

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

## **Appeal and Implementation Procedures**

### **(A) Appeal Procedures**

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

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

#### **Unfair Dismissals**

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

#### **Organisation of Working Time**

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

#### **Protection for Persons Reporting Child Abuse**

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

### **(B) Implementation Procedures**

#### **Redundancy Payments**

If you are now due a redundancy payment from your former employer on foot of a Tribunal determination, you should pursue the matter formally in writing to your employer requesting the payment in question. Form RP50 (enclosed) may be used for this purpose. If you are aware that your former employer is no longer trading and to pursue your claim you can return a completed RP50 with a copy of your Tribunal determination to Redundancy Section, Department of Social Protection, Block C, Earlsfort Centre, Lower Hatch Street, Dublin 2. For information regarding the Redundancy Payments Scheme please contact Redundancy Section, Department of Social Protection at Lo call No: 1890 800 699.

### **Minimum Notice**

If you have been awarded compensation by the Tribunal in the matter of minimum notice, you should apply to your former employer in writing for payment of the sum due. Under the existing law, compensation awarded by the Tribunal is recoverable as a simple contract debt in a court of competent jurisdiction. This will normally be the appropriate District Court (if the amount of the award is below €6,348.69) or the appropriate Circuit Court (if the amount of the award is between €6,348.69 and €38,092.14). Alternatively, proceedings for recovery may be instituted and maintained on behalf of an employee by the Minister for Enterprise, Jobs and Innovation or the employee's trade union. If the matter has not been settled to your satisfaction within a reasonable time, please contact National Employment Rights Authority (NERA) at Lo call No: 1890 80 80 90 for further information.

### **Unfair Dismissals**

On receipt of a favourable determination, you should communicate with your employer about implementation. An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks of the date on which the determination was communicated to the parties. If an employer does not carry out, within the said 6 week period, the terms specified in a determination of the Tribunal (which has not been appealed), the employee concerned or the Minister, on behalf of the employee, may apply to the Circuit Court for an order directing the employer to implement the Tribunal determination. In such circumstances, the Circuit Court is empowered, without rehearing the case, to issue an order directing the employer to implement the terms of the Tribunal determination. Alternatively, in cases where the Tribunal determination directed the re-instatement or re-engagement of the employee, the Circuit Court may, if it considers it appropriate, alter that determination to make an order for financial compensation to the employees concerned.

### **Payment of Wages**

In the event that you have received a favourable determination by Tribunal under the Payment of Wages Act, 1991, you should request your employer, in writing, to implement the terms of the Tribunal's determination. If your employer fails to do so within the time specified by the Tribunal or, where no such time is specified, within six weeks of the determination, you may seek to have the determination enforced in the same manner as an order of the Circuit Court. An employer has the right to appeal a determination of the Tribunal to the High Court on a point of law, within 21 days of receipt of the determination. If the employer exercises this right, you will have to await the outcome of the appeal before commencing enforcement proceedings.

### **Organisation of Working Time**

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

### **Terms of Employment Information**

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

### **Insolvency Payments**

In the event that an employer is insolvent for the purposes of the Insolvency Payments Acts, certain awards made by the Tribunal to employees may be payable,

subject to statutory limits regarding the number of weeks and the weekly rate of pay. Also, it is essential that the award/determination shall have been made not earlier than the commencement of the relevant period, which is defined under the acts as the period of eighteen months preceding the relevant date. The relevant date may vary according to the circumstances of each case and may be the date of insolvency or the date of the relevant decision/determination (whichever is the later) or the date of termination of employment. The claim should be made on the relevant statutory form through the employer's representative. Further information is available from NERA (details above).

### **Transfer of Undertaking Regulations**

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

### **Maternity Protection**

An employer should carry out a determination of the Employment Appeals Tribunal within four weeks, or any other date so specified by the Tribunal, unless the matter is under appeal. In the event that you have obtained a favourable determination and your employer has failed to comply with its terms, and the matter is not under appeal, proceedings may be instituted in the Circuit Court either by yourself, or the Minister for Justice, Equality and Law Reform, on your behalf, if it is considered appropriate, for redress under the Act.

### **Adoptive & Parental Leave**

An employer, who is not appealing a determination to the High Court on a point of law, should comply with its terms without undue delay. The employee, or Minister for Justice, Equality and Law Reform on behalf of the employee, may institute proceedings in the Circuit Court for redress under the Acts against an employer who has not complied with the terms of the Tribunal's determination.

### **Protection of Young Persons**

An employer should carry out a determination of the Employment Appeals Tribunal within 6 weeks, unless the determination is under appeal in the High Court. If the employer fails to implement such a determination, the parent or guardian of the employee concerned, the trade union of the young person concerned, or the minister for Enterprise, Jobs and Innovation on behalf of the employee, may apply to the District Court for an order directing the employer to carry out the determination.

### **Protections of Persons Reporting Child Abuse**

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