



Number 11 of 2001

INDUSTRIAL RELATIONS (AMENDMENT) ACT, 2001

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
 2. Investigation of dispute by Court.
 3. Preliminary hearing.
 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.
 8. Effect of industrial action.
 9. Review of determination of Court.
 10. Enforcement of determination or review by civil proceedings.
 11. Appeal to High Court on point of law.
 12. Regulations.
 13. Short title, collective citation, construction and commencement.
-

[No. 11.] *Industrial Relations (Amendment)* [2001.]
Act, 2001.

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



Number 11 of 2001

INDUSTRIAL RELATIONS (AMENDMENT) ACT, 2001

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:

1.—(1) In this Act—

Interpretation.

“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.

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—

Investigation of dispute by Court.

[No. 11.] *Industrial Relations (Amendment) Act, 2001.* [2001.]

- S.2
- (a) it is not the practice of the employer to engage in collective bargaining negotiations and the internal dispute resolution procedures (if any) normally used by the parties concerned have failed to resolve the dispute,
 - (b) the employer has failed to observe a provision of the Code of Practice on Voluntary Dispute Resolution under section 42 of the Industrial Relations Act, 1990 (or any code of practice amending or replacing that code), or has failed to observe such a provision in good faith,
 - (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.

Preliminary hearing. **3.**—On receipt of a request under *section 2*, the Court may hold a preliminary hearing to determine whether or not the requirements specified in that section have been met.

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—

[2001.] *Industrial Relations (Amendment) Act, 2001.* [No. 11.]

- (a) the Court has agreed a variation with the parties, or S.6
- (b) the Court has decided that the recommendation concerned or a part of that recommendation was grounded on unsound or incomplete information.

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. Determinations of Court.

(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.

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. Effect of industrial action.

(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.

9.—After a period of 3 months but not later than one year from the date of a determination under *section 6*, the Court may, on the application of either party to a dispute, review such determination, and— Review of determination of Court.

- (a) vacate the determination and the order giving effect to the determination where, in the opinion of the Court, the dispute has been resolved,
- (b) affirm the determination and the order giving effect to the determination where, in the opinion of the Court, the dispute has not been resolved, or
- (c) vary the terms of the determination and the order giving effect to the determination where—
 - (i) the Court agrees such variation with the parties, or
 - (ii) the Court is satisfied that the determination or a part of the determination was grounded on unsound or incomplete information.

10.—Where an employer fails to comply with—

- (a) the terms of a determination under *section 6* within one year from the date on which the determination is communicated to the parties, or
- (b) the findings of a review of a determination under *section 9* within 6 weeks from the date on which such findings are communicated to the parties,

Enforcement of determination or review by civil proceedings.

[No. 11.] *Industrial Relations (Amendment) Act, 2001.* [2001.]

S.10 on the application of a trade union or excepted body, the Circuit Court shall, without hearing the employer or any evidence (other than in relation to the matters aforesaid) make an order directing the employer to carry out the determination or review in accordance with its terms or findings, as appropriate.

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 *sections 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 regulation 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.