



**AN BILLE IN AGHAIDH IDIRDHEALU (DIFHOSTU
EAGORACH), 1976
ANTI-DISCRIMINATION (UNFAIR DISMISSALS) BILL,
1976**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Exclusions.
3. Dismissal during probation or training.
4. Dismissal during apprenticeship.
5. Dismissal by way of lock-out or for taking part in strike.
6. Unfair dismissal.
7. Redress for unfair dismissal.
8. Determination of claims for unfair dismissal.
9. Appeal from recommendation of rights commissioner.
10. Proceedings in Circuit Court for redress under Act.
11. Service of documents on bodies.
12. Provisions relating to winding up and bankruptcy.
13. Voidance of certain provisions in agreements.
14. Notice to employees of procedure for, and grounds of, dismissal.
15. Alternative remedies of employee.
16. Amendment of Act by order of Minister.
17. Regulations.
18. Employment Appeals Tribunal.
19. Amendment of First Schedule to Minimum Notice and Terms of Employment Act, 1973.
20. Expenses.
21. Short title and commencement.



AN BILLE IN AGHAIDH IDIRDHEALU (DIFHOSTU
EAGORACH), 1976
ANTI-DISCRIMINATION (UNFAIR DISMISSALS) BILL,
1976

BILL

5

entitled

AN ACT TO PROVIDE FOR REDRESS FOR EMPLOYEES
UNFAIRLY DISMISSED FROM THEIR EMPLOYMENT,
TO PROVIDE FOR THE DETERMINATION OF CLAIMS
FOR SUCH REDRESS BY RIGHTS COMMISSIONERS 10
AND BY THE TRIBUNAL ESTABLISHED, FOR THE
PURPOSE OF DETERMINING CERTAIN APPEALS, BY
THE REDUNDANCY PAYMENTS ACT, 1967, TO PRO-
VIDE THAT THAT TRIBUNAL SHALL BE KNOWN AS
THE EMPLOYMENT APPEALS TRIBUNAL, TO MAKE 15
PROVISION FOR OTHER MATTERS CONNECTED WITH
THE MATTERS AFORESAID AND TO AMEND THE
MINIMUM NOTICE AND TERMS OF EMPLOYMENT
ACT, 1973.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 20

Definitions.

1.—In this Act—

“contract of employment” means a contract of service or of
apprenticeship, whether it is express or implied and (if it is express)
whether it is oral or in writing;

“date of dismissal” means—

25

(a) where prior notice of the termination of the contract of
employment is given and it complies with the provisions
of that contract and of the Minimum Notice and Terms
of Employment Act, 1973, the date on which that notice
expires,

30

(b) Where either prior notice of such termination is not given
or the notice given does not comply with the provisions
of the contract of employment or the Minimum Notice
and Terms of Employment Act, 1973, the date on which
such a notice would have expired, if it had been given on 35
the date of such termination and had been expressed to
expire on the later of the following dates—

(i) the earliest date that would be in compliance with the
provisions of the contract of employment,

(ii) the earliest date that would be in compliance with the 40
provisions of the Minimum Notice and Terms of
Employment Act, 1973,

(c) where a contract of employment for a fixed term expires
without its being renewed under the same contract or, in

1973, No. 4.

the case of a contract for a specified purpose (being a purpose of such a kind that the duration of the contract was limited, but was, at the time of its making, incapable of precise ascertainment), there is a cesser of the purpose,
5 the date of the expiry or cesser;

“dismissal”, in relation to an employee, means—

- (a) the termination by his employer of the employee's contract of employment with the employer, whether prior notice of the termination was or was not given to the employee,
- 10 (b) the termination by the employee of his contract of employment with his employer, whether prior notice of the termination was or was not given to the employer, in circumstances in which, because of the conduct of the employer, the employee was or would have been entitled,
15 or it was or would have been reasonable for the employee, to terminate the contract of employment without giving prior notice of the termination to the employer, or
- (c) the expiration of a contract of employment for a fixed term without its being renewed under the same contract or, in
20 the case of a contract for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment), the cesser of the purpose;

“employee” means an individual who has entered into or works
25 under (or, where the employment has ceased, worked under) a contract of employment;

“employer”, in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed under a contract of employment;

30 “industrial action” means lawful action taken by any number or body of employees acting in combination or under a common understanding, in consequence of a dispute, as a means of compelling their employers or any employee or body of employees, or to aid other employees in compelling their employer or any employee or body of
35 employees, to accept or not to accept terms or conditions of or affecting employment;

“the Minister” means the Minister for Labour;

“redundancy” means any of the matters referred to in paragraphs (a) to (e) of section 7 (2) of the Redundancy Payments Act, 1967, as
40 amended by the Redundancy Payments Act, 1971; 1967, No. 21.
1971, No. 20.

“statutory apprenticeship” means an apprenticeship in a designated industrial activity within the meaning of the Industrial Training Act, 1967, and includes any apprenticeship in a trade to which an order,
45 that Act applies; 1967, No. 5.

“strike” means the cessation of work by any number or body of employees acting in combination or a concerted refusal or a refusal under a common understanding of any number of employees to continue to work for an employer, in consequence of a dispute, done as a
50 means of compelling their employer or any employee or body of employees, or to aid other employees in compelling their employer or any employee or body of employees, to accept or not to accept terms or conditions of or affecting employment;

“trade union” means a trade union which is the holder of a negotiation licence granted under the Trade Union Acts, 1941 and 1971;
55

“the Tribunal” means the Employment Appeals Tribunal established by the Redundancy Payments Act, 1967.

2.—(1) This Act shall not apply in relation to any of the following persons:

- (a) an employee who is dismissed, who, at the date of his dismissal, had less than one year's continuous service with the employer who dismissed him and whose dismissal does not result wholly or mainly from the matters referred to in *section 6 (2) (g)* of this Act, 5
- (b) an employee who is dismissed and who, on or before the date of his dismissal, had reached the normal retiring age for employees of the same employer in similar employment or who on that date was a person to whom by reason of his age the Redundancy Payments Acts, 1967 to 1973, did not apply, 10
- (c) a person employed by his spouse, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother or half-sister, 15
- (d) a person in employment as a member of the Defence Forces, the Judge Advocate-General, the chairman of the Army Pensions Board or the ordinary member thereof who is not an officer of the Medical Corps of the Defence Forces, 20
- (e) a member of the Garda Síochána,
- (f) a person (other than a person employed under a contract of employment) who is receiving a training allowance from or undergoing instruction by An Chomhairle Oiliúna or is receiving a training allowance from and undergoing instruction by that body, 25
- (g) a person who is employed by An Chomhairle Oiliúna under a contract of apprenticeship, 30
- (h) civil servants (within the meaning of the Civil Service Regulation Act, 1956) and members of the staff of the Houses of the Oireachtas (within the meaning of the Houses of the Oireachtas Act, 1959), 35
- (i) prison officers, 35
- (j) officers of a local authority for the purposes of the Local Government Act, 1941, 40
- (k) officers of a health board, a vocational education committee established by the Vocational Education Act, 1930, or a committee of agriculture established by the Agriculture Act, 1931. 45

(2) This Act shall not apply in relation to—

- (a) dismissal where the employment was under a contract of employment for a fixed term made before the 16th day of September, 1976, and the dismissal consisted only of the expiry of the term without its being renewed under the same contract, or 45
- (b) dismissal where the employment was under a contract of employment for a fixed term or for a specified purpose (being a purpose of such a kind that the duration of the contract was limited but was, at the time of its making, incapable of precise ascertainment) and the dismissal consisted only of the expiry of the term without its being renewed under the said contract or the cesser of the purpose and the contract is in writing, was signed by or on behalf of the employer and by the employee and 50 55

provides that this Act shall not apply to a dismissal consisting only of the expiry or cesser aforesaid.

(3) (a) This Act shall not apply in relation to the dismissal of an employee who, under the relevant contract of employment, ordinarily worked outside the State unless—

(i) he was ordinarily resident in the State during the term of the contract, or

(ii) he was domiciled in the State during the term of the contract, and the employer—

(I) in case the employer was an individual, was ordinarily resident in the State, during the term of the contract, or

(II) in case the employer was a body corporate or an unincorporated body of persons, had its principal place of business in the State during the term of the contract.

(b) In this subsection "term of the contract" means the whole of the period from the time of the commencement of work under the contract to the time of the relevant dismissal.

(4) The First Schedule to the Minimum Notice and Terms of Employment Act, 1973, as amended by section 19 of this Act, shall apply for the purpose of ascertaining for the purposes of this Act the period of service of an employee and whether that service has been continuous.

3.—(1) This Act shall not apply in relation to the dismissal of an employee during a period starting with the commencement of the employment when he is on probation or undergoing training—

Dismissal during probation or training.

(a) if his contract of employment is in writing, the duration of the probation or training is 2 years or less and is specified in the contract, or

(b) if his contract of employment was made before the commencement of this Act and was not in writing and the duration of the probation or training is 2 years or less.

(2) This Act shall not apply in relation to the dismissal of an employee during a period starting with the commencement of the employment when he is undergoing training for the purpose of becoming qualified or registered, as the case may be, as a nurse, pharmacist, health inspector, medical laboratory technician, occupational therapist, physiotherapist, speech therapist, radiographer or social worker.

4.—This Act shall not apply in relation to the dismissal of a person who is or was employed under a statutory apprenticeship if the dismissal takes place within 6 months after the commencement of the apprenticeship or within 1 month after the completion of the apprenticeship.

Dismissal during apprenticeship.

5.—(1) The dismissal of an employee by way of a lock-out shall be deemed, for the purposes of this Act, not to be an unfair dismissal if the employee is offered re-engagement as from the date of resumption of work.

Dismissal by way of lock-out or for taking part in strike.

(2) The dismissal of an employee for taking part in a strike or other industrial action shall be deemed, for the purposes of this Act, to be an unfair dismissal, if—

(a) one or more employees of the same employer who took part in the strike or other industrial action were not dismissed for so taking part, or

(b) one or more of such employees who were dismissed for so taking part are subsequently offered re-engagement and the employee is not.

(3) References in *paragraphs (a) and (b) of section 7 (1)* of this Act to dismissals include, in the case of employees dismissed by way of lock-out or for taking part in a strike or other industrial action, references to failure to offer them re-engagement in accordance with any agreement by the employer and by or on behalf of the employees, or, in the absence of such agreement, from the earliest date for which re-engagement was offered to the other employees of the same employer who were locked out or took part in the strike or other industrial action or to a majority of such employees.

(4) In this section a reference to an offer of re-engagement, in relation to an employee, is a reference to an offer (made either by the original employer or by a successor of that employer or by an associated employer) to re-engage that employee, either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable to him.

(5) In this section—

“lock-out” means an action which, in contemplation or furtherance of a trade dispute (within the meaning of the Industrial Relations Act, 1946), is taken by one or more employers, whether parties to the dispute or not, and which consists of the exclusion of employees from one or more factories, offices or other places of work or of the suspension of work in one or more such places or of the collective, simultaneous or otherwise connected termination or suspension of employment of a group of employees;

“the original employer” means, in relation to the employee, the employer who dismissed the employee.

1946, No. 26.

Unfair dismissal.

6.—(1) Subject to the provisions of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, to be an unfair dismissal unless, having regard to all the circumstances, there were grounds justifying the dismissal.

(2) Without prejudice to the generality of *subsection (1)* of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, to be an unfair dismissal if it results wholly or mainly from one or more of the following:

(a) the employee's membership of, or his engaging in activities on behalf of, a trade union or excepted body under the Trade Union Acts, 1941 and 1971, where the times at which he engages in such activities are outside his hours of work or are times during his hours of work in which he is permitted pursuant to the contract of employment between him and his employer so to engage,

(b) the religious or political opinions of the employee, being opinions the holding or expression of which do not directly or indirectly cause or result in damage to the interests of the employer,

(c) the failure or refusal by the employee to become, or to continue as, a member of a particular or any trade union

- or an excepted body within the meaning of the Trade Union Acts, 1941 and 1971, unless at the time the employee commenced the employment from which he was dismissed such membership was a term or condition of the contract of employment of all employees of the employer in the same kind of employment as the employee,
- (d) civil proceedings whether actual, threatened or proposed against the employer to which the employee is or will be a party or in which the employee was or is likely to be a witness,
- (e) criminal proceedings against the employer, whether actual, threatened or proposed, in relation to which the employee has made, proposed or threatened to make a complaint or statement to the prosecuting authority or to any other authority connected with or involved in the prosecution of the proceedings or in which the employee was or is likely to be a witness,
- (f) the race or colour of the employee,
- (g) the pregnancy of the employee or matters connected therewith, unless—
- (i) the employee was unable, by reason of the pregnancy—
- (I) to do adequately the work for which she was employed, or
- (II) to continue to do such work without contravention by her or her employer of a provision of a statute or instrument made under statute, and
- (ii) (I) there was not, at the time of the dismissal, any other employment with her employer that was suitable for her and in relation to which there was a vacancy, or
- (II) the employee refused an offer by her employer of alternative employment on terms and conditions corresponding to those of the employment to which the dismissal related, being an offer made so as to enable her to be retained in the employment of her employer notwithstanding pregnancy.
- (3) Without prejudice to the generality of *subsection (1)* of this section, if an employee was dismissed due to redundancy but the circumstances constituting the redundancy applied equally to one or more other employees in similar employment with the same employer who have not been dismissed, and either—
- (a) the selection of that employee for dismissal resulted wholly or mainly from one or more of the matters specified in *subsection (2)* of this section or another matter that would not be a ground justifying dismissal, or
- (b) he was selected for dismissal in contravention of a procedure (being a procedure that has been agreed upon by or on behalf of the employer and by the employee or a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing him or has been established by the custom and practice of the employment concerned) relating to redundancy and there were no special reasons justifying a departure from that procedure,

then the dismissal shall be deemed, for the purposes of this Act, to be an unfair dismissal.

(4) Without prejudice to the generality of *subsection (1)* of this section, the dismissal of an employee shall be deemed, for the purposes of this Act, not to be an unfair dismissal, if it results wholly or mainly from one or more of the following:

- (a) the capability, competence or qualifications of the employee 5
for performing work of the kind which he was employed
by the employer to do,
- (b) the conduct of the employee,
- (c) the redundancy of the employee, and
- (d) the employee being unable to work or continue to work in 10
the position which he held without contravention (by
him or by his employer) of a duty or restriction imposed
by or under any statute or instrument made under
statute.

(5) In determining for the purposes of this Act whether the dis- 15
missal of an employee was an unfair dismissal or not, it shall be
for the employer to show that the dismissal resulted wholly or
mainly from one or more of the matters specified in *subsection (4)*
of this section or that there were other substantial grounds justify-
ing the dismissal. 20

Redress for
unfair
dismissal.

7.—(1) Where an employee is dismissed and the dismissal is an
unfair dismissal, the employee shall be entitled to redress consisting
of whichever of the following the rights commissioner, the Tribunal
or the Circuit Court, as the case may be, considers appropriate
having regard to all the circumstances: 25

- (a) re-engagement by the employer of the employee either in the
position which he held immediately before his dismissal
or in a different position which would be reasonably
suitable to him on such terms and conditions (including a
term that the re-engagement shall be deemed to have 30
commenced on the day of the dismissal or on any sub-
sequent day) as are reasonable having regard to all the
circumstances, or
- (b) payment by the employer to the employee of such com-
pensation (not exceeding in amount 104 weeks remunera- 35
tion in respect of the employment from which he was dis-
missed calculated in accordance with regulations under
section 17 of this Act) in respect of any financial loss
incurred by him and attributable to the dismissal as is
just and equitable having regard to all the circumstances. 40

(2) Without prejudice to the generality of *subsection (1)* of this
section, in determining the amount of compensation payable under
that subsection regard shall be had to—

- (a) the extent (if any) to which the financial loss referred to in
that subsection was attributable to an act, omission or 45
conduct by or on behalf of the employer,
- (b) the extent (if any) to which the said financial loss was
attributable to an action, omission or conduct by or on
behalf of the employee,
- (c) the measures (if any) adopted by the employee or, as the 50
case may be, his failure to adopt measures, to mitigate
the loss aforesaid, and
- (d) the extent (if any) of the compliance or failure to comply by
the employer or employee with any procedure of the kind

referred to in *section 14 (3)* of this Act or with the provisions of any code of practice relating to procedures regarding dismissal approved of by the Minister.

(3) In this section—

- 5 “financial loss”, in relation to the dismissal of an employee, includes any actual loss and any estimated prospective loss of income attributable to the dismissal and the value of any loss or diminution, attributable to the dismissal, of the rights of the employee under the Redundancy Payments Acts, 1967 to 1973, or in relation to super-
10 annuation;

“remuneration” includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

- 8.—(1) A claim by an employee against an employer for redress under this Act for unfair dismissal may be brought by the employee
15 before a rights commissioner or the Tribunal and the commissioner or Tribunal shall hear the parties and any evidence relevant to the claim tendered by them and, in the case of a rights commissioner, shall make a recommendation in relation to the claim, and, in the case of the Tribunal, shall make a determination in relation to the
20 claim.

Determination
of claims
for unfair
dismissal.

- (2) A claim for redress under this Act shall be initiated by giving a notice in writing (containing such particulars (if any) as may be specified in regulations under *section 17* of this Act made for the purposes of *subsection (7)* of this section) to a rights commissioner or
25 the Tribunal, as the case may be, within 6 months of the date of the relevant dismissal and a copy of the notice shall be given to the employer concerned within the same period.

(3) A rights commissioner shall not hear a claim for redress under this Act if—

- 30 (a) the Tribunal has made a determination in relation to the claim, or

(b) any party concerned notifies the commissioner in writing that he objects to the claim being heard by a rights commissioner.

- 35 (4) (a) Where a recommendation of a rights commissioner in relation to a claim for redress under this Act is not carried out by the employer in accordance with its terms, the employee concerned may bring the claim before the Tribunal under *subsection (1)* of this section.

- 40 (b) The bringing of a claim before the Tribunal by virtue of this subsection shall be effected by giving to the Tribunal a notice in writing containing such particulars (if any) as may be specified in regulations under *section 17* of this Act made for the purposes of *subsection (7)* of this
45 section.

(5) Subject to *subsection (4)* of this section, the Tribunal shall not hear a claim for redress under this Act (except by way of appeal from a recommendation of a rights commissioner)—

- 50 (a) if a rights commissioner has made a recommendation in relation to the claim, or

(b) unless one of the parties concerned notifies a rights commissioner in writing that he objects to the claim being heard by a rights commissioner.

- (6) (a) Proceedings under this section and *section 9* of this Act shall be conducted otherwise than in public but the Tribunal shall, if requested to do so by a party to the dispute, conduct the proceedings in public.
- (b) Where proceedings under this section or *section 9* of this Act are being conducted in public, the Tribunal may, if it is satisfied that any part of the proceedings concerns a matter that should, in the interest of any party to the proceedings, be treated as confidential, conduct that part of the proceedings otherwise than in public. 10
- (7) Regulations under *section 17* of this Act may provide for all or any of the following matters and for anything consequential thereon or incidental or ancillary thereto—
- (a) the procedure to be followed regarding the bringing of claims under this section or appeals under *section 9* of this Act before the Tribunal, 15
- (b) the times and places of hearings by the Tribunal,
- (c) the representation of parties attending hearings by the Tribunal,
- (d) procedure regarding the hearing of such claims and appeals as aforesaid by the Tribunal, 20
- (e) publication and notification of determinations of the Tribunal,
- (f) the particulars to be contained in the notices referred to in *subsections (2) and (4)* of this section and *section 9* of this Act, 25
- (g) the award by the Tribunal of costs and expenses in relation to such claims and appeals as aforesaid and the payment thereof.
- (8) *Section 21 (2)* of the Industrial Relations Act, 1946, shall apply in relation to all proceedings before the Tribunal as if the references in that section to the Labour Court were references to the Tribunal and *subsection (17)* of *section 39* of the Redundancy Payments Act, 1967, shall apply in relation to proceedings before the Tribunal under this Act as it applies to matters referred to it under the said *section 39*. 30 35

Appeal from
recommendation
of rights
commissioner.

9.—(1) A party concerned may appeal to the Tribunal from a recommendation of a rights commissioner in relation to a claim for redress under this Act and the Tribunal shall hear the parties and any evidence relevant to the appeal tendered by them and shall make a determination in relation to the appeal. 40

(2) An appeal under this section shall be initiated by a party by giving, within 6 weeks of the date on which the recommendation to which it relates was given to the parties concerned, a notice in writing (containing such particulars (if any) as may be specified in regulations under *section 17* of this Act for the purposes of *section 8 (7)* thereof) to the Tribunal and stating the intention of the party concerned to appeal against the recommendation and a copy of the notice shall be given to the other party concerned within the said period of 6 weeks. 45

Proceedings in
Circuit Court
for redress
under Act.

10.—(1) If an employer fails to carry out in accordance with its terms a determination of the Tribunal in relation to a claim for redress under this Act within 6 weeks from the date on which the 50

determination is communicated to the parties the Minister may, if he thinks it appropriate, having regard to all the circumstances, to do so, institute and carry on proceedings in the Circuit Court in his name on behalf of the employee against the employer for redress under this
5 Act.

(2) Where, in proceedings under this section, the Circuit Court finds that an employee is entitled to redress under this Act, it shall order the employer concerned to make to the employee concerned the appropriate redress.

10 (3) Any costs—

(a) incurred by the Minister in relation to proceedings under this section, or

(b) incurred by the employer concerned in any such proceedings,

15 and required by the Circuit Court to be borne by the Minister shall be paid by the Minister, and the employee concerned shall be under no liability in relation to any such costs.

(4) A party concerned may appeal to the Circuit Court from any determination of the Tribunal in relation to a claim for redress under this Act within 6 weeks from the date on which the determination is
20 communicated to the parties.

(5) Proceedings under this section shall be heard in the county where the employer concerned ordinarily resides or carries on any profession, business or occupation.

25 (6) The reference in *subsection (1)* of this section to a determination of the Tribunal is a reference to such a determination in relation to which, at the expiration of the time for bringing an appeal against the determination, no such appeal has been brought.

30 11.—Any summons or other document required to be served for the purpose or in the course of any proceedings under this Act on a body corporate or an unincorporated body of persons may be served by leaving it at or sending it by post to the registered office for the purpose of the Companies Act, 1963, of that body or, if there is no such office, by leaving it at or sending it by post to any place in the State at which that body conducts its business.

Service of documents on bodies.

1963, No. 33.

35 12.—(1) There shall be included among the debts which, under section 285 of the Companies Act, 1963, are, in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, all compensation payable under this Act by the company to an employee, and that Act shall have effect accordingly, and formal
40 proof of the debts to which priority is given under this subsection shall not be required except in cases where it may otherwise be provided by rules made under that Act.

Provisions relating to winding up and bankruptcy.
1963, No. 33.

45 (2) There shall be included among the debts which, under section 4 of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all compensation payable under this Act by the bankrupt or arranging debtor, as the case may be, to an employee, and that Act shall have effect accordingly, and formal proof of the debts to which priority is given under this sub-
50 section shall not be required except in cases where it may otherwise be provided by general orders made under the said Act.

1889, c. 60.

Voidance of certain provisions in agreements.

13.—A provision in an agreement (whether a contract of employment or not and whether made before or after the commencement of this Act) shall be void in so far as it purports to exclude or limit the application of, or is inconsistent with, any provision of this Act.

Notice to employees of procedure for, and grounds of, dismissal.

14.—(1) An employer shall, not later than 28 days after he enters into a contract of employment with an employee, give to the employee a notice in writing setting out the procedure which the employer will observe before and for the purpose of dismissing the employee.

(2) Where there is an alteration in the procedure referred to in *subsection (1)* of this section, the employer concerned shall, within 28 days after the alteration takes effect, give to any employee concerned a notice in writing setting out the procedure as so altered.

(3) The reference in *subsection (1)* of this section to a procedure is a reference to a procedure that has been agreed upon by or on behalf of the employer concerned and by the employee concerned or a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing him or has been established by the custom and practice of the employment concerned, and the references in *subsection (2)* of this section to an alteration in the said procedure are references to an alteration that has been agreed upon by the employer concerned or a person representing him and by a trade union, or an excepted body under the Trade Union Acts, 1941 and 1971, representing the employee concerned.

(4) Where an employee is dismissed, the employer shall, if so requested, furnish to the employee within 14 days of the request, particulars in writing of the grounds for the dismissal, but in determining for the purposes of this Act whether the dismissal was unfair there may be taken into account any other grounds which are substantial grounds and which would have justified the dismissal.

Alternative remedies of employee.

15.—(1) Nothing in this Act, apart from this section, shall prejudice the right of a person to recover damages at common law for wrongful dismissal.

(2) Where an employee gives a notice in writing under *section 8 (2)* of this Act in respect of a dismissal to a rights commissioner or the Tribunal, he shall not be entitled to recover damages at common law for wrongful dismissal in respect of that dismissal.

(3) Where proceedings for damages at common law for wrongful dismissal are initiated by or on behalf of an employee, the employee shall not be entitled to redress under this Act in respect of the dismissal to which the proceedings relate.

Amendment of Act by order of Minister.

16.—(1) The Minister may by order amend *section 2 (1)* of this Act so as to extend the application of the Act to any class of employee specified in that section or part (defined in such manner and by reference to such matters as the Minister considers appropriate) of any such class.

(2) The Minister may by order amend *paragraph (b)* of *section 7 (1)* of this Act so as to vary the maximum amount of compensation referred to in the said *paragraph (b)*.

(3) The Minister may by order amend *section 2 (2), 3 or 4* of this Act so as to vary—

(a) the application of this Act in relation to dismissals where the employment was under a contract of employment for a fixed term or a specified purpose,

- (b) the periods of 2 years specified in the said *section 3*, or
- (c) the periods of 6 months and 1 month specified in the said *section 4* or either of them.
- (4) The Minister may, by order, made with the consent of the Minister for Health, amend *subsection (2) of section 3* of this Act so as to extend the application of the subsection to other employments connected with medicine or health.
- (5) The Minister may by order amend any provision of this Act so as to comply with any international obligations in relation to dismissals that the State has decided to assume.
- (6) An order under this section may contain such supplementary and ancillary provisions as the Minister considers necessary or expedient.
- (7) The Minister may by order revoke or amend an order under this section including an order under this subsection.
- (8) Where an order is proposed to be made under this section, a draft thereof shall be laid before both Houses of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

17.—(1) The Minister may make regulations for the purposes of *sections 7 (1) (b) and 8 (7) of this Act* and for the purpose of enabling any other provisions of this Act to have full effect. Regulations.

(2) Regulations under this section 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 section 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.

18.—The tribunal established by *section 39 of the Redundancy Payments Act, 1967*, shall be known as the Employment Appeals Tribunal and references in that Act and any other Act of the Oireachtas and any instrument made under any Act of the Oireachtas to the Redundancy Appeals Tribunal shall be construed as references to the Employment Appeals Tribunal. Employment Appeals Tribunal.

19.—The First Schedule to the Minimum Notice and Terms of Employment Act, 1973, is hereby amended by the substitution of the following paragraph for paragraph 5: Amendment of First Schedule to Minimum Notice and Terms of Employment Act, 1973.

“5. An employee who claims and receives redundancy payment in respect of lay-off or short-time shall be deemed to have voluntarily left his employment.” 1973, No. 4.

20.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas. Expenses.

21.—(1) This Act may be cited as the Anti-Discrimination
(Unfair Dismissals) Act, 1976.

(2) This Act shall come into operation on such day as the Mini-
ster may appoint by order.

(3) The Minister may by order made with the consent of the
Minister for Health, amend subsection (2) of section 3 of this Act
so as to extend the application of the subsection to other employ-
ments connected with medicine or health, or to other persons or
classes of persons, or to other matters, or to other provisions of this Act.
(4) The Minister may by order amend any provision of this Act
so as to comply with any international obligations in relation to
dismissals that the State has decided to assume.
(5) An order under this section may contain such supplementary
and ancillary provisions as the Minister considers necessary or ex-
pedient.

(6) The Minister may by order revoke or amend an order under
this section including an order under this subsection.
(7) Where an order is proposed to be made under this section,
draft thereof shall be laid before both Houses of the Oireachtas and
the order shall not be made until a resolution approving of the draft
has been passed by each such House.

(8) The Minister may make regulations for the purposes of Regula-
tions (1) (2) and (3) of this Act and for the purpose of enabling
any other provisions of this Act to have full effect.
(9) Regulations under this section may contain such incidental,
supplementary and consequential provisions as appear to the Minister
to be necessary for the purposes of the regulations made under this section.

(10) Every regulation made under this section 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 regula-
tion is laid before it, the regulation shall be annulled accordingly,
but without affecting the validity of anything previously done
thereunder.

(11) The tribunal established by section 39 of the Redundancy
Payments Act, 1967, shall be known as the Employment Appeals
Tribunal and references in that Act and any other Act of the
Oireachtas and any instrument made under any Act of the
Oireachtas to the Redundancy Appeals Tribunal shall be construed
as references to the Employment Appeals Tribunal.

(12) The First Schedule to the Minimum Notice and Terms of
Employment Act, 1973, is hereby amended by the substitution of the
following paragraph for paragraph 2:
"2. An employee who claims and receives redundancy pay-
ment in respect of lay-off or short-time shall be deemed to
have voluntarily left his employment."

(13) The expenses incurred by the Minister in the adminis-
tration of this Act shall, to such extent as may be sanctioned by the
Minister for Finance, be paid out of moneys provided by the
Oireachtas.

Printed by Kailash (1976) Limited.

and

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú le haghaidh sásamh d'fhostaithe a difhostaíodh go héagórach as a bhfostaíocht, do dhéanamh socrú chun éilimh ar an sásamh sin a chinneadh ag coimisinéirí cirt agus ag an mbinse a bunaíodh, leis an Acht um focaíochtaí Iomarcaíochta, 1967, chun achomhairc áirithe a chinneadh, á fhoráil gurb é an Binse Achomhairc Fostaíochta a ghairfear den bhinse sin, do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe réamhráite agus do leasú an Achta um Fhógra fosta agus Téarmaí Fostaíochta, 1973.

An tAire Saothair a thug isteach

*Ordaíodh ag Dáil Éireann a chlóbhualadh,
30 Meitheamh, 1976*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais,
An Stuaire Árd Oifig an Phoist, Baile Átha Cliath nó trí
aon díoltóir leabhar.

Clo-bhuailte ag CAHILL (1976) LIMITED.

15p

BILL

(as initiated)

entitled

An Act to provide for redress for employees unfairly dismissed from their employment, to provide for the determination of claims for such redress by rights commissioners and by the tribunal established, for the purpose of determining certain appeals, by the Redundancy Payments Act, 1967, to provide that that tribunal shall be known as the Employment Appeals Tribunal, to make provision for other matters connected with the matters aforesaid and to amend the Minimum Notice and Terms of Employment Act, 1973.

Introduced by the Minister for Labour

*Ordered by Dáil Éireann to be printed,
30th June, 1976*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
G.P.O. Arcade, Dublin.

Printed by CAHILL (1976) LIMITED.

15p