



Number 11 of 2001

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2001

REVISED

Updated to 31 December 2011

This Revised Act is an administrative consolidation of the *Industrial Relations (Amendment) Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Nurses and Midwives Act 2011* (41/2011), enacted 21 December 2011, and all statutory instruments up to and including *Medical Council - Rules for the Maintenance of Professional Competence (No. 2)* (S.I. No. 741 of 2011), made 14 December 2011, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Industrial Relations Acts 1946 to 2004: Insofar as it relates to them, this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 17(2)). The Acts in this group are:

- *Industrial Relations Act 1946* (26/1946)
- *Industrial Relations (Amendment) Act 1955* (19/1955) (repealed)
- *Industrial Relations Act 1969* (14/1969)
- *Industrial Relations Act 1976* (15/1976)
- *Industrial Relations Act 1990* (19/1990), other than Part II (ss. 8 - 22)
- *Industrial Relations (Amendment) Act 2001* (11/2001)
- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004)
- *Industrial Relations Act 1990* (19/1990)

- *Industrial Relations Act 1976* (15/1976)
- *Industrial Relations Act 1969* (14/1969)
- *Industrial Relations Act 1946* (26/1946)

All Acts up to and including *Nurses and Midwives Act 2011* (41/2011), enacted 21 December 2011, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Circuit Court Rules (Industrial Relations Acts) 2007* (S.I. No. 12 of 2007)
- *Circuit Court Rules 2001* (S.I. No. 510 of 2001)
- *Industrial Relations (Amendment) Act, 2001 (Commencement) Order 2001* (S.I. No. 232 of 2001)

All statutory instruments up to and including *Medical Council - Rules for the Maintenance of Professional Competence (No. 2)* (S.I. No. 741 of 2011), made 14 December 2011, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Investigation of dispute by Court.
3. Hearing as to whether requirements of section 2 have been met.
4. Amendment of section 21 of Industrial Relations Act, 1946.
5. Recommendation by Court on trade dispute.
6. Determination by Court on trade dispute.
7. Determinations of Court.
- 7A. Priority to be given to business under Act.
8. Effect of industrial action.
9. Review of determination of Court.
10. Enforcement of determination by civil proceedings.
11. Appeal to High Court on point of law.
12. Regulations.
13. Short title, collective citation, construction and commencement.

ACTS REFERRED TO

Industrial Relations Act, 1946	1946, No. 26
Industrial Relations Act, 1990	1990, No. 19
Industrial Relations Acts, 1946 to 1990	
Trade Union Act, 1941	1941, No. 22
Trade Union Act, 1942	1942, No. 23



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AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR PROMOTING HARMONIOUS RELATIONS BETWEEN WORKERS AND EMPLOYERS, TO AMEND AND EXTEND THE INDUSTRIAL RELATIONS ACTS, 1946 TO 1990, AND TO PROVIDE FOR RELATED MATTERS. [29th May, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Act included in collective citation and construction (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 17(2), S.I. No. 138 of 2004.

Short title, collective citation, construction and commencement.

17.—...

(2) In so far as it relates to the Industrial Relations Acts 1946 to 2001, this Act and those Acts shall be construed together as one and may be cited together as the Industrial Relations Acts 1946 to 2004.

...

Acts included or previously included in the collective citation and construction:

- *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), in so far as it relates to the *Industrial Relations Acts 1946 to 2001*, (6.04.2004) by s. 17(2), S.I. No. 138 of 2004.
- *Industrial Relations (Amendment) Act 2001* (11/2001) (31.05.2001) by s. 13(2), S.I. No. 232 of 2001.
- *Industrial Relations Act 1990* (19/1990), other than Part II (ss. 8 - 22), (18.07.1990) by s. 2(1), commenced on enactment.
- *Industrial Relations Act 1976* (15/1976) (18.05.1976) by s. 12, commenced on enactment.
- *Industrial Relations Act 1969* (14/1969) (3.06.1969) by s. 24, commenced on enactment.
- *Industrial Relations (Amendment) Act 1955* (19/1955) (29.07.1955) by s. 4(2), commenced on enactment; subsequently repealed (3.06.1969) by *Industrial Relations Act 1969* (14/1969), s. 23 and sch., commenced on enactment.
- *Industrial Relations Act 1946* (26/1946) (29.07.1955) by *Industrial Relations (Amendment) Act 1955* (19/1955), s. 4(2), commenced on enactment.

- C2** Application of collectively cited *Industrial Relations Acts* potentially restricted (1.04.2000) by *National Minimum Wage Act 2000* (5/2000), s. 42, S.I. No. 96 of 2000.

Act not to derogate from certain provisions of or under Industrial Relations Acts, 1946 to 1990.

42.— The provisions of this Act are in addition to and not in derogation of the Industrial Relations Acts, 1946 to 1990, or—

- (a) Employment Regulation Orders, and the enforcement of such Orders, made under those Acts, or
- (b) Registered Employment Agreements, and the enforcement of such Agreements, on the register under those Acts on the commencement of this section,

except that where a minimum hourly rate of pay in accordance with this Act is a greater amount than the minimum rate of pay prescribed under an Employment Regulation Order or such a Registered Employment Agreement, the employee's entitlement to pay in accordance with this Act shall prevail.

- C3** Application of collectively cited *Industrial Relations Acts 1946 to 1990* restricted (9.05.1977) by *Unfair Dismissals Act 1977* (10/1977), s. 8(10), S.I. No. 138 of 1977, as substituted (1.10.1993) by *Unfair Dismissals (Amendment) Act 1993* (22/1993), s. 7(d), commenced as per s. 17(4).

Determination of claims for unfair dismissal.

8.— ...

[(10) (a) A dispute in relation to a dismissal as respects which a recommendation has been made by a rights commissioner under this Act or a hearing by the Tribunal under this Act has commenced shall not be referred, under the Industrial Relations Acts, 1946 to 1990, to a rights commissioner or the Labour Court.

(b) Where, in relation to a dismissal, a recommendation has been made by a rights commissioner, or a hearing by the Labour Court under the said Acts has commenced, the employee concerned shall not be entitled to redress under this Act in respect of the dismissal.]

...

Interpretation.

1.—(1) In this Act—

“Commission” means the Labour Relations Commission;

“Court” means the Labour Court;

“excepted body” means an excepted body within the meaning of section 6 of the Trade Union Act, 1941, as amended by the Trade Union Act, 1942;

“Minister” means the Minister for Enterprise, Trade and Employment.

(2) In this Act—

(a) a reference to a section is to a section of this Act unless it is indicated that a reference to some other enactment is intended,

(b) a reference to a subsection is to a subsection of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended, and

(c) a reference to another enactment is to that enactment as amended by or under any other enactment, including this Act.

Investigation of dispute by Court.

2.—(1) Notwithstanding anything contained in the Industrial Relations Acts, 1946 to 1990, at the request of a trade union or excepted body, the Court may investigate a trade dispute where the Court is satisfied that—

F1[(a) it is not the practice of the employer to engage in collective bargaining negotiations in respect of the grade, group or category of workers who are party to the trade dispute and the internal dispute resolution procedures (if

any) normally used by the parties concerned have failed to resolve the dispute,

(b) either—

(i) the employer has failed to observe—

(I) a provision of the Code of Practice on Voluntary Dispute Resolution under section 42 of the Industrial Relations Act 1990 specifying the period of time for the doing of any thing (or such a provision of any code of practice amending or replacing that code), or

(II) any agreement by the parties extending that period of time,

or

(ii) the dispute having been referred to the Commission for resolution in accordance with the provisions of such code, no further efforts on the part of the Commission will, in the opinion of the Commission, advance the resolution of the dispute and the Court has received a report from the Commission to that effect,]

(c) the trade union or the excepted body or the employees, as the case may be, have not acted in a manner which, in the opinion of the Court, has frustrated the employer in observing a provision of such code of practice, and

(d) the trade union or the excepted body or the employees, as the case may be, have not had recourse to industrial action after the dispute in question was referred to the Commission in accordance with the provisions of such code of practice.

(2) In the course of an investigation under *subsection (1)* the Court shall have regard to the entirety of labour relations practices in the employment concerned including labour relations practices engaged in by the employer or an associated employer in another employment including an employment outside the State.

Annotations

Amendments:

- F1** Substituted (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 2, S.I. No. 138 of 2004, subject to transitional provision in s. 5.

Modifications (not altering text):

- C4** Application of subs. (1)(d) restricted (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 6, S.I. No. 138 of 2004.

Limitation of application of section 2(1)(d) of Act of 2001.

6.—(1) If a trade dispute was, by reason of circumstances prevailing on or before 26 March 2003, not capable, by virtue of paragraph (d) of subsection (1) of the relevant section, of being investigated by the Court under the relevant section, that dispute shall, on and from the commencement of this section, be capable of being so investigated, notwithstanding that paragraph (d), but subject to the other requirements of that subsection (1) being met.

(2) In *subsection (1)*—

“circumstances prevailing on or before 26 March 2003” includes circumstances that continued to prevail after that date but which have ceased when this provision comes into operation;

“relevant section” means section 2 of the Act of 2001;

the reference to subsection (1) of the relevant section, where it secondly occurs, is a reference to that subsection (1) as if it had not been amended by this Act.

F2[Hearing as to whether requirements of section 2 have been met.]

3.—Any question as to whether the requirements specified in section 2 have been met may, as the Court considers appropriate, be determined by the Court either by way of a hearing preliminary to the Court's investigation under that section or as part of that investigation.]

Annotations

Amendments:

- F2 Substituted (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 3, S.I. No. 138 of 2004.

Amendment of section 21 of *Industrial Relations Act, 1946*.

4.—Section 21(1) of the *Industrial Relations Act, 1946*, is amended by the insertion after "under this Act" of "or any investigation under the *Industrial Relations (Amendment) Act, 2001*,".

Recommendation by Court on trade dispute.

5.—(1) The Court, having investigated a trade dispute under *section 2*, may make a recommendation giving its opinion in the matter and, where appropriate, its view as to the action that should be taken having regard to terms and conditions of employment, and to dispute resolution and disciplinary procedures, in the employment concerned.

(2) A recommendation under *subsection (1)* shall not provide for arrangements for collective bargaining.

Determination by Court on trade dispute.

6.—(1) Where, in the opinion of the Court, a dispute that is the subject of a recommendation under *section 5* has not been resolved, the Court may, at the request of a trade union or excepted body and following a review of all relevant matters, make a determination.

(2) A determination under *subsection (1)* may have regard to terms and conditions of employment, and to dispute resolution and disciplinary procedures, in the employment concerned but shall not provide for arrangements for collective bargaining.

(3) A determination under *subsection (1)* shall be in the same terms as a recommendation under *section 5* except where—

(a) the Court has agreed a variation with the parties, or

(b) the Court has decided that the recommendation concerned or a part of that recommendation was grounded on unsound or incomplete information.

Determinations of Court.

7.—(1) Every determination made by the Court under *section 6* shall be in writing and shall include a statement of the reasons for the determination.

(2) The Court may, as it thinks proper, by order give effect to any determination from such date as the Court specifies in the order.

(3) An order under *subsection (2)* shall be served on the parties to the dispute.

F3[Priority to be given to business under Act.]

7A.—An investigation under *section 2* and the dealing with a request under *section 6* shall be given such priority over the other business of the Court as the Court considers reasonable (but having regard to the priority which, by virtue of any other enactment, it is required to give to any other class of business).]

Annotations**Amendments:**

- F3** Inserted (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 7, S.I. No. 138 of 2004.

Effect of industrial action.

8.—(1) Subject to *subsection (2)*, the Court shall cease its investigation or review under *section 6* and withdraw any recommendation where, either at the request of the employer or on its own initiative, the Court has satisfied itself that industrial action in relation to the dispute that is the subject of an investigation has taken place.

(2) If, having regard to all the circumstances, the Court is satisfied by a trade union or excepted body that it is reasonable to proceed with its investigation or review under *section 6*, it shall so proceed.

(3) *Subsection (1)* shall not apply where the procedures provided for by *sections 2, 5 and 6* have been exhausted.

Review of determination of Court.

9.—F4[...]

Annotations**Amendments:**

- F4** Repealed (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 16, S.I. No. 138 of 2004.

F5 [Enforcement of determination by civil proceedings.

10.—(1) Where an employer fails to comply with the terms of a determination under *section 6* within the period specified in the determination for those terms to be complied with (or, if no such period is so specified, as soon as may be after the determination is communicated to the parties) a trade union or excepted body may make an application under this section to the Circuit Court for an order under *subsection (2)*.

(2) On application being made to it in that behalf, the Circuit Court shall, without hearing the employer or any evidence (other than in relation to the matters referred to in *subsection (1)*) make an order directing the employer to carry out the determination in accordance with its terms.]

Annotations**Amendments:**

- F5** Substituted (6.04.2004) by *Industrial Relations (Miscellaneous Provisions) Act 2004* (4/2004), s. 4, S.I. No. 138 of 2004.

Editorial Notes:

- E1** Procedure prescribed for proceedings under section by *Circuit Court Rules 2001* (S.I. No. 510 of 2001), o. 57, rl. 11, as inserted (13.02.2007) by *Circuit Court Rules (Industrial Relations Acts) 2007* (S.I. No. 12 of 2007), rl. 3.

Appeal to High Court on point of law. **11.**—Where a determination is made by the Court under *section 6*, either party to the dispute may appeal to the High Court on a point of law.

Regulations. **12.**—(1) The Minister may make regulations for the purposes of reviews under *section 6* and *9* and for the purpose of enabling any other provisions of this Act to have full effect.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(3) Every regulations made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Short title, collective citation, construction and commencement. **13.**—(1) This Act may be cited as the Industrial Relations (Amendment) Act, 2001.

(2) This Act and the Industrial Relations Acts, 1946 to 1990, may be cited together as the Industrial Relations Acts, 1946 to 2001, and shall be construed together as one.

(3) This Act shall come into operation on such day as the Minister may appoint by order.

Annotations

Editorial Notes:

- E2** Power pursuant to section exercised (31.05.2001) by *Industrial Relations (Amendment) Act, 2001 (Commencement) Order 2001* (S.I. No. 232 of 2001).

2. The 31st day of May, 2001 is hereby appointed as the day on which the Industrial Relations (Amendment) Act, 2001 (No. 11 of 2001) shall come into operation.