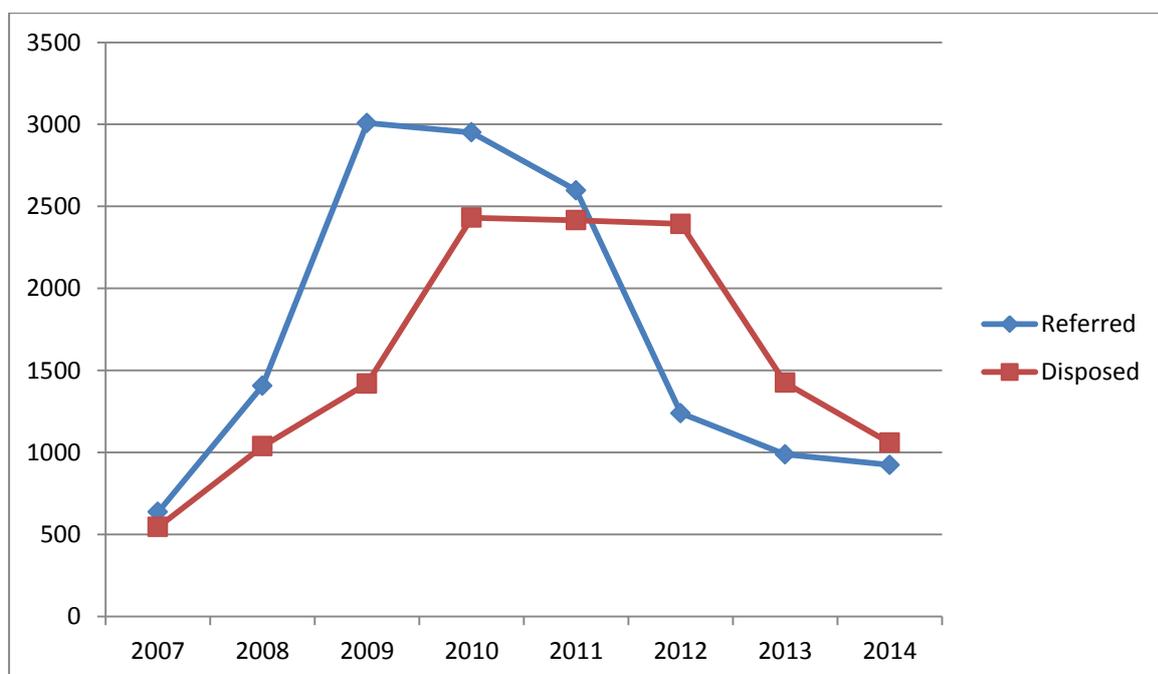
No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
924	330	214	95	420	1,059

For the third consecutive year, 2014 showed a reduction in the number of redundancy cases referred - 924 in 2014 compared to 988 in 2013 and 1,239 in 2012.

The number of cases disposed decreased to 1,059 in 2014 compared to 1,425 in 2013.

This is due to the continuing downward trend in the number of redundancy cases being referred to the Tribunal and the increasing number of those cases that are complex and contested.

### Redundancy Cases referred and disposed from 2007-2014



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

No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
817	249	229	88	361	927

The cases referred under the Minimum Notice and Terms of Employment Acts increased in 2014 compared to the 2013 figures, 701 in 2013 to 817 in 2014, an increase of 16.5%. Comparing the same period the number of cases disposed decreased by 15.8% from 1101 to 927.

**Unfair Dismissals Acts 1977 to 2007**

The Tribunal disposed 1,500 Unfair Dismissal cases during 2014. This is a 10.13% decrease over the year 2013 (1,669).

Unfair Dismissal referrals, on the other hand, increased by 4% over 2013 levels. The total number referred in 2014 was 1,648, which compares with 1,578 referred in 2013. The breakdown of UD cases received was 87% first instance, 11% appeals and 2% implementations. The percentage of direct claims has increased since 2013 but both the percentage of appeals and implementations have decreased for the same period.

Total Cases Referred	Total Disposed
1,648	1,500

**Unfair Dismissal First Instance**

No. referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
1,437	231	274	185	566	1,256

**Unfair Dismissal Appeals**

No. referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
173	65	43	20	82	210

### **Unfair Dismissal Implementations**

<b>No. referred</b>	<b>Upheld</b>	<b>Upset</b>	<b>Withdrawn</b>	<b>Total Disposed</b>
<b>38</b>	<b>21</b>	<b>1</b>	<b>12</b>	<b>34</b>

The Tribunal awarded compensation amounting to €4,960,032.91 in 282 UD cases. The average compensation awarded by the Tribunal was €17,588.77. In addition to compensation, re-instatement was ordered in one case and re-engagement was ordered in one case.

### **Profile of Unfair Dismissal Awards in 2014**

<b>Compensation Award €</b>	<b>Number</b>	<b>Compensation Award €</b>	<b>Number</b>
<b>0</b>	<b>4</b>	<b>5001-6000</b>	<b>3</b>
<b>1-250</b>	<b>3</b>	<b>6001-7000</b>	<b>9</b>
<b>251-500</b>	<b>4</b>	<b>7001-8000</b>	<b>13</b>
<b>501-750</b>	<b>1</b>	<b>8001-9000</b>	<b>2</b>
<b>751-1000</b>	<b>4</b>	<b>9001-10000</b>	<b>25</b>
<b>1001-2000</b>	<b>13</b>	<b>10001-15000</b>	<b>44</b>
<b>2001-3000</b>	<b>12</b>	<b>15001-20000</b>	<b>34</b>
<b>3001-4000</b>	<b>10</b>	<b>20001-25000</b>	<b>25</b>
<b>4001-5000</b>	<b>20</b>	<b>&gt;25001</b>	<b>56</b>

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

<b>No of Cases referred</b>	<b>Dismissed</b>	<b>Withdrawn During</b>	<b>Withdrawn Prior</b>	<b>Total Disposed</b>
<b>23</b>	<b>4</b>	<b>1</b>	<b>4</b>	<b>9</b>

These relate to the number of appeals against the decision of the Minister for Social Protection. Since 2010 this is an area where there had been continuing increases in the number of appeals referred to the Tribunal i.e. five in 2010; 48 in 2011 and 108 in 2012. While 2013 saw a decrease in the number of cases referred (down to nine appeals), in 2014 the number increased again to 23. The number of appeals disposed decreased from 25 in 2013 to nine in 2014, a percentage decrease of 64%

## Organisation of Working Time Act 1997

No of Cases referred	Allowed	Dismissed	Withdrawn during hearing	Withdrawn prior to hearing	Total Disposed
185	37	81	79	117	314

Cases under the Organisation of Working Time Act can only be brought to the Tribunal in conjunction with cases under other Acts. The Tribunal only deals with the holiday cases under the Act. The number of cases referred decreased again in 2014 to 185 from 190 in 2013. Over the same period the number of cases disposed by the Tribunal decreased from 474 to 314.

## Maternity Protection Acts 1994 and 2004

No of Cases referred	Upset	Withdrawn	Total Disposed
2	2	2	4

The number of appeals referred and disposed under the Maternity Protection Acts decreased in 2014 compared with 2013. Two appeals were referred in 2014 compared with 4 in 2013 and four appeals were disposed in 2014 compared with 10 in 2013.

## Payment of Wages Act 1991

No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
344	119	119	14	176	428

In 2014 the number of appeals referred under the Payment of Wages Act to the Tribunal decreased from 433 in 2013 to 344 in 2014. The number of Payment of Wages appeals disposed by the Tribunal increased from 396 in 2013 to 428 in 2014.

## Terms of Employment (Information) Acts 1994 to 2012

	No of Cases referred	Upheld	Upset	Varied	Withdrawn	Total Disposed
Appeal	119	47	9	7	69	132
Implementation	43	15	0	0	15	30
<b>Total</b>	<b>162</b>	<b>62</b>	<b>9</b>	<b>7</b>	<b>84</b>	<b>162</b>

The total number of appeals referred in 2014 under this legislation continued its downward trend which saw 162 being referred in 2014 compared with 193 in 2013 and 295 in 2012. The number of appeals disposed under this Act also decreased slightly from 202 in 2013 to 162 in 2014.

## Parental Leave Acts 1998 and 2006

No of Cases referred	No of Cases Disposed
3	0

Three appeals were referred to the Tribunal under this legislation in 2014.

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

No of Cases referred	Total Disposed
54	0

In 2014, 54 Appeals were received under the 2003 European Communities (Protection of Employees on Transfer of Undertakings) Regulations, compared to 63 in 2013.

**No cases – first instance or appeals – were referred or disposed in 2014 under the following Acts:**

- Adoptive Leave Acts 1995 and 2005
- Protection of Young Person (Employment) Act 1996
- Protection for Persons Reporting Child Abuse Act 1998
- European Communities (Protection of Employment) Regulations 2000
- Carer's Leave Act 2001
- Competition Acts 2002 to 2014
- Consumer Protection Acts 2007 and 2014
- Chemicals Acts 2008 and 2010

## Representation at hearings

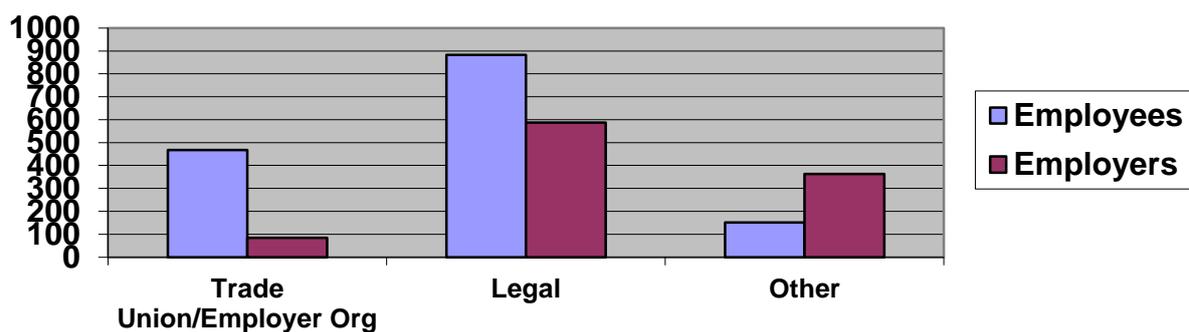
A party to a case may appear before the Tribunal and be heard in person, or be represented by: counsel or solicitor, a representative of a trade union, a representative of an employers' association or, with the leave of the Tribunal, by any other person. There is no requirement for representation in order to appear before the Tribunal.

Details of the representation under the various Acts or combination of Acts in 2014 are as follows:

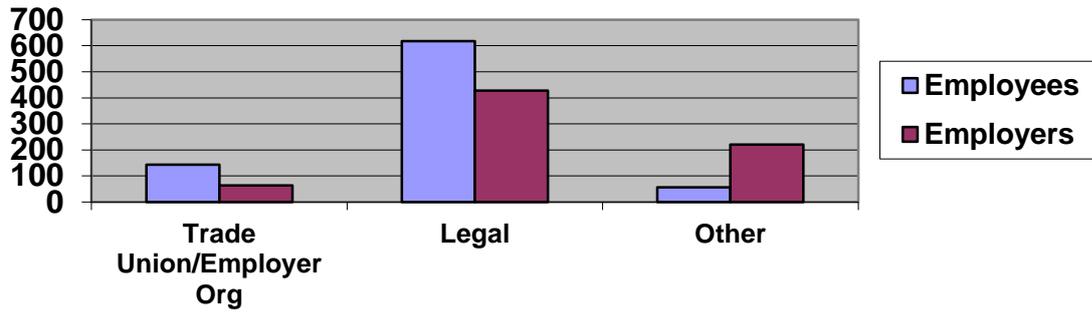
In 2014, 1,500 **employees** had representation at hearings before the Tribunal. Of these, 467 cases involved representation by Trade Unions, 882 by legal representatives and 151 by other persons. In this period, **employers** had representation in 1,035 cases. Of these 588 was by legal representatives, 363 by other persons and 84 by employers' associations.

It is notable that the highest level of representation is in unfair dismissal cases. In 2014 in such cases, 817 **employee** parties had representation (143 by trade unions, 618 by legal representatives and 56 by other persons) and 712 **employer** parties had representation (63 by employers' associations, 428 by legal representatives and 221 by other persons).

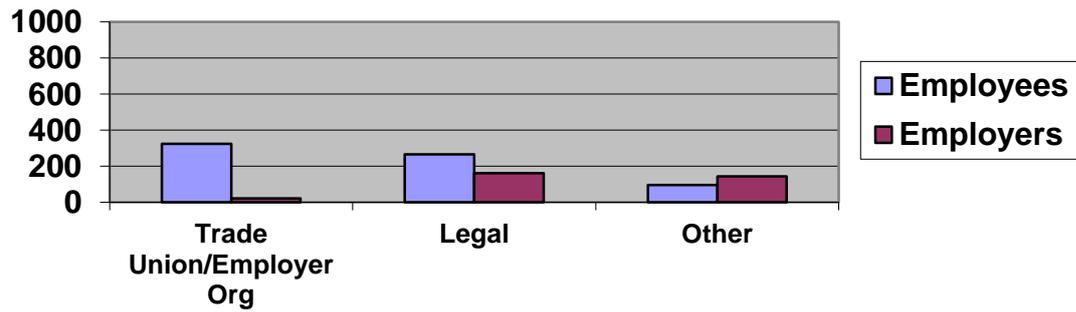
### Representation under all Acts in 2014



## Representation under Unfair Dismissal Acts in 2014



## Representation under all Acts excluding UD in 2014



## Other Activities

### **Workplace Relations reform process**

The Minister for Jobs, Enterprise and Innovation, Richard Bruton, T.D., has put in train a major programme of reform of the State's workplace relations bodies. 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.

The Workplace Relations Bill 2014, which will give legislative effect to the reforms, was published on 30 July 2014. The Bill completed Second Stage and Committee Stage in the Dáil in 2014, and passed all stages in the Oireachtas in May 2015. It is the Minister's intention to have the Bill enacted and commenced with a view to establishing the new workplace relations structures as early as possible in 2015.

The Bill provides for the amalgamation of the services of the Equality Tribunal, the National Employment Rights Authority, the Labour Relations Commission and the first instance functions of the Employment Appeals Tribunal under the remit of a new Workplace Relations Commission (the WRC). The appellate functions of the Tribunal will be assimilated into a reconfigured Labour Court.

Significant progress had been achieved by the end of 2014 in relation to the technological, structural, administrative and staffing changes required to underpin the Workplace Relations Reform Programme. These changes include the establishment of a Shared Workplace Relations Customer Services, a Shared Post-Registration Unit and an Early Resolution Service, the completion of the design of a Customer Relationship Management Solution, the transfer of the Equality Tribunal to the Department, the launch of an e-complaint facility and Workplace Relations website, the design of an Adjudicator training programme, the holding of an open recruitment competition for Adjudicators and the design and implementation of enhanced technologies and business processes.

## **Dissolution of the Tribunal**

During 2014, the Tribunal worked closely with the Department and the other Workplace Relations bodies to progress the Minister's reform agenda, the main impact of which will be, vis-à-vis the Tribunal, the winding down of its operations and its ultimate dissolution. Once the Bill has been enacted and commenced, all new workplace relations complaints and appeals will be made to the WRC and the Labour Court respectively. However, it is the Minister's policy that all cases already lodged with the Tribunal in advance of the commencement of the new legislation (termed 'legacy cases') will be finalised by the Tribunal itself. After the commencement of the legislation, the Tribunal will work to finalise all legacy cases and will, consequently, continue in existence for a period of time in parallel to the new structures. It is the Tribunal's intention to complete this work as efficiently as possible with a view to allowing its dissolution take place.

## **Postponements & Interpreters**

When cases are set down for hearing by the Tribunal, it is the Tribunal's aim that dates are notified to the parties on average five to six weeks in advance. Postponements may be granted only in exceptional circumstances. If a postponement is sought immediately, or within five working days of receiving the notice of hearing and the consent of the other party to the case has been obtained, it may be granted. If a postponement is sought later and/or without the consent of the other party, it is unlikely to be granted. This setting down system, designed primarily for the convenience of parties, renders some applications for postponements inevitable but outside the control of the Tribunal. Postponements, which are applied for too close to the date of hearing and are granted, result in the loss of scheduled Tribunal sitting time. This loss of time adversely affects the setting down system, increases costs, and results in further delays between the date of referral of a claim and the date of hearing for all claimants.

In 2014, the total number of postponement applications was 559 of which 333 were granted and 226 refused. This resulted in 84.5 lost sitting days. This compares with a total of 480 postponement applications for 2013 of which 122 were granted and 358 were refused.

During 2014 the Tribunal changed the process in relation to requesting a language interpreter at a hearing. Instead of making an application before a sitting division of the Tribunal in advance of the hearing date an application could be made informally by writing to or emailing the Tribunal secretariat. A variety of language interpretation requests were made during 2014, including Polish, Russian, and Lithuanian.

## **Accessibility**

The Tribunal's offices at Davitt House in Dublin are fully accessible and one of the rooms is fitted with a hearing loop system. The Tribunal, on request, will take all practicable steps to provide special facilities for a person with disabilities and/or other special needs. Parties are asked to notify the Tribunal in advance of the hearing of their requirements.

The Tribunal accommodated three requests for sign language facilities at hearings in 2014 compared with five in 2013.

## **Appeals to the Higher Courts**

Determinations of the Tribunal, under some Acts, may be appealed on a point of law to the High Court. In 2014, the Tribunal was notified of three High Court cases, which include both Judicial Reviews and cases referred on a point of law, in which they were a named party.

Determinations by the Tribunal in cases under the Unfair Dismissals Acts may be appealed to the Circuit Court within six weeks of the date on which the Determinations are communicated to the parties. The procedure for appealing Tribunal Determinations is set out in Circuit Court Rules ([www.courts.ie](http://www.courts.ie)). The regulations also provide a means for the Tribunal to be informed of the referral and result of cases appealed to the Circuit Court. From information supplied approximately 151 cases (both appeals and enforcements) progressed to the Circuit Court.

## **European Association of Labour Court Judges**

The Tribunal is a member of the European Association of Labour Court Judges. This body provides the forum for building upon the working relationship that already exists between employment rights bodies of Europe. It also develops a greater understanding of the statutory employment rights conferred on workers in Europe and the various systems for the vindication of those rights. A representative of the Tribunal participated in the 18<sup>th</sup> Annual conference co-ordinated by the Association on "Judgments from the ECJ: appreciations, challenges and possible future development through the eyes of European judges" in June 2014 in Ljubljana. In light of the volume of EU employment law & Directives, Tribunal representation at these meetings ensures Members keep abreast of developments in the law at a European level.

## **Attending at Tribunal Hearings**

Tribunal hearings are held in public, in accordance with statute. The weekly schedule of Tribunal hearings is now published on the website [www.workplacerelations.ie](http://www.workplacerelations.ie). In addition to the parties to a particular case, Tribunal hearings are regularly attended by those whose cases may be pending who wish to see in advance the procedure of hearings, members of the public with an interest in employment rights, voluntary sector groups (in particular groups from the Citizens' Information Centres), and from community law groups.

The Tribunal receives requests to attend from third-level and postgraduate students. These requests generally focus on employment rights legislation and the role of the Tribunal. To facilitate groups it is advisable for parties to contact the Tribunal secretariat in advance to ensure accommodation.

## **Determinations of the Tribunal**

The Tribunal maintains a public Register of its Decisions and Determinations, in accordance with statute. The Register is open for inspection, free of charge, by any member of the public during normal business hours at its offices in Davitt House, 65A Adelaide Road, Dublin 2. Determinations are also available on the website.

## **Archiving of Files**

The Employment Appeals Tribunal is a scheduled body under the National Archives Act 1986. In general, records, which are more than 30 years old and held by scheduled bodies, must be transferred to the National Archives and be made available for inspection by the public. Following an inspection by officers of the National Archives on 6<sup>th</sup> April 2011, the National Archives have authorised, pursuant to section 7(3) of the National Archives Act 1986, that records referred to in the certificate (i.e. appeals under the relevant legislation) do not warrant preservation by the National Archives and have authorised their disposal in accordance with section 7(5) of the Act. The chairman of the Employment Appeals Tribunal has directed that case files completed 12 years ago or earlier can be destroyed annually.

## **Customer Service and Charter**

The Tribunal is committed to quality customer service and to delivering a service, having regard to available resources, that is both effective and efficient, and which at all times is provided in a courteous manner. The Tribunal respects the rights of all parties to a case. A copy of our Customer Service Charter is available on request. Comments regarding our

service are welcome and may be sent to the Employment Appeals Tribunal, Davitt House, 65A Adelaide Road, Dublin 2, by email to: [eat@djei.ie](mailto:eat@djei.ie), by phone at (01) 6313006 or by fax at (01) 6313266.

A description of the services provided by the Tribunal and how to avail of them, relevant publications and frequently asked questions are all available on the website. An information booklet ***Guidelines for Employees, Employers and Practitioners appearing before the Employment Appeals Tribunal*** is also available on the website.

### **Freedom of Information Act 2014**

The Freedom of Information Act 2014, which was signed by the President on Tuesday, 14 October 2014, has been extended to cover all public bodies including the Employment Appeals Tribunal. Section 1(3)(b) of the Act states that it shall come into operation *‘in respect of any body or other person that, immediately prior to enactment, was not a public body within the meaning of the Act of 1997, but is a public body within the meaning of this Act, 6 months from enactment or on such later day, not later than 12 months from enactment, as the Minister may by order appoint.’* The Employment Appeal Tribunal was not covered by the Act of 1997; therefore the Freedom of Information Act 2014 applies to the Tribunal from 14 April 2015. From 14 April 2015, any requests under the Freedom of Information legislation can be made in writing or by e-mail to the Tribunal directly.

## Appendix 1: Cases Received in 2014

	First Instance	Appeals		Implementation	Total
		By Employees	By Employers		
<b>Redundancy</b>	<b>924</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>924</b>
<b>Minimum Notice and Terms of Employment</b>	<b>817</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>817</b>
<b>Unfair Dismissal</b>	<b>1,437</b>	<b>110</b>	<b>63</b>	<b>38</b>	<b>1,648</b>
<b>Protection of Employees (Employers' Insolvency)</b>	<b>23</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23</b>
<b>Organisation of Working Time</b>	<b>185</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>185</b>
<b>Maternity Protection</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>Payment of Wages</b>	<b>0</b>	<b>223</b>	<b>121</b>	<b>0</b>	<b>344</b>
<b>Terms of Employment (Information)</b>	<b>0</b>	<b>67</b>	<b>52</b>	<b>43</b>	<b>162</b>
<b>Parental Leave</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>3</b>
<b>European Communities (Transfer of Undertakings)</b>	<b>0</b>	<b>41</b>	<b>13</b>	<b>0</b>	<b>54</b>
<b>TOTAL</b>	<b>3,386</b>	<b>445</b>	<b>250</b>	<b>81</b>	<b>4,162</b>

## Appendix 2: Cases Disposed in 2014

The Tribunal disposed 4,403 cases in 2014 which represents a 17% decrease over cases disposed in 2013. The number of cases disposed reflects the types of cases the Tribunal is currently processing.

### First Instance

	Allowed	Dismissed	Withdrawn during Hearing	Withdrawn prior to hearing	Total
Redundancy	330	214	95	420	1,059
Minimum Notice and Terms of Employment	249	229	88	361	927
Unfair Dismissal	231	274	185	566	1,256
Protection of Employees (Employers' Insolvency)	0	4	1	4	9
Organisation of Working Time	37	81	79	117	314
<b>TOTAL</b>	<b>847</b>	<b>802</b>	<b>448</b>	<b>1,468</b>	<b>3,565</b>

### Appeals

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	65	43	20	82	210
Maternity Protection	0	2	0	2	4
Payment of Wages	119	119	14	176	428
Terms of Employment (Information)	47	9	7	69	132
<b>TOTAL</b>	<b>231</b>	<b>173</b>	<b>41</b>	<b>329</b>	<b>774</b>

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

	Upheld	Upset	Varied	Withdrawn	Total
Employees	146	46	17	133	342
Employers	85	127	24	196	432
<b>TOTAL</b>	<b>231</b>	<b>173</b>	<b>41</b>	<b>329</b>	<b>774</b>

### Implementations

	Upheld	Upset	Varied	Withdrawn	Total
Unfair Dismissal	21	1	0	12	34
Terms of Employment (Information)	15	0	0	15	30
<b>TOTAL</b>	<b>36</b>	<b>1</b>	<b>0</b>	<b>27</b>	<b>64</b>

## Appendix 3: History and Composition of the Tribunal

The Redundancy Payments Act of 1967, which established the Redundancy Appeals Tribunal, was enacted on 18 December 1967. The creation of the Tribunal was considered an innovative move by the State in the area of employment rights. It was set up to ensure that a worker's statutory entitlement to redundancy was given the force as well as the full protection of the law. The Act thus established a forum within which the ordinary 'man in the street' could refer a case to have those rights vindicated. Apart from its continuing responsibility to hear appeals under the Redundancy Payments Acts, today, under its revised title, the Employment Appeals Tribunal now deals with cases under eighteen pieces of legislation. These range from cases for Unfair Dismissal to Minimum Notice, as well as hearing appeals from decisions and recommendations of the Rights Commissioner Service of the Labour Relations Commission.

The inaugural meeting of the first Redundancy Appeals Tribunal took place on 22 March 1968, under the guardianship and protection of the first sixteen Members appointed to the Tribunal. The first Chairman, Mr John Gleeson, led the Tribunal. It heard its first appeal on 18 April 1968. Between that date and 31 December 1968, the Tribunal sat on 75 days and heard a total of 133 appeals. 83 of those appeals were heard in Dublin, and the remaining 50 were heard at various other venues around the country. From the start it was clear that the Tribunal would have a countrywide and therefore a national dimension to its work. Today, the Employment Appeals Tribunal continues the work started over 40 years ago. Indeed, instead of its early base of 16 members, in 2014 there are now 121 members of the Tribunal.

### ➤ **2014 Composition of the Tribunal**

At the beginning of 2014 the Tribunal consisted of a Chairman, 48 Vice-Chairmen and a panel of 76 other members, nominated by the Irish Congress of Trade Unions and by organisations representative of employers. During 2014 one member resigned and one passed away.

The Tribunal acts in divisions, each consisting of either the chairman or a vice-chairman and two other members, one drawn from the employers' side of the panel and one from the trade union side. A vice-chairman of the Tribunal, when acting as chairman (at the request of the Minister or the chairman) has all the powers of the chairman. Appeals are heard in public

unless the Tribunal, on the application of either party and in the exercise of its discretion, decides that the hearing be heard in private.

➤ **The Secretariat**

The Secretariat is responsible for the administration of cases referred to the Tribunal under various employment rights legislation. Its role is to provide administrative support to the Tribunal. Civil Servants, assigned by the Department of Jobs, Enterprise and Innovation, comprise the staff of the Secretariat of the Tribunal. The Secretary of the Tribunal is Ms Frances Gaynor.

## Appendix 4: Hearings and Sittings

The unprecedented growth in the referral of cases from 2008 had impacted on the waiting period for a hearing with the Tribunal. However with the slowing down of the rate of referral of cases since 2013, the average waiting period has also decreased. The national average waiting period in 2014 was 68 weeks, down from 77 weeks during 2013.

However, the waiting period does not tell the full story. Although the EAT conducts hearings in about 27 locations across the State, where the number of cases is relatively small, the Tribunal may wait until a sufficient number of cases are on hand before hearings in certain locations can be listed, so as to maximise value for money in relation to the costs of hearings outside the Tribunal Head Office. Once a critical mass of hearings is assembled, five days of hearings in a single location can reduce the waiting time in the area concerned significantly. The waiting time is also impacted upon by the number of postponement or adjournment applications received by the Tribunal from either party to a hearing.

In 2014 the Tribunal sat on 239 days and hearings were held at 27 different venues throughout the country to suit appellants and respondents.

The number of divisions sitting per day varied, with 7-8 being the usual number of divisions sitting per day. The following tables sets out the venues per Province.

Leinster	Munster	Connaught	Ulster
Carlow	Clonmel	Carrick on Shannon	Cavan
Dublin	Cork	Castlebar	Donegal
Kilkenny	Dungarvan	Galway	Letterkenny
Longford	Ennis	Roscommon	Monaghan
Mullingar	Killarney	Sligo	
Portlaoise	Limerick		
Trim	Nenagh		
Tullamore	Thurles		
Wexford	Waterford		

## Appendix 5: Overview of Legislation

The Employment Appeals Tribunal is a statutory body established to deal with and adjudicate on employment disputes under the following statutes: *(The information given below is intended as a guide only and does not purport to be a legal interpretation.)*

### **Redundancy Payments Acts 1967 to 2007**

Under the Redundancy Payments Act 2003 an eligible employee is entitled to two weeks statutory redundancy payment for every year of service together with a bonus week. The majority of the cases disposed by the Tribunal under these Acts were cases by employees for redundancy payments on the grounds that they were dismissed by reason of redundancy. Other areas of dispute relate to questions as to whether alternative employment offered was suitable; associated companies; change of ownership of trade or business; continuity of employment; lay-off and short-time; calculation of amount of lump sums and normal weekly remuneration.

### **Minimum Notice and Terms of Employment Acts 1973 to 2005**

In 2003, the Protection of Employees (Employers' Insolvency) Acts 1984 and 2001 were amended to allow cases for statutory notice entitlements, where the employer is insolvent, to be made directly to the Insolvency Payments Unit of the Department of Social Protection for payment from the Social Insurance Fund, without recourse to the Tribunal. The Civil Service Regulation (Amendment) Act 2005 extends the provisions of the Minimum Notice and Terms of Employment to civil servants as of 4 July 2006.

### **Unfair Dismissals Acts 1977 to 2007**

The Unfair Dismissals Act 1977 was a major development in Irish employment law. It provides remedies for employees who are found by the Tribunal to have been unfairly dismissed from their employment. The remedies under the Act are: re-instatement, re-engagement or compensation up to a maximum of 104 weeks' remuneration. Cases for unfair dismissal may be initiated with the Tribunal or with a Rights Commissioner. A case under this Act may only be brought to the Tribunal if one of the parties objects in writing to a Rights Commissioner hearing the claim.

The Unfair Dismissals Acts now apply to most state employees including most civil servants. The exclusion from the Acts for most state employees was removed by the Civil Service Regulation (Amendment) Act 2005 and the relevant sections became operational on 4 July 2006.

Where a case for unfair dismissal is initiated with a Rights Commissioner, either party may appeal the Rights Commissioner's Recommendation to the Tribunal within six weeks of the date the Recommendation was communicated to the parties concerned.

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

Financial entitlements of employees who lose their jobs as a result of their employers' insolvency are substantially protected under the 1984 Act as amended. Cases under the Act as amended, take the form of complaints against Decisions of the Minister for Social Protection to refuse all or part of a claim for payment in respect of arrears of wages, arrears of sick pay, arrears of holiday pay or payment of unpaid contributions to occupational pension schemes. Where a doubt exists as to whether a case is allowable or not, the Minister may refer the case to the Tribunal for a Decision. Such claims are paid out of the Social Insurance Fund.

The European Communities (Protection of Employees (Employers' Insolvency) Regulations 2005, S.I. No. 630 of 2005 has extended the Insolvency Payments Scheme to include all awards made by the Tribunal<sup>3</sup>. This statutory instrument also extends cover to employees who are employed in Ireland by an employer who has become insolvent under the laws, regulations and administrative procedures of another member state.

### **Organisation of Working Time Act 1997**

Section 39 of the Organisation of Working Time Act, provides for a solution to difficulties encountered with the enforcement of Decisions of the Employment Appeals Tribunal and other specified bodies under the legislation administered by it, where details relating to an employer are incorrectly set out in a Tribunal Decision. Section 39 allows an employee, where an employer is inadvertently incorrectly identified before the Tribunal, to apply for leave to institute proceedings against the proposed employer, notwithstanding that the time line for instituting such cases might have expired. Section 40 allows an employee or his/her trade union to include a holiday complaint along with any proceedings being taken to the Tribunal in respect of any legislation coming within its jurisdiction.

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<sup>3</sup> Awards made by the Tribunal under the Redundancy Payments Acts are also paid out of the Social Insurance Fund.

### **Maternity Protection Acts 1994 and 2004**

Disputes concerning entitlements under the Act must be brought to a Rights Commissioner in the first instance and then to the Tribunal by way of an appeal against the Rights Commissioner's Recommendation.

### **Payment of Wages Act 1991**

The Act establishes a range of rights for employees relating to the payment of their wages: a right to a negotiable mode of wage payment, a right to a written statement of wages and deductions, and protection against unlawful deductions from wages. The Act allows for an appeal to be made to the Tribunal against the Decision of a Rights Commissioner on complaints in relation to an unlawful deduction from wages.

### **Terms of Employment (Information) Acts 1994 to 2012**

The main purpose of this Act is to impose an obligation on employers to provide a written statement to employees setting out certain particulars of the employees' terms of employment.

A dispute under the Act must first be brought before a Rights Commissioner. It may then be brought before the Tribunal by way of an appeal against the Recommendation of the Rights Commissioner in the matter

### **Adoptive Leave Acts 1995 and 2005**

The purpose of this Act is to entitle female employees, and in certain circumstances male employees, to employment leave for the purpose of child adoption. A dispute under the Act must first be brought before a Rights Commissioner. It may then be appealed to the Tribunal by way of an appeal against the Decision of the Rights Commissioner in the matter.

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

This Act provides, that the parent or guardian of a child or a young person, may present a complaint to a Rights Commissioner that an employer has contravened section 13 (preservation of existing rates of pay and conditions) or section 17 (refusal to co-operate with the employer in breaching the Act). An employer or an employee may appeal to the Tribunal from a Recommendation of a Rights Commissioner.

### **Parental Leave Acts 1998 and 2006**

The Parental Leave Act 1998 came into operation on 3 December 1998. The Act provides for an entitlement for men and women to avail of unpaid leave from employment to enable them to take care of their young children, and for limited paid leave (*force majeure* leave) to enable employees to deal with family emergencies resulting from injury or illness of certain family members.

Employees and employers are entitled to refer a dispute in relation to an entitlement under the Act to a Rights Commissioner. A reference to the Rights Commissioner concerning a dispute under the Act must be made in writing within 6 months of the occurrence of the dispute. However, disputes concerning the dismissal of an employee are dealt with under the provisions of the Unfair Dismissals Acts 1977 to 2007.

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

The purpose of this Act is to provide protection from penalisation by their employers of persons who report child abuse “reasonably and in good faith” to designated officers of health boards or any member of the Garda Síochána. The avenue of redress for such a person is by way of complaint to a Rights Commissioner. There is also provision for an appeal from the Rights Commissioner by either party, to the Employment Appeals Tribunal. The Act came into operation on 23 January 1999.

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

These Regulations amend the Protection of Employment Act 1977, to provide for representation of, and consultation with employees in the absence of a trade union, staff association or excepted body; to provide for a right of complaint to a Rights Commissioner where an employer contravenes section 9 or 10 (information and consultation of employees) and to provide for increases in the levels of fines for offences.

There is a provision for the Rights Commissioner’s Decision to be appealed to the Tribunal within six weeks of the date that the Decision was communicated to the parties. Where a Rights Commissioner’s Decision has not been carried out a case for implementation may be referred to the Tribunal after the six-week period.

### **Carer's Leave Act 2001**

This Act provides for the entitlement of employees to avail of unpaid carer's leave from their employment, to enable them to care personally for persons who have been certified by the Department of Social Protection as requiring full time care and attention. The Decision of the Rights Commissioner may be appealed to the Tribunal within 4 weeks of the date the Decision was communicated to the parties. This time limit may be extended for a further period, not exceeding six weeks, if the Tribunal considers it reasonable to do so, having regard to all the circumstances.

### **Competition Acts 2002 to 2014**

The Competition Acts 2002-2014 consolidated the existing competition and mergers legislation. Section 50 (3) of the Act provides protection for an employee, from penalisation by the employer, where the employee acting reasonably and in good faith, reports a breach of the Act. Schedule 3 of the Act sets out the avenue for redress, which is by complaint to a Rights Commissioner and an appeal lies to the Employment Appeals Tribunal.

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

These came into force on the 11 April 2003. They revoke and replace the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations 1980, and the European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations 2000. They provide for representation of, and consultation with, employees in the absence of a trade union, staff association or excepted body. They also provide for a right of complaint to a Rights Commissioner, where an employer contravenes Regulation 8 (the information and consultation provision) and they provide for increases in the levels of fines for offences.

There is a provision for the Rights Commissioner's Decision to be appealed to the Tribunal within six weeks of the date that the Decision was communicated to the parties. Where a Rights Commissioner's decision or a determination of the Tribunal has not been carried out, a claim for implementation may be made after a six-week period to the Circuit Court.

### **Consumer Protection Acts 2007 and 2014**

Section 87 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

### **Chemicals Acts 2008 and 2010**

Section 26 of this Act provides protection of employees from penalisation for reporting breaches of the Act.

## Appendix 6: Glossary of Terms

<b>Claimant</b>	the person bringing the case.
<b>Respondent</b>	the person or company against whom the case is brought
<b>Appellant</b>	the person or company appealing a decision.
<b>Division</b>	the Tribunal acts in divisions, each consisting of either the chairman or a vice chairman and two other members, one drawn from the employers' side of the panel and one from the trade unions' side; a vice chairman of the Tribunal, when acting as chairman (at the request of the Minister or chairman) has all the powers of the chairman.
<b>Withdrawn</b>	an application can only be withdrawn by the claimant or the claimant's representative.
<b>Settlement</b>	an agreement reached by the parties; this may happen before the hearing or at any time during the hearing; a determination will not issue in this case.
<b>Liberty to re-enter</b>	where the parties having reached agreement, the claim or appeal is withdrawn and a strict time limit is given by a division to re-enter the claim or appeal.
<b>Disposed</b>	cases that are withdrawn prior to a hearing, withdrawn during a hearing or on which a determination issues.
<b>Representation</b>	a party may appear without representation, or be represented by counsel or solicitor, or by a representative of a trade union or an employers' organisation or with the leave of the Tribunal by any other person.
<b>Determination</b>	a determination is the decision of the Tribunal recorded in a document signed by the chairman and sealed with the seal of the Tribunal.
<b>Register</b>	determinations of the Tribunal are entered in a register, which is open for inspection by any person without charge during normal hours at the offices of the secretariat of the Tribunal.

This Glossary of the more common terms used in relation to proceedings before the Tribunal is not exhaustive or intended to be a complete glossary. It is the 'ordinary man's' guide to those common terms and is intended to assist understanding of the terminology.

## Appendix 7: Advisory and Information Bodies

### Department of Jobs, Enterprise and Innovation

23 Kildare Street  
Dublin 2

**Tel:** +353 1 6312121 or LoCall 1890220222\*  
[www.djei.ie](http://www.djei.ie)

### The Labour Court

Tom Johnson House  
Haddington Road  
Dublin 4

**Tel:** 01 6136666  
[www.workplacerelations.ie](http://www.workplacerelations.ie)

### Workplace Relations Customer Service

Government Buildings  
O'Brien Road  
Carlow

**Tel:** +353 59 9178990 or LoCall 1890808090\*  
[www.workplacerelations.ie](http://www.workplacerelations.ie)

### National Employments Rights Authority

Government Buildings  
O'Brien Road  
Carlow

**Tel:** +353 59 9178990 or LoCall 1890808090\*  
[www.workplacerelations.ie](http://www.workplacerelations.ie)

### Redundancy Section

Department of Social Protection  
Block C  
The Earlsfort Centre  
Lower Hatch Street  
Dublin 2

**Tel:** 1890 800 699  
[www.welfare.ie](http://www.welfare.ie)

### Citizens Information

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

### Rights Commissioners

Tom Johnson House,  
Haddington Road, Dublin 4, Ireland  
Telephone: (01) 613 6700

**Tel:** Lo call: 1890 220 227 (outside (01) area)\*  
[www.workplacerelations.ie](http://www.workplacerelations.ie)

### The Equality Tribunal

Davitt House  
65A Adelaide Road  
Dublin 2

**Tel:** 01-6136800  
**Email:** [info@equalitytribunal.ie](mailto:info@equalitytribunal.ie)  
[www.workplacerelations.ie](http://www.workplacerelations.ie)

### The Courts Service

15 - 24 Phoenix Street North  
Smithfield  
Dublin 7

**Tel:** + 353 1 888 6000  
[www.courts.ie](http://www.courts.ie)

### The Companies Registration Office

Parnell House  
14 Parnell Square  
Dublin 1

**Tel:** +353 1 8045200  
[www.cro.ie](http://www.cro.ie)

### Insolvency Section

Department of Social Protection  
Block C  
The Earlsfort Centre  
Lower Hatch Street  
Dublin 2

**Tel:** 1890 800 699\*  
[www.welfare.ie](http://www.welfare.ie)

### Revenue Commissioners

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

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