

IRELAND

Justifications and Characteristics of entities competent to resolve labour and social security disputes –

Questionnaire

Q(1) What legal and /or judicial entities or authorities in your country have jurisdiction over labour and social securities disputes?

(OEDI) Office of the Director of Equality Investigations

Rights Commissioner

Labour Court

Employment Appeals Tribunal

Circuit Court in certain instances (see reply to Q3)

High Court

Q(2) Are they separated or part of the general judicial system?

The Rights Commissioner and the OEDI are quasi-judicial bodies. Their constitutionality is safeguarded by the availability of an appeal to a higher tribunal and eventually to the High Court.

Q(3) Structural characteristics of the system

DISPUTE RESOLVING MECHANISM

Equality Officers will investigate allegations of discrimination, other than dismissal claims. Discriminatory dismissals under the Employment Equality Act, 1998 are investigated by the Labour Court and not by Equality Officers. A person does have the option of referring a case directly to the Circuit Court instead of to an Equality Officer or Labour Court. Claims under the Employment Equality Act, 1998 must be referred within 6 months of the last occurrence of the discriminatory act. However, in exceptional circumstances this period may be extended to 12 months. Mediation is given a strong emphasis in the Employment Equality Act. If a case is referred to the OEDI – The Equality Tribunal and it appears that the case is one that could be resolved by mediation then it can be referred to an Equality Officer for mediation. Similarly, dismissal cases can be mediated on by the Labour Court itself or referred by the Court for mediation by an Equality Officer. Where the case is resolved by mediation then the settlement terms will be recorded and signed by both parties. If the case cannot be resolved through mediation then this fact will be recorded. This can be seen as a good way to resolve issues quickly, and most importantly the details of the case remain confidential to the parties.

Equality officer hearings are held in private. Labour Court hearings are only open to the public if one party to the case requests it. However, in the case of a public hearing, confidential aspects of the case are held in

private. It is important to note however, that all decisions of the Equality Officers and the Labour Court are made public.

In equal pay cases, arguments by the employer of grounds other than sex and grounds other than the other eight categories covered as a basis for pay differentials can be investigated as a preliminary point before the issue of 'like work' is examined.

Where a case is referred directly to the Circuit Court, the judge can refer a particular issue for examination by an Equality Officer who will make a report to the Circuit Court on the issue referred.

The Equality Officer can also be called as a witness before the Circuit Court by either party. Appeals from decisions of Equality Officers must be made to the Labour Court within 42 days of the date of the Equality Officer's decision. Decisions of the Labour Court can be appealed to the Circuit Court. This must be done within 42 days (or longer if the Circuit Court allows) of the Labour Court decision.

Either party can appeal the Circuit Court decision to the High Court on a point of law. Also, either party can appeal a Labour Court decision to the High Court on a point of law. The Labour Court itself can refer to the High Court any legal point arising in the course of investigating any case before it. Equality Officers and the Labour Court can require the production of information which it is believed contains information relevant to the case. Equality Officers and the Labour Court can also require an individual to attend a hearing if that individual is believed to have information relevant to a case. The provision of such information will not give rise to any liability on the part of the person providing it. Nor will such information be disclosed in any written decision of an Equality Officer or Labour Court without the consent of both the person furnishing it and any person to whom the information may relate. In fact, it will be an offence for any person to disclose such information. An individual cannot receive compensation under both the Employment Equality Act, 1998 and other legislation (or by seeking damages at common law) in relation to equal pay and employment equality. For example, a dismissal case cannot ultimately be pursued under both this Act and the Unfair Dismissals Acts.

It will be presumed that any person dismissed and who has pursued a claim under the Act, threatened to pursue a claim or has given evidence or threatened to give evidence in a claim against an employer, was dismissed in breach of the Employment Equality Act, 1998.

The onus of proof will be on the employer to prove that the employee was not victimised for being involved or threatening to become involved in a claim under the Act.

Q(4) Are there any movements to modify the system for resolution in labour and social security disputes?

The Law Reform Commission

The Committee on Court Practice and Procedure