

Reference No: E109/120/77; **Date:** 15/09/77

Circular 8/1977:- Legislation affecting conditions of employment

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I am directed by the Minister for the Public Service to refer to Circular Letter 5/77 outlining the implications for Departments of the Employment Equality Act, 1977 and to say that queries received by this Department from time to time suggest that some Departments may not be fully aware of the significance for personnel work of other legislation passed in recent years. The present circular letter has, therefore, been prepared as, it is to be hoped, a ready source of initial reference for Departments in these matters.

2. The legislation in question is as follows:

Redundancy Payments Acts, 1967 to 1973
Minimum Notice and Terms of Employment Act, 1973
Holidays (Employees) Act, 1973
Anti-Discrimination (Pay) Act, 1974
Unfair Dismissals Act, 1977
Protection of Employment Act, 1977
Protection of Young Persons (Employment) Act, 1977

An outline of the main features of these Acts is set out below. Personnel Officers should familiarise themselves with their detailed provisions. Explanatory leaflets on all the Acts are available from the Department of Labour.

REDUNDANCY PAYMENTS ACTS 1967 to 1973

State employees to whom the Acts apply

3. The Acts cover employees who fulfil the following requirements:-

- (i) They are in employment which is insurable for all benefits under the Social Welfare Acts or they were in such employment in the four years immediately prior to dismissal,
- (ii) they are between the ages of 16 and 70 years, and
- (iii) they are normally expected to work for 21 hours or more per week for the employer who is dismissing them.

State industrial employees and unestablished civil servants are insured for all benefits under the Social Welfare Acts.

Effective date of the 1967 Act

4. 1 January 1968.

General scope of the Acts

5. The Acts provide for payments to certain employees who are dismissed on grounds of redundancy. Payments take two forms:

(i) A lump sum payable by an employer on the date of dismissal. The employer may apply for a rebate from the Redundancy Fund in respect of such a payment. The rebate varies by reference to the extent of formal written notice given to the employee.

(ii) Weekly payments by the employee's local Employment Exchange or Office. These payments are calculated by reference to the employee's age and his service with his employer. The amount of the weekly payment depends on the employee's pre-redundancy remuneration and on certain other income, such as social welfare payments and tax rebates, which he may receive after redundancy.

The cost of rebates and weekly payments is met from the Redundancy Fund which is financed by contributions from employers and employees. The rates are as follows:-

employer, 25p:	employee-man 13p,	woman 12p.
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6. An employee who fulfils the other conditions laid down in the Acts is entitled to redundancy payment if

(i) he is dismissed by his employer by reason of redundancy. (Entitlement may arise in a number of other circumstances such as lay-off or short-time or where a person leaves employment because of an unacceptable change in the conditions or place of employment.)

and

(ii) he has been continuously employed by the employer dismissing him for two years (104 weeks) or more after he has attained the age of 16 years.

7. A general right to redundancy payment can be qualified in certain circumstances, e.g. where an offer of suitable alternative employment is made. Redundancy does not arise where an employee is dismissed because of misconduct or inefficiency. Disputes are dealt with by the Employment Appeals Tribunal (formally the Redundancy Appeals Tribunal).

Features of special interest to Personnel Officers

8. Statutory procedures exist for the giving of notice of a proposed dismissal, the certification of redundancy, the calculation of payments and the claiming of rebates.

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT, 1973 (amended by State employees to whom the Act applies

9. The Act applies to all State employees, other than established civil servants, who are normally expected to work for not less than 21 hours a week.

Effective date of the Act

10. 1 September 1973

General scope of the Act

11. The Act lays down the minimum notice to be given by employers and by employees when terminating a contract of employment and gives employees a legal right to information about the terms of their employment. Disputes about notice are dealt with by the Employment Appeals Tribunal.

12. If an employee has been in "continuous service" with the same employer for at least thirteen weeks, he is entitled to a minimum period of notice before the employer may discontinue his services. The prescribed period varies according to length of service, as follows:

Length of service	Minimum notice
13 weeks to 2 years	1 week
2 years to 5 years	2 weeks
5 years to 10 years	4 weeks
10 years to 15 years	6 weeks
more than 15 years	8 weeks

An employer is entitled to one week's notice from an employee. The right to notice may be waived or payment in lieu may be accepted. Employment may be terminated without notice because of misconduct.

13. An employee may require his employer to supply him with a written statement of the terms of his employment. The information may include:-

- * confirmation of the date on which he commenced employment
- * details of his pay, including overtime, commission and bonus, and the methods of calculating them
- * whether pay is to be weekly, monthly or otherwise
- * conditions about hours of work and overtime
- * holiday entitlements
- * sick pay arrangements and pension schemes, if any
- * periods of notice or, if the contract of employment is for a fixed time, the date when the contract expires.

An employer must within one month after commencement of employment provide an employee with the particulars referred to above.

Features of special interest to Personnel Officers

14. An employee who seeks information as at 13, may instead of getting a specially prepared statement, merely be referred to an existing document which is readily accessible to him.

HOLIDAY (EMPLOYEES) ACT, 1973

State employees to whom the Act applies

15. The Act applies to persons employed by or under the State on industrial work, within the meaning of the Conditions of Employment Act, 1936, as agricultural workers or on subordinate duties in an unestablished capacity in the civil service. The application of the Act to agricultural workers is modified by the provisions of the Holiday (Agricultural Workers) Regulations, 1977 (S.I. No. 64 of 1977).

Effective date of the Act

16. 1 April 1974

General scope of the Act

17. The Act provides for an entitlement to three weeks' annual leave for each leave year with pro-rata entitlement for less than a year. It contains provisions relating to qualifying service for annual leave,

compensation for untaken leave on cesser of employment, the time at which annual leave is taken and pay for annual leave. It also provides for entitlements in respect of public holidays.

Features of special interest to Personnel Officers

18. Each employer must keep, and retain for at least three years, whatever records are necessary to show that the Act is being complied with.

ANTI-DISCRIMINATION (PAY) ACT, 1974 (amended by, and to be read as one with, the Employment Equality Act, 1977)

State employees to whom the Act applies

19. The Act applies to all State employees.

Effective date of the Act

20. 31 December 1975

General scope of the Act

21. The purpose of the Act is to ensure equal treatment between men and women in regard to remuneration. It establishes the right of a woman, and conversely the right of a man, to equal remuneration for like work and provides the means by which this right can be enforced. "Like work" and "remuneration" are defined in detail. Provision is made to allow different rates of remuneration on grounds other than sex. Specific provisions are made in relation to dismissal due to the making of an equal pay claim.

22. An equal pay dispute may be referred by either party to an equality officer of the Department of Labour. That officer then investigates the dispute and issues a recommendation. An appeal against the recommendation may be made to the Labour Court within 42 days from the date of the recommendation. The Court hears the appeal and issues a determination. Complaints by an employee that a Court determination has not been carried out are investigated by the Court and it may then issue a direction. If this is not carried out redress is available through the courts.

Features of special interest to Personnel Officers

23. In investigating disputes equality officers of the Department of Labour have authority to call for records, books or documents and to seek information relating to the contents of these. In dealing with appeals made to it the Labour Court has its normal powers of summoning witnesses and calling for documents.

UNFAIR DISMISSALS ACT 1977

State employees to whom the Act applies

24. The Act applies to State employees who have access to the Labour Court through being designated under section 17 of the Industrial Relations Act, 1969. In effect this means State industrial employees. Even within that group certain categories are excluded from the scope of the Act, e.g. those with less than one year's service at the date of dismissal, those who have reached the normal retiring age and, in certain circumstances, apprentices.

Effective date of the Act

25. 9 May 1977

General scope of the Act

26. The purpose of this Act is to provide redress for employees unfairly dismissed from their employment. The channel for claiming such redress is through a Rights Commissioner, then by appeal to the Employment Appeals Tribunal and ultimately to the Circuit Court.

Features of special interest to Personnel Officers

27. Section 14 of the Act requires an employer to give to each of his employees within 28 days of taking up employment a notice in writing setting out the procedure which he (the employer) will observe "before and for the purpose of dismissing the employee". Alterations in the procedure must also be notified in writing within 28 days of being made. In effect, the procedure must be as agreed with the unions or as established by the custom and practice of the employment concerned. Alterations to the procedure must be as agreed with the unions.

28. A dismissed employee is entitled, on request, to get, within 14 days, particulars in writing of the grounds of dismissal.

PROTECTION OF EMPLOYMENT ACT, 1977

State employees to whom the Act applies

29 The Act applies to State employees designated for the time being under section 17 of the Industrial Relations Act, 1969 (in effect, industrial employees) and employed in an establishment normally employing more than 20 persons, reckoned on a monthly average over the previous year.

Effective date of the Act

30. 10 May 1977

General scope of the Act

31. The main purpose of the Act is to give protection to workers faced with collective redundancies, as defined in section 6 of the Act. It ensures that workers' representatives are consulted at least 30 days before the first dismissal takes effect and are given relevant information with a view to reaching an agreement with the employer. The Act also provides that an employer must notify the Minister for Labour of the proposed redundancies and then delay their implementation for 30 days. The particulars to be given in this notification are prescribed in S.I. No. 140 of 1977. The Minister, or an officer authorised by him, may then have consultations with the employer for the purpose of seeking solutions to the problems caused by the proposed redundancies.

Features of special interest to Personnel Officers

32. Employers are obliged to keep all necessary records to show that the Act is being complied with. The records must be retained for at least three years.

PROTECTION OF YOUNG PERSONS (EMPLOYMENT) ACT, 1977

State employees to whom the Act applies

33. The Act applies to State employees without exception.

Effective date of the Act

34. 5 July 1977

General scope of the Act

35. The chief purpose of the Act is to extend the scope of the legislative protection given to young workers under the age of 18. The Act contains provisions about the minimum age for entry into employment. It makes provision in relation to normal working hours, maximum hours of work, overtime, rest periods and night work, distinguishing between various age groups from 14 to 18 years. Enforcement of the Act is supervised by Department of Labour Inspectors. Redress is available through the courts. Departure from the provision of the Act is allowed in emergencies (section 21).

36. The maximum hours of work for persons between the ages of 16 and 18 are

9 in any one day
45 in any week
172 in any 4 weeks
2000 in any year

Persons under 18 must not work between 10 p.m. and 6 a.m. and must be allowed a break of at least 12 hours between finishing work on one day and beginning work on the next (section 9 and 14). Time spent with the employer's consent on vocational training during normal working hours is deemed to be time worked (section 11).

37. If overtime of 1½ hours or more is to be worked a break must be allowed. The break provided for in the Act is at least half an hour unpaid or, alternatively, by agreement, at least fifteen minutes paid (section 12(4), (5) and (6)).

Features of special interest to Personnel Officers

38. It is an offence to employ anyone under the age of 18 years without satisfactory evidence of age. A register or other satisfactory record must be kept showing the following particulars of each employee under 18 years:

- * full name
- * date of birth
- * time of commencement of work each day
- * time of termination of work each day
- * rate of wages or salary paid for normal working hours per day, week, month, or year, as the case may be
- * the total amount paid to each such employee by way of wages or salary.

In addition such other records must be kept as are necessary to show whether the provisions of the Act are being complied with. The records must be kept for at least three years.

39. Every employer of persons under 18 years of age must display at the principal entrances to the premises where these persons work, an approved abstract of the Act (section 19). Copies of this abstract will be available from the Department of Labour.

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