



AN BILLE UM ÍOCAÍOCHTAÍ IOMARCAÍOCHTA 2003
REDUNDANCY PAYMENTS BILL 2003

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The Bill provides for the amendment and extension of the Redundancy Payments Act 1967, the amendment of the Redundancy Payments Act 1971, the Protection of Employees (Employers' Insolvency) Act 1984 to 2001, the Social Welfare (Consolidation) Act 1993 and the Employment Equality Act 1998 and to provide for related matters.

Provisions of the Bill

Section 1 is a standard provision, which provides for the short title of the Act and the collective citation of the Act with other relevant Acts and the standard commencement provisions.

Section 2 provides definitions of terms used in the Act.

Section 3 provides that the Social Insurance Fund may cover the administration costs of the Redundancy and Insolvency schemes.

Section 4 provides for the amendment of section 2(1) of the Principal Act by inserting up to date definitions of "contract of employment", "employee" and "employer". These definitions are similar to those given in the Protection of Employees (Part-Time Work) Act 2001 and other pieces of labour legislation i.e. Organisation of Working Time Act 1997 and the Carer's Leave Act 2001.

Section 5 provides for the amendment of section 4 of the Principal Act, which deals with the insurability of an employee. The purpose of amending this section is to add clarity to the insurability requirements in line with the Social Welfare Acts and the Protection of Employees (Part-Time Work) Act 2001.

Section 6 provides for the amendment of section 7(2) of the Principal Act. The Employment Appeals Tribunal when dealing with redundancy cases has long been of the view that redundancy is impersonal. According to the Tribunal in *St. Ledger V Frontline Distributors Ltd UD56/94* the statutory definition of "redundancy" has two important characteristics, namely "impersonality" and "change". This section is designed to provide certainty in this regard.

Section 7 provides for the amendment of section 9(1)(b) of the Principal Act to include fixed purpose contracts; when the fixed purpose contract ceases there is a redundancy situation.

Section 8 provides for the amendment of section 17 of the Principal Act. The position at present is that the three forms RP1, RP2 and RP3 are the main forms used for statutory redundancy. They contain

a lot of repetition and will be amalgamated into one form: this one form will be the basis for any rebate/lump sum claim.

Section 9 provides for the amendment of section 25 of the Principal Act to include an employee who started work in an employment abroad, is transferred to the company or associated company in this jurisdiction, works here for at least two years and is subsequently made redundant while working here, he will be entitled to statutory redundancy for his entire service from the date of commencement of his employment in the company abroad.

Section 10 provides for the amendment of section 39(2) of the Principal Act to allow for Vice-chairmen of the Employment Appeals Tribunal to be practising barristers or solicitors of 5 years' standing at least.

Section 11 provides for the amendment of paragraph 1, subparagraph (a) of Schedule 3 to the Principal Act by substituting "two weeks" for "one-half" and subparagraph (b) by inserting after "product of" "two weeks of". These amendments are known as Transitional Arrangements, which will allow for the payments of increased statutory redundancy levels as soon as the Act comes into force following minor changes to the existing IT system. These arrangements will cease to have effect on the commencement of *section 12*.

Section 12 provides for the amendment of Schedule 3 to the Principal Act by substituting new paragraphs for paragraphs 1, 2 and 3 to allow for enhanced redundancy payments of 2 weeks pay per year of service plus one extra week's pay. Any "excess" days will be credited as a proportion of a year. These arrangements will come into force when a new IT system becomes fully operational.

Section 13 provides that continuity of service is preserved even when there are certain 'breaks' in employment. It also provides that certain 'breaks' in service are reckonable in the calculation of a lump sum except breaks occurring in the 3 year period prior to the date of termination of employment.

Section 14 provides for penalties that may be imposed on people who defraud the system.

Section 15 provides that the minimum rates of pay laid down in the National Minimum Wage Act 2000 as updated, be taken into account when calculating a statutory redundancy lump sum.

Section 16 provides for the amendment of section 8 of the Protection of Employees (Employers' Insolvency) Act 1984 to 2001. At present, where a worker in an insolvent firm has not received statutory notice, it is necessary to take the case to the Employment Appeals Tribunal, to determine the Minimum Notice entitlement. In order to streamline the process and relieve pressure on the Employment Appeals Tribunal it is proposed to allow these employees to submit claims to the liquidator/receiver without having to go to the Employment Appeals Tribunal, thereby diverting these cases from the Tribunal and ensuring a better service. (The Employment Appeals Tribunal was established under the Redundancy Payments Act 1967.)

Section 17 provides for the repeal of section 17(4) of the Employment Equality Act 1998. This section exempted the existing calculation of a statutory redundancy lump sum, which differentiates

between service under and over the age of 41, from the provisions of the Employment Equality Act 1998.

Financial and Staffing Implications

Social Insurance Fund

When the improved statutory redundancy payments come into operation it is estimated that a full year's cost of payments to the Social Insurance Fund (based on the 2002 level of redundancies at c. 24,000) will be in the region of €149 million. This is an increase of €96 million in the annual cost to bring the new enhanced rates into effect.

Administrative implications

An amendment of the redundancy IT system will be required to implement the full range of changes set out in the new Bill at a cost in the region of €1 million. It is anticipated that the new system, when it is fully operational, will simplify administration especially for employers. It will also bring improved efficiencies in administration by the Department. These administration efficiencies in the Department will arise from:

- The amalgamation of the three main input forms will be made possible by the new legislation — this will reduce the amount of data entry and checking that will be required.
- The calculation of redundancy entitlement will be simpler — this will reduce errors and queries.
- The use of e-government to submit claim forms should yield further economies in data entry costs.

The cost of administration (salaries and overheads) of the redundancy scheme was around €1.3m in 2002. The extent of the administrative savings, which will be achieved with the new IT system, will be worked out over the coming months in conjunction with the outline specification of the new IT system. At this stage it is clear that the potential savings are significant.

Section 4 of the Bill provides that the administrative costs of redundancy and insolvency be met from the Social Insurance Fund by means of an Appropriation in Aid to the Vote of the Department of Enterprise, Trade and Employment. This would provide greater accounting transparency, in that all costs (payments as well as administration) would be funded by the SIF. Detailed arrangements have been agreed between the Departments of Enterprise, Trade and Employment, Finance and Social and Family Affairs to implement these changes.

*An Roinn Fiontar, Trádála agus Fostaíochta,
Bealtaine, 2003*