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*Number 29 of 2021*

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**Workplace Relations (Miscellaneous Provisions) Act 2021**

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**WORKPLACE RELATIONS (MISCELLANEOUS PROVISIONS) ACT 2021**

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CONTENTS

Section

1. Definitions
2. Amendment of section 7 of Act of 2015
3. Amendment of section 40 of Act of 2015
4. Amendment of section 41 of Act of 2015
5. Amendment of section 43 of Act of 2015
6. Amendment of Industrial Relations Act 1946
7. Amendment of section 39 of Redundancy Payments Act 1967
8. Amendment of section 4 of Industrial Relations Act 1969
9. Amendment of section 8 of Unfair Dismissals Act 1977
10. Amendment of section 9 of Protection of Employees (Employers' Insolvency) Act 1984
11. Amendment of section 79 of Employment Equality Act 1998
12. Amendment of section 25 of Equal Status Act 2000
13. Review of operation of Act
14. Short title and commencement

ACTS REFERRED TO

Companies Act 2014 (No. 38)

Employment Equality Act 1998 (No. 21)

Equal Status Act 2000 (No. 8)

Ethics in Public Office Act 1995 (No. 22)

Ethics in Public Office Acts 1995 and 2001

Industrial Relations (Amendment) Act 2001 (No. 11)

Industrial Relations Act 1946 (No. 26)

Industrial Relations Act 1969 (No. 14)

Protection of Employees (Employers' Insolvency) Act 1984 (No. 21)

Redundancy Payments Act 1967 (No. 21)

Unfair Dismissals Act 1977 (No. 10)

Workplace Relations Act 2015 (No. 16)



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*Number 29 of 2021*

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## **WORKPLACE RELATIONS (MISCELLANEOUS PROVISIONS) ACT 2021**

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An Act to make provision in relation to the eligibility for appointment of adjudication officers and for the revocation by Government in certain circumstances of such appointments; to provide for the administration of oaths or affirmations by adjudication officers, the conduct of proceedings in public by the Workplace Relations Commission and for the publication of decisions by the Workplace Relations Commission, to require that applications in relation to the enforcement of decisions of adjudication officers shall be made on notice and, for those purposes, to amend the Workplace Relations Act 2015, the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Protection of Employees (Employers' Insolvency) Act 1984, the Employment Equality Act 1998 and the Equal Status Act 2000; to provide that the chairman, deputy chairman and ordinary members of the Labour Court shall be independent in the performance of their functions and, for that purpose, to amend the Industrial Relations Act 1946 and the Industrial Relations Act 1969; and to provide for related matters. [22nd July, 2021]

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

### **Definitions**

1. In this Act—

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

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

### **Amendment of section 7 of Act of 2015**

2. Section 7 of the Act of 2015 is amended, in subsection (1), by the substitution of “under section 41(12), 41(12A)(b) or 51” for “under section 51”.

### **Amendment of section 40 of Act of 2015**

3. Section 40 of the Act of 2015 is amended—

(a) by the insertion of the following subsection after subsection (1):

“(1A) A person shall not be eligible for appointment under subsection (1) to be an adjudication officer where one or more of subparagraphs (i) to (iv) of subsection (6)(d) apply to the person.”

(b) in subsection (5)—

- (i) by the substitution, in paragraph (a), of “if the Government” for “if the Minister”,
- (ii) by the substitution, in paragraph (b), of “staff of the Commission,” for “staff of the Commission, or”,
- (iii) by the substitution, in paragraph (c), of “expiry of that period, or” for “expiry of that period.”, and
- (iv) by the insertion of the following paragraph after paragraph (c):

“(d) if the adjudication officer concerned—

- (i) is convicted on indictment of an offence,
- (ii) is convicted of an offence involving fraud or dishonesty,
- (iii) has a declaration made against him or her under section 819 of the Companies Act 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
- (iv) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014 whether by virtue of that Chapter or of any other provision of that Act.”,

(c) in subsection (6)—

- (i) by the substitution, in paragraph (a), of “if the Government” for “if the Minister”,
- (ii) by the substitution, in paragraph (c), of “have ceased, or” for “have ceased.”, and
- (iii) by the insertion of the following paragraph after paragraph (c):

“(d) if the adjudication officer concerned—

- (i) is convicted on indictment of an offence,
- (ii) is convicted of an offence involving fraud or dishonesty,
- (iii) has a declaration made against him or her under section 819 of the Companies Act 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
- (iv) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014 whether by virtue of that Chapter or of any other provision of that Act.”,

and

(d) by the substitution of the following subsection for subsection (7):

- “(7) (a) The Government may revoke an appointment under this section if the Government is satisfied that one or more of the grounds specified in paragraph (b) apply to the adjudication officer.
- (b) The grounds referred to in paragraph (a) are as follows, namely that an adjudication officer:
- (i) has become incapable through ill-health of performing his or her functions;
  - (ii) has engaged in serious misconduct;
  - (iii) has failed without reasonable cause, in the opinion of the Government, to perform his or her functions for a continuous period of at least 3 months beginning not earlier than 6 months before the date of the giving of the notice under paragraph (c);
  - (iv) has contravened to a material extent a provision of the Ethics in Public Office Acts 1995 and 2001 that, by virtue of a regulation under section 3 of the Ethics in Public Office Act 1995, applies to him or her.
- (c) Where the Government proposes to revoke the appointment of an adjudication officer under paragraph (a), they shall give notice in writing to the adjudication officer concerned of the proposal.
- (d) A notice under paragraph (c) shall include a statement—
- (i) of the reasons for the proposed revocation of appointment,
  - (ii) that the adjudication officer may, within a period of 30 working days from the giving of the notice or such longer period as the Government may, having regard to the requirements of natural justice, specify in the notice, make representations to the Government in such form and manner as may be specified by the Government, as to why the adjudication officer should not have his or her appointment revoked, and
  - (iii) that where no representations are received within the period referred to in subparagraph (ii) or the period specified in the notice, as the case may be, the Government shall, without further notice to the adjudication officer, proceed with the revocation of the appointment of the adjudication officer in accordance with this subsection.
- (e) In considering whether to revoke the appointment of an adjudication officer under paragraph (a), the Government shall take into account—
- (i) any representations made by the adjudication officer under paragraph (d)(ii) within the period referred to in that paragraph or the period specified in the notice, as the case may be, and

- (ii) any other matter the Government considers relevant for the purpose of their decision.
- (f) Where, having taken into account the matters referred to in paragraph (e), the Government decide to revoke the appointment of an adjudication officer, they shall give notice in writing to the adjudication officer of the decision and the reasons for that decision.”.

**Amendment of section 41 of Act of 2015****4. Section 41 of the Act of 2015 is amended—**

- (a) by the insertion of the following subsection after subsection (12):

“(12A) (a) An adjudication officer may require a person giving evidence in proceedings under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.

- (b) A person who, in or for the purpose of proceedings under this section, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or

- (ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.”,

- (b) by the substitution of the following subsection for subsection (13):

“(13) Proceedings under this section shall be conducted in public unless the adjudication officer, of his or her own motion or upon the application by or on behalf of a party to the proceedings, determines that, due to the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.”,

and

- (c) by the substitution of the following subsection for subsection (14):

“(14) (a) Subject to paragraph (b), the Commission shall publish on the internet in such form and in such manner as it considers appropriate every decision of an adjudication officer under this section.

- (b) In publishing a decision under paragraph (a), an adjudication officer may determine that, due to the existence of special circumstances, information that would identify the parties in relation to whom the decision was made should not be published by the Commission.”.

**Amendment of section 43 of Act of 2015**

5. Section 43 of the Act of 2015 is amended—

- (a) in subsection (1), by the deletion of “the employer or”, and
- (b) by the insertion of the following subsection after subsection (5):

“(6) An application under this section to the District Court shall be made on notice to the employer concerned.”.

**Amendment of Industrial Relations Act 1946**

6. The Industrial Relations Act 1946 is amended—

- (a) in section 10, by the insertion of the following subsection after subsection (12):

“(13) The chairman and the ordinary members shall be independent in the performance of their functions.”,

and

- (b) in section 21—

- (i) in subsection (1), by the substitution of “this Act, the Redundancy Payments Act 1967, the Unfair Dismissals Act 1977, the Protection of Employees (Employers’ Insolvency) Act 1984 or Part 4 of the Workplace Relations Act 2015, or any investigation under the Employment Equality Act 1998 or the Industrial Relations (Amendment) Act 2001” for “this Act, the Unfair Dismissals Act 1977 or Part 4 of the Workplace Relations Act 2015, or any investigation under the Industrial Relations (Amendment) Act 2001”, and

- (ii) by the insertion of the following subsection after subsection (3):

“(3A) A person who, in or for the purpose of proceedings before the Court, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.”.

**Amendment of section 39 of Redundancy Payments Act 1967**

7. Section 39 of the Redundancy Payments Act 1967 is amended by the insertion of the following subsections after subsection (17):

“(17A) Proceedings in relation to any matter referred to an adjudication officer under this section shall be conducted in public unless the adjudication officer, of his or her own motion or upon the application by or on behalf of the employee or employer, determines that, due to

the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.

(17B) (a) Subject to paragraph (b), the Commission shall publish on the internet in such form and in such manner as it considers appropriate every decision of an adjudication officer under this section.

(b) In publishing a decision under paragraph (a), an adjudication officer may determine that, due to the existence of special circumstances, information that would identify the employee or employer in relation to whom the decision was made should not be published by the Commission.”.

#### **Amendment of section 4 of Industrial Relations Act 1969**

8. Section 4 of the Industrial Relations Act 1969 is amended by the insertion of the following subsection after subsection (7):

“(8) A deputy chairman shall be independent in the performance of his or her functions.”.

#### **Amendment of section 8 of Unfair Dismissals Act 1977**

9. Section 8 of the Unfair Dismissals Act 1977 is amended—

(a) by the substitution of the following subsection for subsection (6):

“(6) Proceedings under this section before an adjudication officer shall be conducted in public unless the adjudication officer, of his or her own motion or upon the application by or on behalf of a party to the proceedings, determines that, due to the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.”,

and

(b) by the insertion of the following subsection after subsection (13):

“(14) (a) An adjudication officer may require a person giving evidence in proceedings under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.

(b) A person who, in or for the purpose of proceedings under this section, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or

- (ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.”.

**Amendment of section 9 of Protection of Employees (Employers’ Insolvency) Act 1984**

**10.** Section 9 of the Protection of Employees (Employers’ Insolvency) Act 1984 is amended by the insertion of the following subsections after subsection (4):

- “(4A) (a) An adjudication officer may require a person giving evidence in proceedings in relation to a complaint under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.
- (b) A person who, in or for the purpose of proceedings in relation to a complaint under this section, gives a statement material in the proceedings while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—
- (i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.
- (4B) (a) An adjudication officer may, by giving notice in that behalf in writing to any person, require such person to attend at such time and place as is specified in the notice to give evidence in proceedings in relation to a complaint under this section or to produce to the adjudication officer any documents in his or her possession, custody or control that relate to any matter to which those proceedings relate.
- (b) A person to whom a notice under paragraph (a) is given shall be entitled to the same immunities and privileges as those to which he or she would be entitled if he or she were a witness in proceedings before the High Court.
- (c) A notice under paragraph (a) may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to such person at the address at which he or she ordinarily resides.
- (d) A person to whom a notice under paragraph (a) has been given who—
- (i) fails or refuses to comply with the notice, or
  - (ii) refuses to give evidence in proceedings to which the notice relates or fails or refuses to produce any document to which the notice relates,

shall be guilty of an offence and shall be liable, on summary conviction, to a class E fine.

- (4C) Proceedings in relation to a complaint under this section shall be conducted in public unless the adjudication officer, of his or her own motion or upon the application by or on behalf of a party to the proceedings, determines that, due to the existence of special circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.
- (4D) (a) Subject to paragraph (b), the Commission shall publish on the internet in such form and in such manner as it considers appropriate every declaration of an adjudication officer under this section.
- (b) In publishing a declaration under paragraph (a), an adjudication officer may determine that, due to the existence of special circumstances, information that would identify the parties in relation to whom the declaration was made should not be published by the Commission.
- (4E) The Minister may, by regulations, make provision in relation to any matter relating to the presentation of, the referral of, or the hearing of a complaint under this section that he or she considers appropriate.”.

#### **Amendment of section 79 of Employment Equality Act 1998**

#### **11. Section 79 of the Employment Equality Act 1998 is amended—**

- (a) by the substitution of the following subsection for subsection (2):

“(2) An investigation under this section shall be held in public unless the Director General of the Workplace Relations Commission, of his or her own motion or upon the application by or on behalf of any party, determines that, due to the existence of special circumstances, the investigation (or part thereof) should be held otherwise than in public.”,

and

- (b) by the insertion of the following subsection after subsection (7):

“(8) (a) The Director General of the Workplace Relations Commission may require a person giving evidence in an investigation under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.

- (b) A person who, in or for the purpose of an investigation under this section, gives a statement material in the investigation while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
- (ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.”.

### **Amendment of section 25 of Equal Status Act 2000**

#### **12. Section 25 of the Equal Status Act 2000 is amended—**

- (a) by the substitution of the following subsection for subsection (2):

“(2) An investigation under this section shall be held in public unless the Director General of the Workplace Relations Commission, of his or her own motion or upon the application by or on behalf of any party, determines that, due to the existence of special circumstances, the investigation (or part thereof) should be held otherwise than in public.”,

and

- (b) by the insertion of the following subsection after subsection (2A):

“(2B) (a) The Director General of the Workplace Relations Commission may require a person giving evidence in an investigation under this section to give such evidence on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person.

- (b) A person who, in or for the purpose of an investigation under this section, gives a statement material in the investigation while lawfully sworn as a witness that is false and that he or she knows to be false shall be guilty of an offence and shall be liable—
  - (i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 10 years, or both.”.

### **Review of operation of Act**

#### **13. (1) The Minister shall—**

- (a) not later than 12 months after this section comes into operation, commence a review of the operation of the amendments to:
  - (i) the Act of 2015 effected by *section 4(b) and (c)*;
  - (ii) the Redundancy Payments Act 1967 effected by *section 7*,
  - (iii) the Unfair Dismissals Act 1977 effected by *section 9(a)*;

- (iv) the Protection of Employees (Employers' Insolvency) Act 1984 effected by *section 10*, in so far as it relates to the insertion, in section 9 of the said Act, of subsections (4C) and (4D);
  - (v) the Employment Equality Act 1998 effected by *section 11(a)*;
  - (vi) the Equal Status Act 2000 effected by *section 12(a)*,
- and
- (b) not later than 12 months after the commencement of the said review, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.
- (2) In carrying out the review referred to in *subsection (1)*, the Minister shall consult with such other Ministers of the Government as he or she considers appropriate.

**Short title and commencement**

- 14.** (1) This Act may be cited as the Workplace Relations (Miscellaneous Provisions) Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.