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**AN BILLE UM CHAIDREAMH SAN ÁIT OIBRE, 2014**  
**WORKPLACE RELATIONS BILL 2014**

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**EXPLANATORY MEMORANDUM**

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**Background to and Purpose of Bill**

The Government decided to reform the State's existing employment rights and industrial relation structures because the current system for resolving individual disputes related to the workplace is wasteful, both in terms of State resources and those of the users. It is also frustrating for employers, employees and professionals representing them. The system that developed over the past sixty years had become unwieldy, complex, inconsistent, slow and in some cases expensive for users.

The Government's objective is to deliver a world-class workplace relations service which is simple to use, independent, effective, impartial, cost effective and provides for workable means of redress and enforcement, within a reasonable period of time.

The Workplace Relations Bill provides a statutory basis for a new structure which will see the existing five State bodies replaced by two. The Labour Relations Commission (LRC), the National Employment Rights Authority (NERA), the Equality Tribunal, the first instance functions of the Employment Appeals Tribunal (EAT) and the first instance functions of the Labour Court will be replaced by the new Workplace Relations Commission (WRC), and the appellate functions of the EAT will be transferred to a new expanded Labour Court.

The aim of the Bill is to create a modern, user-friendly, world-class employment workplace relations system that will provide significant benefits for its users and society as a whole. The focus will be on resolving the workplace disputes as quickly and inexpensively as possible.

The aim is to create system characterised by:

- Increased emphasis on, and assistance with, early and informal resolution of disputes;
- One body to which all employment, equality and industrial relations disputes will be referred at first instance;
- Employees with multiple complaints will have all complaints dealt with in one place at the same time;
- Employers will no longer have to defend complaints in a number of fora;
- One route and time limit for all appeals;

- Far speedier listing of cases for hearing and issuing of decisions;
- Standardised procedures and time-frames across employment rights legislation;
- Better, quicker and less expensive means of enforcing awards;
- Greater use of electronic forms and filing;
- One authoritative website with comprehensive information on employment in place of five currently;
- A transparent system of appointments to the adjudication service of the WRC and the Labour Court through the Public Appointments Service.

In addition to greatly enhancing the service provided, the reform of the Workplace Relations bodies has the potential to reduce staff numbers and the associated costs of delivering the service. It is expected that the savings achieved by the reforms will amount to €2 million per annum mainly due to staff reductions and pier diem costs and efficiencies achieved.

The Workplace Relations Bill will provide for the following measures:

- The services of the Equality Tribunal, the National Employment Rights Authority, the Labour Relations Commission and the first instance functions of the Employment Appeals Tribunal (EAT) to come together under the remit of the WRC. The appellate functions of the EAT will be amalgamated into a reconfigured Labour Court.
- Disputes or complaints are currently addressed by means of adjudication by a Rights Commissioner, the Employment Appeals Tribunal, an Equality Officer or the Labour Court or by means of NERA inspection depending on the legislation involved. The Workplace Relations Bill will replace the existing complex system of five different bodies with a straightforward two-tier system employment rights and industrial relations disputes:
  - The WRC will deal with all cases in the first instance
  - The Labour Court will deal with all cases on appeal
- The creation of the position of Director General of the WRC will provide a single point of leadership rather than four that exist in NERA, the EAT, the LRC and the Equality Tribunal.
- The establishment of the WRC Board with responsibility for strategy and annual work programme. This Board will comprise primarily representatives of employers groups, unions and equality bodies.
- The transfer of all the existing functions provided by the LRC (including conciliation, workplace mediation and advisory services) to the WRC.
- Providing workplace relations information and advisory services.
- The staffing of the WRC by officials from the Department of Jobs, Enterprise and Innovation.

- A statutory basis for the use of innovative measures such as Compliance Notices and Fixed Charge Notices to enhance the compliance functions of the WRC.
- The sharing of employment related and other specified information between the WRC, the Labour Court and other official agencies in the context of promoting compliance with employment legislation.
- The appointment of additional members to the Labour Court to facilitate the increased workload of the Court in the new system.
- A new more transparent system of appointment of adjudicators of the WRC and Chairs, Vice-Chairs and ordinary members to the Labour Court.
- The transfer of the information provision function relating to the Family Leave Acts from the Equality Authority to the new WRC.
- The standardisation of certain procedural matters (limitation periods; the length of the period within which a first instance adjudicator's decision may be appealed etc.) across the full range of employment rights legislation.
- A new more robust and efficient system for the enforcement of awards under employment legislation.
- Necessary and consequential amendments to existing employment, industrial relations, equality and other legislation.
- Better enforcement of employment rights awards and better compliance and enforcement measures for employment rights.

While considerable progress has been achieved to date on an administrative basis, completing the proposed reform requires the enactment of this Bill in order to provide the statutory basis for the new structures and processes.

### **Provisions of the Bill**

The Bill contains seven Parts and six Schedules. The following paragraphs contain a brief description and an outline of the principal amendments proposed in each Part and Schedule.

#### PART 1

##### PRELIMINARY AND GENERAL (Sections 1 to 7)

*Section 1* deals with the short title and commencement arrangements.

*Section 2* provides the interpretations for the Bill.

*Section 3* allows the Minister to make regulations in relation to anything said to be prescribed in the Bill.

*Section 4* is a standard provision with regard to expenses.

*Section 5* is a technical provision which deals with the service of documents, both on an individual and on a company.

*Section 6* outlines the penalties which apply when found guilty of an offence under this Bill.

*Section 7* refers to Schedule 2 which details the provisions repealed by this Bill and makes transitional arrangements for complaints or disputes referred to a rights commissioner before the commencement of Part 4.

## PART 2

### WORKPLACE RELATIONS COMMISSION (Sections 8 to 24)

Part 2 relates to the establishment of the Workplace Relations Commission (WRC). The effect of the Bill would be to replace the five existing workplace relations bodies with two. The Labour Relations Commission (LRC), the National Employment Rights Authority (NERA), the Equality Tribunal and the first instance functions of the Employment Appeals Tribunal (EAT) would be replaced by the new WRC and the appeals functions of the EAT would be incorporated into the Labour Court.

*Sections 8* and *9* make provision for the establishment day of the new WRC. The Labour Relations Commission, the National Employment Rights Authority, the Equality Tribunal and the first instance functions of the Employment Appeals Tribunal will be replaced by the new WRC and the appellate functions of the EAT would be incorporated into an expanded Labour Court.

*Section 10* sets out general functions of the WRC that are additional to other functions conferred on it by specific sections by the Act. The WRC will be tasked with taking proactive steps to ensure high standards of compliance with employment legislation and equally high standards in the conduct of industrial relations generally and with the provision of the necessary services to facilitate the speedy resolution of industrial relations disputes at as early a stage as possible. Simultaneously, the WRC will have responsibility for providing the means whereby complaints under employment rights legislation can be investigated, resolved by early intervention or adjudicated, as appropriate, by competent personnel. Where the WRC suspects continued non-compliance with employment legislation on the part of workers or employers, it may resort to prosecution of the parties in question.

The functions of the WRC will comprise all those currently undertaken by the Labour Relations Commission including industrial relations conciliation, advisory services, information and research. The WRC will take over the inspection and enforcement functions of the Minister/NERA, the functions of the Equality Tribunal and the first instance functions of the Employment Appeals Tribunals and Labour Court in addition to an early resolution service for individual complaints. The WRC will also have general responsibility for promotion and improvement of industrial and employment relations.

*Section 11* provides for the appointment, by the Minister, of a Director General of the WRC following the holding of an open competition for this position. Other than in the case of the first appointee to the office of Director General, on each occasion the office of Director General becomes vacant, the Public Appointments Service shall hold an open competition and shall thereafter present a panel of three suitable candidates to the Minister from among which the Minister shall choose the person to be appointed. The

office holder will have statutory independence but shall not hold office for more than 10 years. This section does not provide for the Director General to be the Accounting Officer for the WRC. The Accounting Officer for the Commission will be the Secretary General of the Department of Jobs, Enterprise and Innovation.

*Section 12* provides for the removal, resignation or disqualification of the Director General.

*Section 13* provides that the Director General shall have statutory responsibility for the overall management and business of the WRC and that the Director General shall be accountable to the Minister for the due performance of his or her duties.

*Section 14* provides that the Director General may consult with or request the advice of the Board on any matter relating to a function of the WRC (other than a function to which Part 4 (Complaints and Disputes) applies).

*Section 15* provides that the Director General may delegate (and subsequently revoke) his or her functions to a specified member of staff of the WRC.

*Section 16* makes provision, on standard lines, that the Director General is accountable to Committees of the Houses of the Oireachtas, other than to the Public Accounts Committee as Accounting Officer as the Secretary General of the Department will be the Accounting Officer.

*Section 17* is a standard provision which provides that where the Director General or a member of the Board is elected as a member of Parliament or nominated as a member of Seanad Eireann that he or she shall thereupon cease to be the Director General or a member of the Board.

*Section 18* provides for the temporary assignment of the Director General's functions during a period of absence by the Director General or when the office of the Director General is vacant. This is a standard measure designed to ensure continuity of leadership in the event of a vacancy in the office of the Director General.

*Section 19* provides that the Commission shall have a statutory basis, in consultation with the Minister, for the preparation and publication of codes of practice for the improvement generally of workplace relations.

*Section 20* provides for the regular production of a strategy statement by the Board of the WRC to be approved by the Minister and laid before the Houses of the Oireachtas. This provision is designed to help the WRC to focus on devising appropriate strategies for the performance of its functions.

*Section 21* provides that the Board shall prepare an annual work programme in consultation with the Director General for submission to the Minister. This section is designed to ensure that the WRC deploys its staffing and other resources to good effect through definite well-planned work programmes aimed at achieving the strategic objectives set out in the Strategy Statement under section 20.

*Section 22* requires, on standard lines, the Director General of the Commission to make an Annual Report to the Minister for Jobs, Enterprise and Innovation and to make such other reports to the

Minister as the Minister may require or the Director General considers appropriate.

*Section 23* This is a standard provision and provides that the Minister may appoint such persons to the staff of the Commission as he or she deems appropriate for the efficient running of the Commission and the discharge of its statutory functions.

*Section 24* The section provides for the appointment of a qualified and experienced lawyer to act as registrar to the Commission.

### PART 3

#### ENFORCEMENT (Sections 25 to 35)

Part 3 makes provision for the enforcement procedures that will be introduced under the new workplace relations structures. It is the Minister's view that the current system of enforcement of employment rights is cumbersome, expensive and, frequently, ineffective. For this reason, provision is being made in the Bill for a range of standardised and enhanced compliance measures, including the use of Compliance Notices and Fixed Charge Penalty Notices.

*Section 25* This section provides for the appointment and warranting of officers of the Minister as Inspectors of the Workplace Relations Commission and for the circumstances in which such appointments may cease or be revoked. This will incorporate the NERA inspectorate.

*Section 26* This section re-states and consolidates in one location the powers of the current Labour/NERA Inspectors and authorised officers of the Minister which are at present provided for under a range of individual enactments. The officers in question will henceforth — as per section 25 — be designated and warranted as Inspectors. The section provides that obstruction or non-cooperation with an inspector shall, in certain circumstances, be an offence.

*Section 27* This section makes provision for the use of Compliance Notices to promote higher levels of compliance with employment legislation. Such notices may issue when an Inspector forms an opinion that a scheduled contravention of employment law, which the employer concerned fails or refuses to rectify, has occurred. The Compliance Notice will set out the steps the employer concerned must take to effect compliance. An employer may appeal against all or any aspect of the notice to the Labour Court. The Labour Court following a hearing upon appeal shall affirm the compliance notice, withdraw the compliance notice or withdraw the compliance notice and require the employer to whom the notice applies to comply with such directions as may be given by the Labour Court. This section also makes provision for an appeal of the Labour Court decision to the Circuit Court. The Circuit Court following a hearing upon appeal from the Labour Court shall affirm the compliance notice, withdraw the compliance notice or withdraw the compliance notice and require the employer to whom the notice applies to comply with such directions as may be given by the Circuit Court. Failure to comply with a Compliance Notice may result in the Circuit Court, following a hearing, issuing a binding order. Failure to comply with such an order, of the Circuit Court, in turn would be a prosecutable offence.

*Section 28* This section is intended to remove any doubt about the admissibility of the written report of an Inspector in any proceedings under employment legislation to which the employer whose records

are the subject of the report is a party. An Adjudicator of the WRC or the Labour Court will be empowered to request a copy of such reports where an inspection has been conducted or request an inspection be undertaken as the case may be. This will enhance the efficiency and effectiveness of WRC hearings and the Labour Court in dealing with certain cases.

*Section 29* This section is intended to enable the Labour Court to request the Director General of the Commission to arrange to have an inspector conduct an inspection of specified employment records of a named employer who is a party to proceedings before the Labour Court and the resulting report from the inspector shall be considered by the Labour Court.

*Section 30* The purpose of this section is to allow the WRC and its inspectors and adjudication officers to share certain employment-related information with other statutory enforcement authorities (e.g. Revenue and Department of Social Protection) and with the Labour Court (which will be the appellate body for all decisions made by adjudication officers of the Commission).

*Section 31* This section enables the WRC and other statutory enforcement authorities (e.g. An Garda Síochána, the Revenue Commissioners, the Director of Corporate Enforcement etc.) to advise each other of suspected offences under their respective remits which come to the notice of any of them.

*Section 32* This section is designed to safeguard the wages and other statutory entitlements of employees who are working under public construction or other public contracts, while also ensuring competitive tendering and value for money in public expenditure. The section will allow the WRC to pass on promptly to the public contracting authority concerned any firm information that the Commission may have as to non-compliance with employment legislation by any contractor of that public contracting authority, so that the public contracting authority can take such action under the contract concerned as may be justified in the circumstances.

*Section 33* provides for the development of co-operation agreements between the Workplace Relations Commission, the Labour Court and other specified official bodies to facilitate, inter alia, the exchange of relevant information between the WRC/Labour Court and specified official bodies and to minimise the duplication of activities by different official bodies.

*Section 34* This section is intended to provide a statutory basis for administrative cooperation and the exchange of information between employment law compliance authorities of other states and the compliance section of the WRC. The requirement for this section is borne out of the difficulties experienced in the past by the Labour Inspectorate and NERA when seeking to ensure, for example, that contractors based in Northern Ireland, in particular, are compliant with Registered Employment Agreements when working on projects in the State.

*Section 35* This section provides for the use of fixed payment notices in respect of a specified range of acts of non-compliance on the part of employers. The matters in respect of which a fixed charge notice may be issued are specified in subsection 5. The use of this mechanism is intended to encourage compliance and reduce the need to rely on expensive and time consuming prosecution procedures for the scheduled acts of non-compliance. Where an inspector detects suspected non-compliance in respect of one or more of the offences,

he or she shall serve a fixed payment notice. If the person on whom the notice is served pays the charge the matter does not proceed to Court. However, if the person fails or refuses to pay the charge the matter can be progressed to the District Court where the defendant can defend their position in the normal way.

#### PART 4

##### COMPLAINTS AND DISPUTES (Sections 36 to 51)

*Sections 36 and 37* provide for the appointment of case resolution officers to the WRC and the provision of services to facilitate the resolution of disputes where possible at an early stage and without recourse to adjudication. The Commission will offer an Early Resolution Service in certain cases where complaints are lodged. It is envisaged that the Early Resolution service will be offered to the parties in the less complex disputes such as disputes as to whether an employee has received information on Terms of Employment or a payslip. Participation in the service will be voluntary for both the complainant and the respondent. Parties availing of the Early Resolution Service will not lose the right to have their issues in dispute dealt with by means of inspection or a hearing as appropriate to their case. Nor will they be disadvantaged in relation to their waiting time for inspection or a hearing. Should early resolution yield a compromise or settlement between the parties or a withdrawal of the complaint, the outcome will be confidential to the parties. Likewise, if the early resolution process is unsuccessful, anything divulged by the parties in the process cannot be used subsequently in the adjudication or inspection process.

*Sections 38 and 39* provide for the appointment of mediation officers to the Workplace Relations Commission and the provision of a mediation service to facilitate the resolution of employment rights disputes where possible at an early stage and without recourse to adjudication. This service will be akin to the mediation service which is currently provided by the Equality Tribunal under the Employment Equality Acts and the Equal Status Acts. It is envisaged that mediation (unlike the Early Resolution Service) will be offered to the parties in the more complex disputes such as cases under the Employment Equality Acts and the Unfair Dismissal Acts requiring face-to-face mediation. Participation in the service will be voluntary for both the complainant and the respondent and parties availing of mediation will not lose the right to have their issues in dispute dealt with by means of a hearing. Nor will they be disadvantaged in relation to their waiting time for inspection or a hearing. Should mediation yield a compromise or settlement between the parties or a withdrawal of the complaint, the outcome will be confidential to the parties. Likewise, if the mediation is unsuccessful, anything divulged by the parties in the process cannot be used subsequently in the adjudication or inspection process.

*Section 40* makes provision for the appointment of adjudicators to the Workplace Relations Commission. In order to ensure a high level of service delivery and to obviate the need for unnecessary appeals, the Bill will facilitate the establishment of a diverse panel of adjudicators which will include experienced industrial relations and HR practitioners, employment lawyers and civil servants with appropriate skills/qualifications. The external panel will be established following an open, public and transparent competition which will be administered by the Public Appointments Service. Candidates will be assessed against clearly identified criteria and will be required to demonstrate that they possess a range of necessary

core competencies. On the establishment of the WRC, Adjudication Officers will be drawn from the existing serving officers within the workplace relations services. The skills and experience of the Equality Officers and of the existing panel of Rights Commissioners will be utilised. This will provide a mixture of civil servants and external appointments with a broad range of experience and expertise. The Minister shall appoint adjudication officers from a panel to be established following an open, public and transparent competition.

*Section 41* creates a common procedure for the presentation of complaints and the referral of disputes under employment legislation to the Director General of the Commission. The individual employment enactments under which a person can present a complaint or refer a dispute to the Director General of the WRC are listed in Schedule 5. It provides for standardised time limits of 6 months extendable to 12 months for reasonable cause. All first instance complaints requiring adjudication will be heard by WRC Adjudication Officers. Where a case is referred for hearing it will be assigned by the Director General to a WRC Adjudication Officer. The Adjudication Officer's role will be to hold a hearing where both parties are given the opportunity to be heard and to decide the matter. Parties will be free to represent themselves or choose their own representation. All appeals will lie to the Labour Court (except in the case of complaints under the Equal Status Acts where the appeal will lie to the Circuit Court).

*Section 42* This section empowers an Adjudication Officer to dismiss a complaint in circumstances where he or she forms the opinion that it is frivolous or vexatious. Such a decision can be appealed to the Labour Court.

*Section 43* provides for a streamlined and effective enforcement procedure for complainants whose complaints have been upheld at first instance by an adjudication officer of the WRC. If the decision of the adjudication officer in favour of the complainant is not appealed by either party but remains unimplemented after the period of 56 days the complainant concerned, a trade union or excepted body acting on behalf of the complainant, or the WRC in certain circumstances, may apply to the District Court for an order directing the employer to carry out the decision in accordance with its terms.

*Section 44* provides that either party to a first instance hearing will have the right to appeal the decision of a WRC Adjudication Officer to the Labour Court. The Labour Court will act as a court of final appeal for all adjudication decisions of the WRC, (subject to the right of either party to bring a further appeal from a determination of the Labour Court to the High Court on a point of law only — Section 47). Appeals to the Labour Court will be de novo hearings held in public (other than where the complaint is one that raises confidential or sensitive issues in relation to disability or sexual orientation, for example). Decisions of the Labour Court will be published on the WRC website. The Labour Court will have the power to establish its own procedures in relation to specified matters. A consistent time limit of 42 days from the date the first decision issues is to apply to all appeal applications across all legislation.

*Section 45* makes provision for the enforcement of decisions of the Labour Court that have been upheld on appeal. If the decision of the Labour Court in favour of the complainant is not appealed by either party but remains unimplemented after the period of 42 days the complainant concerned, a trade union or excepted body acting on behalf of the complainant, or the Commission in certain

circumstances, may apply to the District Court for an order directing the employer to carry out the decision in accordance with its terms.

*Section 46* is a technical measure to permit a Labour Court statement that a person did not comply with a Labour Court subpoena to be evidence of the matter.

*Section 47* provides that a party to proceedings under employment rights legislation before the Labour Court may appeal to the High Court from a determination of the Labour Court on a point of law and the determination of the High Court shall be final and conclusive. An over-riding intention of the current reform of the system for the resolution of employment rights disputes is to provide for a streamlined and standardised model for hearings and appeals etc. to which all individual employment rights enactments will comply. The provision for an appeal from a determination of the Employment Appeals Tribunal to the Circuit Court under the Unfair Dismissals Acts 1977-2007 will be repealed. The only route of appeal that parties will have from a determination of the Labour Court — which will hear all appeals from the adjudication service of the WRC — will be by way of appeal on a point of law to the High Court. This provision does not impact on the supervisory role of the superior courts which may be exercised by way of judicial review.

*Section 48* makes provision for the hearing of certain complaints and appeals by written procedure without the requirement to have an oral hearing with the agreement of the parties.

*Section 49* provides that the Director General of the WRC and the Labour Court may strike out cases for want of prosecution. This power would only be invoked in circumstances where the Director General or the Labour Court is satisfied that the complainant or appellant has not pursued the complaint/appeal within the period of one year immediately preceding its being struck out.

*Section 50* provides for an amendment to section 20 of the Industrial Relations Act 1946 which will allow the Labour Court to determine all procedural matters relevant to the initiation of appeals under employment legislation before it and to the conduct of the subsequent hearing of those appeals.

*Section 51* makes provision for the consequential amendments that it will be necessary to make to other employment enactments as a result of the new structures for the adjudication of complaints and disputes that will be introduced by this Bill. Details of the amendments to individual employment enactments are provided for in Schedule 6 of the Bill.

## PART 5

### DISSOLUTION OF THE LABOUR RELATIONS COMMISSION (Sections 52 to 60)

Part 5 makes provision for a range of technical and transitional issues consequential on the dissolution of the Labour Relations Commission.

*Sections 52 and 53* provide that the Minister shall appoint a day to be the dissolution day for the purposes of this part.

*Section 54* provides that the Labour Relations Commission shall be dissolved on dissolution day.

*Section 55* provides for the transfer of all functions from the Labour Relations Commission to the Workplace Relations Commission. The functions which are currently vested in the Labour Relations Commission and which will transfer to the Workplace Relations Commission include:

- an industrial relations Conciliation Service;
- industrial relations Advisory, Training and Research Services;
- a Workplace Mediation Service;
- the review and monitoring of developments in the area of industrial relations;
- the preparation, in consultation with the social partners, of codes of practice relevant to industrial relations;
- industrial relations research and publications;
- organisation of seminars/conferences on industrial relations/human resource management issues.

*Sections 56 and 57* provide for the transfer on dissolution day of all relevant land, property, liabilities, licences and the continuation of leases vested in the Labour Relations Commission shall be transferred to the new WRC on dissolution day.

*Section 58* provides for any liability of loss occurring prior to dissolution day, including allowing any legal proceedings pending immediately before dissolution day to which the Labour Relations Commission is a party to continue with the submission of the WRC.

*Sections 59* (provisions consequent on transfer of functions etc.) and *section 60* (final accounts and annual report) are technical provisions to ensure continuity as between the dissolved Labour Relations Commission and the new WRC which will replace it.

## PART 6

### DISSOLUTION OF THE EMPLOYMENT APPEALS TRIBUNAL (Sections 61 to 68)

Part 6 makes provision for a range of technical and transitional issues consequential on the dissolution of the Employment Appeals Tribunal. The Employment Appeals Tribunal will continue to function for a limited period after the establishment of the WRC to dispose of all legacy first instance complaints and appeals referred to it prior to the establishment date of the WRC, including cases which a division of the EAT had commenced hearing. The decision to extend the period of operation of the EAT beyond the establishment of the new framework is predicated on the assumption that complainants and respondents in matters referred to the EAT prior to the establishment of the WRC would have a legitimate expectation of having the case disposed of before a tripartite tribunal, sitting in public and operating with the degree of procedural formality currently applied by the EAT. It is conceivable that any such parties who were compelled involuntarily to have their cases dealt with by a single adjudicator applying less formal procedural rules and sitting in private would have stateable grounds for judicial review. This is likely to be particularly applicable in the case of complainants under the Unfair Dismissals Acts who chose to initiate their complaints before the EAT (rather than a rights commissioner) and respondents who had exercised their prerogative to object to a rights commissioner hearing the complaints at first instance.

*Sections 61, 62 and 63* provide that the Minister shall appoint a day to be the dissolution day for the purposes of this part and that the Employment Appeals Tribunal shall be dissolved on dissolution day.

*Section 64* provides for the transfer of functions from the Employment Appeals Tribunal to the Labour Court. This does not include the first instance functions which the Tribunal currently carries out under the Unfair Dismissals Acts and the Minimum Notice and Terms of Employment Acts which will transfer to the WRC.

*Sections 65 and 66* provide for the transfer on dissolution day of all relevant land, property, liabilities, licences and the continuation of leases vested in the Employment Appeals Tribunal shall be transferred to the Labour Court on dissolution day.

*Section 67* provides for any liability of loss occurring prior to dissolution day, including allowing any legal proceedings pending immediately before dissolution day to which the Employment Appeals Tribunal is a party to continue with the submission of the Labour Court.

*Section 68* (provisions consequent on transfer of functions etc.) is a technical provision to ensure continuity as between the dissolved Employment Appeals Tribunal and the Labour Court which will assume its appellate functions.

## PART 7

### MISCELLANEOUS PROVISIONS (Sections 69 to 82)

*Section 69* enables the Minister, to provide by regulation, for the levying of fees and charges on the users of services to be provided by the Commission or the Labour Court. The Minister has decided not to introduce charges on parties for access to the WRC services for many reasons, chief amongst which is the belief that ‘forum shopping’ will not be a feature in the new system. However, the Minister is proposing the introduction of a fee in one particular instance: i.e. where a party who failed to appear at a first instance hearing of the WRC without good cause wishes to appeal the decision to the Labour Court, that party will have to pay a fee of €300 when lodging their appeal. If the Labour Court determines that the party in question had good cause for failing to attend the first instance hearing, the fee will be refunded.

*Section 70* is a standard provision which provides that a person who forges a notice or document purporting to be issued under this Bill shall be guilty of an offence.

*Section 71* is a standard provision to prevent unauthorised disclosure of confidential information available to the WRC, its officers and staff generally and any other persons engaged by the Commission in performing its functions.

*Section 72* makes provision for an amendment to section 21 of the Industrial Relations Act 1946.

*Sections 73, 75 and 77* make provision for appointment to the positions of Chairman, Deputy Chairman and Ordinary Members of the Labour Court. These sections are intended to provide for a more transparent process leading to the appointment of suitably qualified

persons to these positions. The Labour Court currently has three divisions and 9 members i.e. a Chairman, two Deputy Chairs, 6 Ordinary Members and it sits in Divisions of three. The Bill will provide that the expanded Labour Court will have four Divisions but restructured for greater efficiency to allow the Court deal with double the appeals with only one additional Division. This will require a Chairman, four Deputy Chairs and 8 Ordinary Members. The new arrangement will allow for the Chair of individual divisions to be rotated in order to free up the Chairman and Deputy Chairmen for drafting and case management while all four divisions continue to sit. The additional cost of this increase in membership of the Court will be outweighed by savings delivered by the reform process.

The Bill provides that the appointments of Chairman and Deputy Chairman to the Court by the Minister shall, in the future, be through the Public Appointments Service. These new arrangements will not apply to the persons who immediately before the enactment of this Bill stood appointed as Chairman and Deputy Chair and the present incumbents will continue to serve in these positions for the unexpired period of their respective terms of appointment. The Bill provides that the Minister will have the authority to re-appoint a serving Chairman or Deputy Chair when their initial contracts of appointment have expired without the requirement to have to participate in another competitive selection process in order to secure a subsequent term.

In relation to the appointment of Ordinary Members, previously, the Minister was obliged to appoint a person nominated by either an organisation representative of trade unions or a trade union representative of employers. The change proposed will require those bodies to put forward three names of candidates for appointment in respect of each vacancy for an ordinary member. The Minister will then choose one person from the panel for appointment.

*Section 74* makes provision for the consequential amendments to the Redundancy Payments Acts as a result of the new adjudication structures being introduced by the Bill.

*Section 76* makes provision for the making of regulations by the Minister, after consultation with the Chairman, that certain functions of the Labour Court may be performed by the Chairman or a Deputy Chairman sitting alone. In particular, such regulations may provide that certain specified preliminary applications or procedural matters can be dealt with by the Chairman or a Deputy-chairman sitting alone.

*Sections 78* makes provision for the consequential amendments to the Unfair Dismissals Acts as a result of the new adjudication structures being introduced by the Bill. The provisions of section 41 regarding the reception and hearing of complaints will be mirrored in the Unfair Dismissals Acts. The new provisions (i.e. hearing of unfair dismissals claims before a single adjudication officer) will not apply to cases of dismissal occurring before the commencement of this section.

*Sections 79* makes provision for the consequential amendments to the Part VII of the Pensions Act 1990 as a result of the new adjudication structures being introduced by the Bill.

*Section 80* makes provision for the consequential amendments to the Employment Equality Act 1998 and for the transfer of functions from the Director of the Equality Tribunal to the Director General of the WRC.

*Section 81* makes provision for the consequential amendments to the Equal Status Act 2000 as a result of the new adjudication structures being introduced by the Bill. In future complaints of prohibited conduct under the Equal Status Acts will be made to the Director General of the WRC rather than to the Director of the Equality Tribunal. These amendments do not substantially change the Equal Status law: the particular time limits applicable to Equal Status complaints remain and appeal against a decision of an adjudication officer in an Equal Status case will be to the Circuit Court as at present.

*Section 82* makes provision for section 5 of the Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 to be amended to enable the Minister (for Jobs, Enterprise and Innovation) to appoint the Chairman of the Redundancy Panel. The legislation currently provides that the National Implementation Body may appoint the Chairman of the Redundancy Panel.

## SCHEDULES TO THE BILL

*Schedule 1* contains a list of the relevant employment Acts, the provisions of Acts of the Oireachtas and Statutory Instruments that are included in the definition of “employment enactments” for the purpose of this Bill (“employment enactments” is defined in section 2 of the Bill).

*Schedule 2* contains a list of the provisions within individual Acts of the Oireachtas that will be repealed upon the commencement of Part 4 of the Workplace Relations Bill.

*Schedule 3* sets out details in relation to the corporate structure of the new Workplace Relations Commission. This Schedule also makes provision for the appointment of a statutory Board to the Commission and sets out details in relation to the manner in which the Chairperson and Ordinary Members of the Board shall be appointed, their terms and conditions of appointment and the procedural arrangements in relation to meetings of the Board.

*Schedule 4* sets out details of the list of contraventions of employment enactments for the purpose of compliance notices (as provided for in section 27 of the Bill).

*Schedule 5* sets out details of the individual employment enactments under which a person will be able to present a complaint or refer a dispute to the Director General of the WRC (provision is made for the new WRC first instance adjudication structures in section 41 of the Bill).

*Schedule 6* sets out the consequential amendments that it will be necessary to make to other employment enactments as a result of the new structures for the adjudication of complaints and disputes that will be introduced by this Bill.

*An Roinn Post, Fiontar agus Nuálaíochta,*  
*Iúil, 2014.*