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Ireland: Selection of employees for (collective) dismissals

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Ireland

Phase:

Management

Type:

Selection of employees for (collective) dismissals

Last modified: 10 December, 2021

Native name:	Unfair dismissals acts 1977 to 2007; Employment equality acts 1998 to 2015
English name:	Unfair dismissals acts 1977 to 2007; Employment equality acts 1998 to 2015

Article

1977 to 2007 Acts: 6; 1998 to 2015 Acts: 6(2)

Description

The first rule of redundancy is that the role/function that the employee(s) performs is redundant, not the employee(s) in person. This is the 'impersonality' requirement. It must always be demonstrated that the role or function of the worker(s) is redundant.

Selection of employees for redundancy must meet fairness criteria. It must not be discriminatory according to legally defined acts of discrimination (gender, marital status, family status, sexual orientation, religion, age, disability, race, member of a travelling community) or on the ground of trade union activity. If redundancy selection is discriminatory, the discriminated party can take a case for unfair or discriminatory dismissal. There is no special protection in law for certain groups of workers in the context of redundancy selection. It is most common for voluntary redundancy to be the first option; compulsory redundancies would follow if the uptake on voluntary redundancy is not sufficient.

It is common for a 'last in first out' (LIFO) redundancy selection criterion to be used. The LIFO principle is also common within collective agreements. However, an employer is not restricted to use other redundancy criteria, once it does not contravene the anti-discriminatory legal provisions. For example, an important requirement for restructuring is to retain key skills, therefore a division of the company's operation may be redundant if the skill set in that division is no longer required.

An unfair dismissal claim can be brought to an Adjudication Officer of the Workplace Relations Commission (and then on appeal to the labour court). If the dismissal is found to be unfair, compensation of up to two years' pay can be awarded.

If a redundancy selection is contrary to an agreed procedure at the employment, e.g. the last-in-first-out rule, the affected party can also bring an unfair dismissal claim.

Unfair dismissal law was amended in 2019 to incorporate protection against dismissal for employees exercising their rights under the Parent's leave and benefit act, 2019.

Comments

This regulation applies to all redundancy situations, individual and collective.

At unionised employers, selection for redundancy can be agreed via the trade union(s). This is not a legal requirement but selection can be facilitated through trade union involvement. Works councils are not as prevalent as union involvement. Theoretically works councils could be involved.

Cost covered by

Not applicable




Involved actors other than national government

- Trade union
- Works council

Thresholds

No, applicable in all circumstances

Sources

-  Purdy, A. (2011), Termination of employment: A practical guide for employers (2nd ed.), Bloomsbury Professional
-  [Unfair dismissals acts 1977 to 2007](#)
-  [Employment equality acts 1998-2015](#)

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