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*Number 22 of 2015*

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**National Minimum Wage (Low Pay Commission) Act 2015**

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**NATIONAL MINIMUM WAGE (LOW PAY COMMISSION) ACT 2015**

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#### SCHEDULE

## ACTS REFERRED TO

Companies Act 1990 (No. 33)  
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Unfair Dismissals (Amendment) Act 1993 (No. 22)  
Unfair Dismissals Act 1977 (No. 10)  
Workplace Relations Act 2015 (No. 16)

[No. 22.]

*National Minimum Wage (Low Pay Commission) Act 2015.*

[2015.]



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*Number 22 of 2015*

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## **NATIONAL MINIMUM WAGE (LOW PAY COMMISSION) ACT 2015**

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An Act to amend the National Minimum Wage Act 2000 to provide for the establishment of a body to be known in the Irish language as An Coimisiún um Pá Íseal or in the English language as the Low Pay Commission to advise on setting a national minimum wage; to make provision for the purposes of the operation of the Workplace Relations Act 2015 and, for that purpose, to amend that enactment and certain other enactments; and to provide for related matters. [15th July, 2015]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title, collective citation and construction**

1. (1) This Act may be cited as the National Minimum Wage (Low Pay Commission) Act 2015.
- (2) This Act (other than *Part 3*) and the National Minimum Wage Act 2000 may be cited together as the National Minimum Wage Acts 2000 and 2015 and shall be construed together as one Act.

#### **Definition**

2. In this Act “Principal Act” means the National Minimum Wage Act 2000.

#### **Repeals**

3. Sections 11, 12 and 13 of the Principal Act are repealed.

### PART 2

#### LOW PAY COMMISSION

#### **Amendment of section 2 of Principal Act**

4. Section 2 of the Principal Act is amended, in subsection (1), by—

- (a) the insertion of the following definitions:

“ ‘*Act of 2015*’ means the *National Minimum Wage (Low Pay Commission) Act 2015*;

‘*Commission*’ means the Low Pay Commission established under section 10A (inserted by *section 5* of the *Act of 2015*);”

and

- (b) the substitution of the following definition for the definition of “national minimum hourly rate of pay”:

“ ‘national minimum hourly rate of pay’ means the rate of pay declared by order of the Minister under section 10D (inserted by *section 8* of the *Act of 2015*);”.

### **Establishment of Low Pay Commission**

5. The Principal Act is amended by the insertion of the following section after section 10 but in Part 3:

“**10A.**(1) There is hereby established a body to be known in the Irish language as An Coimisiún um Pá Íseal or, in the English language, as the Low Pay Commission to perform the functions conferred on it by section 10C (inserted by *section 7* of the *Act of 2015*).

(2) Subject to this Act, the Commission shall be independent in the performance of its functions.

(3) The provisions of Schedule 2 (inserted by *section 10* of the *Act of 2015*) shall apply to the Commission.”.

### **Duty of Commission**

6. The Principal Act is amended by the insertion of the following section after section 10A:

“**10B.** The Commission in the performance of the functions assigned to it by section 10C shall make recommendations to the Minister regarding the national minimum hourly rate of pay that—

(a) is designed to assist as many low paid workers as is reasonably practicable,

(b) is set at a rate that is both fair and sustainable,

(c) where adjustment is appropriate, is adjusted incrementally, and

(d) over time, is progressively increased,

without creating significant adverse consequences for employment or competitiveness.”.

**Functions of Commission**

7. The Principal Act is amended by the insertion of the following section after section 10B:

“**10C.**(1) Without prejudice to the generality of section 10B, the Commission shall once each year—

- (a) examine the national minimum hourly rate of pay, and
  - (b) make a recommendation to the Minister respecting the national minimum hourly rate of pay.
- (2) (a) A recommendation under this section shall be accompanied by a report on the matters considered when making the recommendation.
- (b) A recommendation and report under this section shall be furnished to the Minister on or before the third Tuesday falling in July in the year to which the examination relates.
- (3) When making a recommendation under subsection (1)(b), the Commission shall have regard to—
- (a) changes in earnings during the relevant period,
  - (b) changes in currency exchange rates during the relevant period,
  - (c) changes in income distribution during the relevant period,
  - (d) whether during the relevant period—
    - (i) unemployment has been increasing or decreasing,
    - (ii) employment has been increasing or decreasing, and
    - (iii) productivity has been increasing or decreasing,both generally and in the sectors most affected by the making of an order under section 10D (inserted by *section 8* of the *Act of 2015*),
  - (e) international comparisons, particularly with Great Britain and Northern Ireland,
  - (f) the need for job creation, and
  - (g) the likely effect that any proposed order will have on—
    - (i) levels of employment and unemployment,
    - (ii) the cost of living, and
    - (iii) national competitiveness.
- (4) (a) If so requested by the Minister, the Commission shall examine and report its views and recommendations on such matters, related generally to the functions of the Commission under this Act, as are specified by the Minister in that request.
- (b) A request under paragraph (a) shall—

- (i) be made not later than 2 months after this Act comes into operation and, thereafter, not later than 2 months after the beginning of each year,
  - (ii) be part of that year’s work programme of the Commission, and
  - (iii) specify the period within which the Commission shall report its views and recommendations to the Minister.
- (c) The Minister may extend the period specified under paragraph (b) (iii).
- (5) The Commission shall once every 3 years report generally on the operation of this Act and, in particular, on the impact of any orders made under section 10D on low pay, income distribution and employment costs.
- (6) When preparing a report under this section the Commission shall consult with such persons, including representatives of employers and employees, as it thinks appropriate.
- (7) The Minister shall cause a copy of any report or recommendation furnished to him or her in accordance with this section to be laid before each House of the Oireachtas not later than 3 months after the receipt of that report or recommendation.
- (8) The Commission shall have all such powers as are necessary or expedient for the performance of its functions.
- (9) In this section ‘relevant period’ means—
- (a) in the case of the first report furnished under subsection (2)(b), the period since the most recent making of an order under section 11 of the Principal Act, or
  - (b) in the case of a second or subsequent report furnished under subsection (2)(b), the period since the most recent making of an order under section 10D (inserted by *section 8 of the Act of 2015*).”.

**National minimum hourly rate of pay**

8. The Principal Act is amended by the insertion of the following section after section 10C:

“**10D.**(1) Within 3 months of the date of receipt of a recommendation and report submitted to him or her under section 10C(2) and having considered the report and recommendation and having had regard to section 10C(3), the Minister shall—

- (a) by order declare a national minimum hourly rate of pay—
  - (i) in the terms recommended by the Commission, or
  - (ii) in other terms,

or

- (b) decline to make such an order.
- (2) Where the Minister—
  - (a) by order declares a national minimum hourly rate of pay in terms other than terms recommended by the Commission, or
  - (b) declines to make an order declaring a national minimum hourly rate of pay,

the Minister shall prepare and lay before both Houses of the Oireachtas a statement of his or her reasons for so doing.
- (3) The national minimum hourly rate of pay declared by order under this section may include an allowance in respect of board and lodgings, board only or lodgings only at such rates as are specified in the order.
- (4) Where the Commission fails to make a recommendation or submit the report required in accordance with section 10C(2)(b) the Minister may, by order, having had regard to section 10C(3), declare a national minimum hourly rate of pay.”.

### **Funding and resources**

9. The Principal Act is amended by the insertion of the following section after section 10D:

- “10E.(1) The Minister shall advance to the Commission out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Commission in the performance of its functions.
- (2) The Minister shall make available to the Commission such officers of the Minister and reasonable facilities and services as the Minister, after consultation with the Commission, may determine.”.

### **Amendment of Principal Act**

10. The Principal Act is amended—

- (a) in section 2—
  - (i) in subsection (1), in the definition of “pay”, by the substitution of “Schedule 1” for “the Schedule”, and
  - (ii) in subsection (3), by the substitution of “a Schedule” for “the Schedule” in each place where it occurs,
- (b) in section 19—
  - (i) by the substitution of “Schedule 1” for “Schedule” in each place where it occurs, and

- (ii) in subsection (5), by the substitution of “section 10D” for “section 11”,
- (c) in section 23(4)(a), by the substitution of “Schedule 1” for “the Schedule”,
- (d) in the Schedule, by the substitution of “Schedule 1” for “Schedule” in the first place it occurs, and
- (e) by the insertion of the text set out in the *Schedule* after Schedule 1 (amended by *paragraph (d)*).

### PART 3

#### WORKPLACE RELATIONS

##### **Definition**

**11.** In this Part—

“Act of 2015” means the Workplace Relations Act 2015;

“Minister” means the Minister for Jobs, Enterprise and Innovation.

##### **Amendment of Industrial Relations Act 1946**

**12.** (1) The Industrial Relations Act 1946 is amended by the insertion, in section 21, of the following subsection:

“(5) A document purporting to be signed by the chairman or the registrar of the Court stating that—

- (a) a person named in the document was, by summons under subsection (1), required to attend before the Court on a day and at a time and place specified in the document, and
- (b) a sitting of the Court was held on that day and at that time and place,

shall, in proceedings for an offence under this section, be evidence of the matters so stated unless the contrary is shown.”.

- (2) This section shall come into operation on the commencement of section 74 of the Act of 2015.

##### **Amendment of Redundancy Payments Act 1967**

**13.** (1) The Redundancy Payments Act 1967 is amended by the insertion of the following section:

**“Appeal to Labour Court from decision of adjudication officer**

**39A.** Section 44 of the Act of 2015 shall apply to a decision of an adjudication officer given in relation to an appeal under subsection (15), or a question referred to the Director General under subsection (16), of section 39 of

this Act as it applies to a decision of an adjudication officer under section 41 of that Act, subject to the following modifications:

(a) the substitution of the following subsection for subsection (1):

‘(1) (a) A party to an appeal under subsection (15), or proceedings in relation to a question referred to the Director General under subsection (16), of section 39 of the Act of 1967 may appeal a decision of an adjudication officer given in that appeal or those proceedings to the Labour Court and, where the party does so, the Labour Court shall—

(i) give the parties to the second-mentioned appeal an opportunity to be heard by it and to present to it any evidence relevant to the appeal,

(ii) make a decision in relation to the appeal affirming, varying or setting aside the decision of the adjudication officer to which the appeal relates, and

(iii) give the parties to the appeal a copy of that decision in writing.

(b) The Labour Court shall have power to make any decision in an appeal under this paragraph that an adjudication officer has power to make on the hearing of an appeal under subsection (15), or a question referred to the Director General under subsection (16), of section 39 of the Act of 1967.’;

and

(b) any other necessary modifications.”.

(2) This section shall come into operation on the commencement of section 76 of the Act of 2015.

#### **Amendment of Unfair Dismissals Act 1977**

**14.** (1) Section 8 of the Unfair Dismissals Act 1977 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) A claim by an employee against an employer for redress under this Act for unfair dismissal may be referred by the employee to the Director General and, where such a claim is so referred, the Director General shall, subject to section 39 of the Act of 2015, refer the claim to an adjudication officer for adjudication by that officer.

(b) Section 39 of the Act of 2015 shall apply to a claim for redress referred to the Director General under paragraph (a) as it applies to a complaint presented or dispute referred to the Director General under section 41 of that Act, subject to the modification that

references, in the said section 39, to a complaint or dispute shall be construed as references to a claim for redress so referred.

- (c) An adjudication officer to whom a claim for redress is referred under this section shall—
  - (i) inquire into the claim,
  - (ii) give the parties to the claim an opportunity to be heard by the adjudication officer and to present to the adjudication officer any evidence relevant to the claim,
  - (iii) make a decision in relation to the claim consisting of an award of redress in accordance with section 7 or the dismissal of the claim, and
  - (iv) give the parties to the claim a copy of that decision in writing.”,
- (b) by the substitution of the following subsection for subsection (1A) (inserted by section 7 of the Unfair Dismissals (Amendment) Act 1993):
 

“(1A) A decision of an adjudication officer under subsection (1) consisting of an award of redress in accordance with section 7 shall include a statement of the reasons for the award of such redress and the reasons for the adjudication officer’s deciding not to award other redress under that section.”,
- (c) by the insertion of the following subsection:
 

“(1B) Subsection (14) of section 41 of the Act of 2015 applies to a decision of an adjudication officer under subsection (1) as it applies to a decision of an adjudication officer under that section subject to the modification that the words ‘subsection (1) of section 8 of the Act of 1977’ shall be substituted for the words ‘this section’.”,
- (d) in subsection (2), by the substitution of—
  - (i) the words “regulations under subsection (17) of section 41 of the Act of 2015” for the words “regulations under section 17 of this Act made for the purposes of subsection (8) of this section”, and
  - (ii) the following paragraph for paragraph (b):
 

“(b) within such period not exceeding 12 months from the date of the relevant dismissal as the adjudication officer considers appropriate, in circumstances where the adjudication officer is satisfied that the giving of the notice within the period referred to in paragraph (a) was prevented due to reasonable cause,”,
- (e) by the deletion of subsections (3), (4), (5), (8) and (9), and
- (f) by the substitution of the following subsection for subsection (10):
 

“(10) (a) A dispute relating to a dismissal shall not be referred to an adjudication officer under the Industrial Relations Acts 1946 to

2012 if, in relation to the dismissal—

- (i) a recommendation has been made by a rights commissioner under this Act, or a hearing by the Tribunal under this Act has commenced,
- (ii) a decision (other than a decision consisting of a dismissal of the claim concerned) has been made by an adjudication officer under this Act,
- (iii) a decision has been made by the Labour Court in accordance with subsection (2) of section 8A affirming a decision (consisting of a dismissal of the claim concerned) of an adjudication officer under this Act, or
- (iv) a decision has been made by the Labour Court in accordance with the said subsection (2)—
  - (I) setting aside a decision to which subparagraph (ii) applies, and
  - (II) not awarding any redress under section 7.

(b) An employee shall not be entitled to redress under this Act in respect of a dismissal if, in relation to the dismissal—

- (i) a recommendation has been made by a rights commissioner or an adjudication officer under the Industrial Relations Acts 1946 to 2012, or
- (ii) a hearing by the Labour Court under those Acts has commenced.”.

(2) Section 8A (inserted by paragraph (h) of subsection (1) of section 80 of the Act of 2015) of the Unfair Dismissals Act 1977 is amended by the substitution of the following subsection for subsection (2):

“(2) Section 44 of the Workplace Relations Act 2015 shall apply to a decision of an adjudication officer given in respect of a claim for redress under this Act by an employee as it applies to a decision of an adjudication officer given in proceedings under section 41 of that Act, subject to the following modifications:

(a) the substitution of the following subsection for subsection (1):

‘(1) (a) A party to a claim for redress under the Act of 1977 may appeal a decision of an adjudication officer given in relation to that claim to the Labour Court and, where the party does so, the Labour Court shall—

- (i) give the parties to the appeal an opportunity to be heard by it and to present to it any evidence relevant to the appeal,

(ii) make a decision in relation to the appeal affirming, varying or setting aside the decision of the adjudication officer to which the appeal relates, and

(iii) give the parties to the appeal a copy of that decision in writing.

(b) A decision of the Labour Court under paragraph (a), may include an award of redress under section 7 of the Act of 1977.’;

and

(b) any other necessary modifications.”.

(3) Section 11 (inserted by paragraph (k) of subsection (1) of section 80 of the Act of 2015) is amended, in subsection (2), by the insertion of “or the Companies Act 2014” after “the Companies Acts”.

(4) This section shall come into operation on the commencement of section 80 of the Act of 2015.

#### **Amendment of Protection of Employees (Employers’ Insolvency) Act 1984**

**15.** (1) The Protection of Employees (Employers’ Insolvency) Act 1984 is amended by the insertion of the following section:

##### **“Appeal to Labour Court from declaration of adjudication officer under section 9**

**9A.** Section 44 of the Act of 2015 shall apply to a declaration of an adjudication officer given in relation to a complaint under section 9 as it applies to a decision of an adjudication officer given in proceedings under section 41 of that Act, subject to the following modifications:

(a) the substitution of the following subsection for subsection (1):

‘(1) A party to proceedings in relation to a complaint under section 9 of the Act of 1984 may appeal a declaration of an adjudication officer given in those proceedings to the Labour Court and, where the party does so, the Labour Court shall—

(a) give the parties to the appeal an opportunity to be heard by it and to present to it any evidence relevant to the appeal,

(b) make a decision in relation to the appeal affirming, varying or setting aside the declaration of the adjudication officer to which the appeal relates, and

(c) give the parties to the appeal a copy of that decision in writing.’;

and

(b) any other necessary modifications.”.

- (2) This section shall come into operation on the commencement of section 81 of the Act of 2015.

#### **Amendment of Terms of Employment (Information) Act 1994**

**16.** (1) The Terms of Employment (Information) Act 1994 is amended—

- (a) in section 6A (inserted by section 18(d) of the Industrial Relations (Amendment) Act 2012), by the substitution of the following subsection for subsection (2):

“(2) In this section ‘inspector’ has the same meaning as it has in the Workplace Relations Act 2015.”,

and

- (b) in paragraph (a) of subsection (1) of section 7 (inserted by Part 1 of Schedule 7 to the Act of 2015), by the substitution of “before, on or after the commencement of section 8 of the Workplace Relations Act 2015” for “before the commencement of section 8 of the Workplace Relations Act 2015”.

- (2) This section shall come into operation on the commencement of Part 4 of the Act of 2015.

#### **Amendment of Employment Equality Act 1998**

**17.** (1) The Employment Equality Act 1998 is amended—

- (a) by the substitution of the following section for section 83:

“**83.** Section 44 of the Act of 2015 shall apply to a decision of the Director General of the Workplace Relations Commission under section 79 as it applies to a decision of an adjudication officer under section 41 of that Act, subject to the following modifications:

- (a) the substitution of the following subsection for subsection (1):

‘(1) (a) A party to a case referred to the Director General of the Workplace Relations Commission under section 77 of the Act of 1998 may appeal a decision of the Director General given in an investigation in relation to that case under section 79 of that Act to the Labour Court and, where the party does so, the Labour Court shall—

- (i) give the parties to the appeal an opportunity to be heard by it and to present to it any evidence relevant to the appeal,
- (ii) make a decision in relation to the appeal affirming, varying or setting aside the decision of the adjudication officer to which the appeal relates, and
- (iii) give the parties to the appeal a copy of that decision in writing.

(b) The Labour Court shall have power to grant such redress in an appeal under this paragraph as the Director General has power to grant in an investigation under section 79 of the Act of 1998.’;

and

(b) any other necessary modifications.”,

and

(b) in section 101, by—

(i) the insertion of “or” after “begun” in paragraph (a) of subsection (4), and

(ii) the substitution of the following paragraph for paragraph (b) of subsection (4):

“(b) an adjudication officer has made a decision to which subsection (1) of section 8 of the Unfair Dismissals Act 1977 applies in respect of the dismissal.”.

(2) This section shall come into operation on the commencement of section 83 of the Act of 2015.

#### **Amendment of Equal Status Act 2000**

**18.** (1) The Equal Status Act 2000 is amended by the substitution of the following section for section 31:

“**31.** Section 43 of the Act of 2015 shall apply to a decision under section 25 as it applies to a decision of an adjudication officer under section 41 of that Act, subject to—

(a) the modification that the following paragraph is substituted for paragraph (b) of subsection (1):

‘(b) on application to it in that behalf, with the consent of the complainant, by the Irish Human Rights and Equality Commission,’

and

(b) the following modifications:

(i) references to a complaint or dispute shall be construed as references to a case so referred;

(ii) the reference to section 41 shall be construed as a reference to section 25 of this Act;

(iii) in subsection (1), the words ‘decision of the Director General of the Workplace Relations Commission under section 25 of this Act’ shall be substituted for the words ‘decision of an adjudication officer under that section’;

- (iv) the deletion of subsection (2);
  - (v) the words ‘decision of the Director General of the Workplace Relations Commission under section 25 of this Act’ shall be substituted for the words ‘decision of an adjudication officer’ in each place that they occur; and
  - (vi) references to employee and employer shall be construed as references to complainant and respondent respectively.”.
- (2) This section shall come into operation on the commencement of section 84 of the Act of 2015.

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

19. (1) Part 1 of Schedule 1 to the Freedom of Information Act 2014 is amended by the substitution of the following subparagraph for subparagraph (k):

“(k) the Workplace Relations Commission—

- (i) insofar as it relates to records concerning the provision of mediation services under the Employment Equality Acts 1998 to 2011, the Equal Status Acts 2000 to 2012 or the Pensions Acts 1990 to 2014, where parties to the process are participating in a voluntary capacity to try to settle such disputes, or
  - (ii) insofar as it relates to records concerning—
    - (I) the referral of a complaint or dispute for resolution under section 39 of the Workplace Relations Act 2015,
    - (II) attempts made in accordance with that section to resolve any such complaint or dispute, or
    - (III) the resolution of any such complaint or dispute in accordance with that section.”.
- (2) This section shall come into operation on the commencement of sections 82, 83 and 84 of the Act of 2015.

#### **Amendment of Workplace Relations Act 2015**

20. (1) The Act of 2015 is amended—

- (a) in subsection (2) of section 1, by the substitution of “sections 8(7), 57(3) and 66(3)” for “subsection (7) of section 8”,
- (b) in section 2, by the insertion of the following definitions:
  - “ ‘Act of 1984’ means the Protection of Employees (Employers’ Insolvency) Act 1984;
  - ‘equality officer’ has the same meaning as it has in Part VII of the Act of 1998;

‘equality mediation officer’ has the same meaning as it has in Part VII of the Act of 1998;

‘rights commissioner’ means a person appointed under section 13 of the Act of 1969;”,

- (c) in subsection (4) of section 13, by the substitution of the following paragraph for paragraph (f):

“(f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014.”,

- (d) in paragraph (b) of subsection (2) of section 28, by the substitution of “a provision to which this section applies” for “any employment enactment”,

- (e) in paragraph (a) of subsection (15) of section 28, by the substitution of “a provision to which this section applies” for “a relevant enactment”,

- (f) in section 40, by the deletion of subsection (10),

- (g) by the substitution of the following subsection for subsection (17) of section 41:

“(17) The Minister may, by regulations, make provision in relation to any matter relating to—

(a) the presentation of a complaint, referral of a dispute or conduct of proceedings under this section, or

(b) the making of a claim for redress or conduct of proceedings under the Act of 1977,

that he or she considers appropriate.”,

- (h) the substitution of the following section for section 53:

**“53.** (1) Where a decision or recommendation in relation to a complaint or dispute to which subsection (2) or (4) of section 8 applies was made by a rights commissioner before the commencement of this Part and no appeal was brought from the decision or recommendation before such commencement, the decision or recommendation shall be appealable to the Labour Court under section 44 as if the decision or recommendation were a decision of an adjudication officer under section 41.

(2) Where a decision or recommendation in relation to a complaint or dispute to which subsection (2) or (4) of section 8 applies was not made before the commencement of this Part, any decision or recommendation made by a rights commissioner in relation to the complaint or dispute after such commencement shall be appealable to the Labour Court under section 44 as if the decision were a decision of an adjudication officer under section 41.”,

- (i) by the insertion of the following section in Part 4:

**“Performance of functions of rights commissioners after commencement of this Part**

**53A.** The functions standing vested in a rights commissioner immediately before the commencement of this Part shall, in relation to complaints or disputes referred to in subsection (2) or (4) of section 8 or subsection (3) of section 52, continue to be performable after such commencement by a person who immediately before such commencement was a rights commissioner.”,

- (j) in section 74, by the deletion of paragraph (b),
- (k) in section 76, by the deletion of paragraph (d) of subsection (1),
- (l) in section 80, by—
  - (i) the deletion of subparagraphs (i), (ii), (iii), (iv), (ix), (x) and (xi) of paragraph (g) of subsection (1), and
  - (ii) the insertion of the following subsection:
    - “(1A) The functions standing vested in a rights commissioner immediately before the commencement of this section shall, in relation to a claim for redress referred to in subsection (2), continue to be performable after such commencement by a person who immediately before such commencement was a rights commissioner.”,
- (m) in section 81, by—
  - (i) the deletion of subsections (4) and (5), and
  - (ii) the insertion of the following subsection:
    - “(4) The amendment of the Act of 1984 effected by this section shall not apply in relation to a complaint presented to the Employment Appeals Tribunal under section 9 of that Act before the commencement of this section.”,
- (n) in section 83, by—
  - (i) the deletion of paragraphs (g) and (m) of subsection (1), and
  - (ii) the insertion of the following subsections:
    - “(3) The functions standing vested in an equality officer immediately before the commencement of this section shall, in relation to a case referred to in subsection (2), continue to be performable after such commencement by a person who immediately before such commencement was an equality officer.
    - (4) The functions standing vested in an equality mediation officer immediately before the commencement of this section shall, in relation to a case referred to in subsection (2), continue to be performable after such commencement by a person who immediately before such commencement was an equality mediation officer.”,
- (o) in subsection (1) of section 84, by—

- (i) the deletion of paragraph (g), and
- (ii) the insertion of the following subsection:

“(3) The functions standing vested in an equality officer immediately before the commencement of this section shall, in relation to a case referred to in subsection (2), continue to be performable after such commencement by a person who immediately before such commencement was an equality officer.

(4) The functions standing vested in an equality mediation officer immediately before the commencement of this section shall, in relation to a case referred to in subsection (2), continue to be performable after such commencement by a person who immediately before such commencement was an equality mediation officer.”,

- (p) in subparagraph (3) of paragraph 3 of Schedule 3, by the substitution of the following clause for clause (g):

“(g) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014.”,

and

- (q) in Schedule 4, by—

- (i) the deletion of the following:

“

No. 10 of 1977	Unfair Dismissals Act 1977	Section 14(1), (2) and (4)
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”

and

- (ii) the deletion of the following:

“

No. 5 of 1994	Terms of Employment (Information) Act 1994	Sections 3(1) and 5
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”

- (2) This section (other than *paragraph (a) of subsection (1)*) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

### **Transfer of property of Director of Equality Tribunal to Workplace Relations Commission**

- 21. (1) On the commencement of sections 83 and 84 of the Act of 2015 all property, including choses-in-action, that immediately before such commencement, was vested

in the Director of the Equality Tribunal shall stand vested in the Workplace Relations Commission without any assignment.

- (2) Every chose-in-action vested in the Workplace Relations Commission by virtue of *subsection (1)* may, on and from the commencement of sections 83 and 84 of the Act of 2015, be sued on, recovered or enforced by the Workplace Relations Commission in its own name, and it shall not be necessary for the Workplace Relations Commission or the Director of the Equality Tribunal to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.
- (3) On the commencement of sections 83 and 84 of the Act of 2015 all records that, immediately before such commencement, were records of the Director of the Equality Tribunal shall be records of the Workplace Relations Commission and shall, accordingly, be transferred to the Workplace Relations Commission.

#### **Transfer of rights and liabilities of Director of Equality Tribunal to Workplace Relations Commission**

22. (1) All rights and liabilities of the Director of the Equality Tribunal subsisting immediately before the commencement of sections 83 and 84 of the Act of 2015 and arising by virtue of any contract or commitment (expressed or implied) shall on such commencement stand transferred to the Workplace Relations Commission.
- (2) Every right and liability transferred by *subsection (1)* to the Workplace Relations Commission may, on and after the commencement of sections 83 and 84 of the Act of 2015, be sued on, recovered or enforced by or against the Workplace Relations Commission in its own name, and it shall not be necessary for the Workplace Relations Commission or the Director of the Equality Tribunal to give notice to the person whose right or liability is transferred by that subsection of such transfer.

#### **Liability for loss occurring before commencement of sections 83 and 84 of Act of 2015**

23. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the commencement of sections 83 and 84 of the Act of 2015 of any of the functions of the Director of the Equality Tribunal shall after such commencement, lie against the Workplace Relations Commission and not against the Director of the Equality Tribunal.
- (2) Any legal proceedings pending immediately before the commencement of sections 83 and 84 of the Act of 2015 to which the Director of the Equality Tribunal is a party, shall be continued, with the substitution in the proceedings of the Workplace Relations Commission for the Director of the Equality Tribunal.
- (3) Where, before the commencement of sections 83 and 84 of the Act of 2015, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Director of the Equality Tribunal, be enforceable against the Workplace Relations Commission and not against the Director of the

Equality Tribunal.

- (4) Any claim made or proper to be made by the Director of the Equality Tribunal in respect of any loss or injury arising from the act or default of any person before the commencement of sections 83 and 84 of the Act of 2015 shall be regarded as having been made by or proper to be made by the Workplace Relations Commission and may be pursued and sued for by the Workplace Relations Commission as if the loss or injury had been suffered by the Workplace Relations Commission.

**Provisions consequent upon transfer of property, rights and liabilities to Workplace Relations Commission**

24. (1) Anything commenced and not completed before the commencement of sections 83 and 84 of the Act of 2015 by or under the authority of the Director of the Equality Tribunal may, on or after the commencement of sections 83 and 84 of the Act of 2015, be carried on or completed by the Director General of the Workplace Relations Commission.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made by the Director of the Equality Tribunal shall, if and in so far as it was operative immediately before the commencement of sections 83 and 84 of the Act of 2015, have effect on and after such commencement as if it had been granted or made by the Director General of the Workplace Relations Commission.
- (3) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Workplace Relations Commission under *section 21* or *22* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

## SCHEDULE

## Section 10

## “SCHEDULE 2

## LOW PAY COMMISSION

**Membership**

1. (1) The Commission shall consist of a chairperson and 8 ordinary members, each appointed by the Minister.
- (2) Of the ordinary members—
  - (a) 3 shall be appointed from among persons who, in the opinion of the Minister, have an understanding of the interests of low paid workers, very good knowledge and experience of working on behalf of workers’ interests or representing workers, particularly low paid workers or a proven track record in an advocacy or representational role on behalf of low paid workers,
  - (b) 3 shall be appointed from among persons who, in the opinion of the Minister, have an understanding of the interests of employers, particularly small to medium-sized employers and those operating in traditionally low pay sectors, and who possess a good knowledge and understanding of the particular issues faced by Irish businesses, particularly in relation to labour costs and competitiveness, and
  - (c) 2 members shall be appointed from among persons who, in the opinion of the Minister have particular knowledge or expertise in relation to some or all of the following; economics, labour market economics, statistics and employment law and proven competence in analysing and evaluating economic research and statistical analysis.
- (3) The Minister shall, in so far as is practicable, endeavour to ensure that among the members there is an equitable balance between men and women.
- (4) Where there is a vacancy (however occasioned) in the membership of the Commission, the Minister shall, if it is reasonably practicable to do so, appoint a replacement before the end of the period of 6 months beginning on the day on which the vacancy arose.

**Term of office**

2. (1) The term of office of a member of the Commission is 3 years from the date of his or her appointment.

- (2) A person may not be a member of the Commission for more than 2 consecutive terms of office but is otherwise eligible for reappointment.

### **Resignation and termination of office**

3. (1) A member of the Commission may at any time resign from office by letter addressed to the Minister and the resignation shall take effect on the date specified in the letter or the date the letter is received by the Minister, whichever is the later.
- (2) The Minister may remove a member of the Commission from office if, in the opinion of the Minister—
- (a) the member has become incapable through ill-health of effectively performing the functions of the office,
  - (b) the member has committed stated misbehaviour,
  - (c) the member has a conflict of interest of such significance that, in the opinion of the Minister, the member should cease to hold the office, or
  - (d) the removal of the member appears to be necessary for the effective performance by the Commission of its functions.
- (3) A person shall be disqualified from holding and shall cease to hold office as a member of the Commission if he or she—
- (a) is adjudicated bankrupt,
  - (b) makes a composition or arrangement with creditors,
  - (c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
  - (d) is convicted of an offence involving fraud or dishonesty,
  - (e) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014,
  - (f) is a person to whom a declaration under section 150 of the Companies Act 1990 applies, or
  - (g) is a restricted person within the meaning of Chapter 3 of Part 14 of the Companies Act 2014.
- (4) Where the Minister appoints a new member of the Commission because a member has died, resigned, been removed from office or become disqualified from holding office, the term of office of the new member shall be for a period of 3 years.

- (5) Subject to such rules as the Commission may make regarding a quorum, the Commission may act despite one or more vacancies in its membership.

#### **Remuneration and other terms and conditions of office**

4. Each member of the Commission shall—
- (a) hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister may determine, and
  - (b) be paid by the Minister such remuneration (if any) and allowances for expenses (if any) as the Minister with the consent of the Minister for Public Expenditure and Reform may determine.

#### **Membership of Oireachtas, European Parliament or local authority**

5. (1) Where a member of the Commission—
- (a) is nominated as a candidate for election to either House of the Oireachtas or the European Parliament,
  - (b) is nominated as a member of Seanad Éireann,
  - (c) is elected as a member of either House of the Oireachtas or the European Parliament,
  - (d) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy, or
  - (e) becomes a member of a local authority,
- he or she shall thereupon cease to be a member of the Commission.
- (2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament or of a local authority shall, while so entitled or such a member, be disqualified from becoming a member of the Commission.

#### **Appearance before Oireachtas Committees**

6. The chairperson of the Commission shall, whenever requested to do so, account for the performance of the functions of the Commission to a Committee of either House of the Oireachtas.

#### **Procedure and quorum**

7. Subject to this Act, the Commission shall regulate the procedures and business of the Commission, including the fixing of a quorum for meetings of the Commission.”