

# Comparative Study of the Legislation on Conciliation and Arbitration

## IV — Free State of Ireland

Anonyme

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[Aller au sommaire du numéro](#)

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this period of enforcement be extended by Parliament. We have, here, a wartime legislation tending, for a limited period, to compulsory arbitration of disputes. The parties to the dispute shall report the dispute in writing to the Minister of Labour. If in the trade or industry concerned there is collective joint machinery which is suitable for settling the dispute, the Minister refers the dispute to that machinery. If there is failure to reach a settlement or a settlement appears to the Minister to be unduly delayed, he can refer the dispute to the National Arbitration Tribunal. In cases in which there is no suitable joint machinery in existence and there is failure to settle the dispute by conciliation, the Minister may likewise refer the dispute to the National Arbitration Tribunal.<sup>8</sup> The National Arbitration Tribunal consists of five members, three being Appointed Members, one of whom is Chairman, together with two other members,

one of whom represents workers and the other employers. The Tribunal is constituted for each dispute and its decisions are binding upon the parties.

## F — Nationalized Industries

The Gas Act, 1948, like the Transport and Electricity Acts of 1947, provide for the establishment of joint machinery for the purpose of fixing wages and other conditions of employment.<sup>9</sup> Under a collective agreement concluded on March 31, 1938, between the British Electricity Authority and the trade unions, a special procedure is provided for the settlement of labour disputes which may arise. As a last resort, the dispute is referred to the Industrial Court or to any other agreed tribunal for arbitration. The award made is binding upon the boards, the unions and the members of the unions.<sup>10</sup>

## IV — FREE STATE OF IRELAND

The settlement of labour disputes is regulated by the Industrial Relations Act, August 27, 1946, which deals mostly with the Labour Court, collective agreements and trade disputes.<sup>1</sup>

### A — Labour Court

The Court shall consist of a chairman appointed by the Minister and four ordinary members of whom two shall be workers' members and two shall be employers' members. The Minister shall designate an organi-

zation representative of trade unions to nominate persons for appointment. The two members of the Court to represent employers are designated in the same way. The Minister appoints the persons so nominated.

If, in the case of workers, more than one organization representative of trade unions is in being, and the Minister is of the opinion that it is undesirable that the appointment should be made as indicated in the foregoing paragraph, he may, by regulations, declare that the appointment be made as follows:

i) he invites trade unions of workers and organizations representative of trade unions of workers to

(8) *Le règlement des conflits collectifs de travail en France et à l'étranger*, Renée Petit, p. 268.

(1) An Act dated 27th August 1946, respecting labour relations, Legislative Series, 1946, Ireland 1, International Labour Office.

(9) Industrial Relations, Report V (Supplement) p. 7, Thirty-second Session, Geneva, 1949, International Labour Office.

(10) *Idem*, p. 32.

nominate persons for appointment, and ii) the minister shall make the appointment from amongst the persons so nominated. In other words, the possibility of the existence of more than one labour organization is taken into account when designating workers' members.

An ordinary member may be removed from office by the Minister for stated reasons but, if the organization by which he was nominated is in existence, only with the consent of that organization. The Act defines certain offices which are incompatible with the qualifications of ordinary membership of the Court and goes further to say that members shall not hold any office or employment which would prevent him from being at all times available for the work of the Court.

The Court may appoint technical assessors to assist it on any matter relating to proceedings before the Court.

The Court may also appoint officers of the Court to act as conciliation officers.

Whenever the chairman of the Court is of the opinion that the speedy dispatch of the business so requires, he may decide that the Court shall act by two distinct divisions, the deputy chairman, who is directly appointed by the Minister, to act as chairman of the second division.

No appeal shall lie from the decision of the Court on any matter within its jurisdiction to a court of law.

## **B — Enforcement of collective agreements**

The Act of August 27, 1946, provides for the registration of agreements relating to wages and conditions of employment. One of the conditions for registration is that the agreement shall provide that if a

trade dispute occurs between workers to whom the agreement relates and their employers a strike or lock-out shall not take place until the dispute has been submitted for settlement by negotiation in the manner specified in the agreement.

In the event of a complaint about an employer who has failed or neglected to comply with a registered employment agreement, the following procedure shall apply: a) the Court considers the complaint and hears all persons appearing to the Court to be interested and desiring to be heard; b) if, after such consideration, the Court is satisfied that the complaint is well-founded, the Court may by order direct the said employer to do such things (including the payment of any sum due to a worker for remuneration in accordance with the agreement) as will in the opinion of the Court result in the said agreement being complied with by the said employer.

If an employer complains to the Court that a trade union representative of workers affected by the agreement is promoting or assisting out of its funds in the maintenance of a strike which to the knowledge of the general committee is in contravention of the agreement and which has for its object the enforcement of a demand to grant to a worker remuneration or conditions other than those fixed by the agreement, the following provisions shall have effect; the Court considers the complaint and if it is satisfied that the complaint is well-founded i) the Court may, by order, direct the said union of workers to refrain from assisting out of its funds in the maintenance of the said strike; ii) the Court may cancel the registration of the agreement.

If a direction contained in an order is not carried out, the person to whom the direction is given shall be guilty of an offence and liable, on

summary conviction thereof, to various fines.

The Labour Court may, at any time, on the application of any person, give its decision on any question as to the interpretation of a registered employment agreement or its application to a particular person.

A court of law, in determining any question arising in proceedings before it as to the interpretation of a registered employment agreement or its application to a particular person, shall have regard to any decision of the Labour Court on the said agreement referred to it in the course of the proceedings.

If any question arises in proceedings before a court of law as to the interpretation of a registered employment agreement or its application, the court of law may, if it thinks proper, refer the question to the Labour Court for its decision, and the decision of the Labour Court thereon shall be final.

### **C — Investigation of trade disputes by the Court**

Subject to the following provisions, where a trade dispute exists or is apprehended, the Court may investigate the dispute.

### **D — Conciliation officer**

The chairman of the Labour Court may, before the Labour Court undertakes the investigation of a trade dispute, appoint a conciliation officer to act as mediator in the dispute for the purpose of effecting the permanent settlement thereof or such temporary settlement as will ensure that no stoppage of work shall occur pending the investigation of the dispute.

### **E — Arbitration procedure**

Where a trade dispute has occurred or is apprehended, the Labour Court, with the consent of all the parties concerned in the dispute, may refer the dispute to the arbitration of one or more persons or may itself arbitrate upon the dispute.

### **F — Procedure for registered joint industrial councils**

The Act provides for the registration of joint industrial councils substantially representative of workers of a particular class, type or group and their employers and whose object is the promotion of harmonious relations between such employers and such workers. The rules of the councils shall provide that, if a trade dispute arises between such workers and their employers a lock-out or strike will not be undertaken in support of the dispute until the dispute has been referred to the joint industrial council concerned.

The Labour Court shall not investigate a trade dispute between persons who are represented on a registered joint industrial council unless a) the council so requests, or b) the Labour Court is of opinion that the dispute is likely to lead to a stoppage of work.

### **G — Other method of settlement contemplated**

The Labour Court shall not investigate a dispute in which a trade union is concerned, if the trade union establishes to the satisfaction of the Labour Court that there is an agreement in force between the trade union and the other parties to the dispute which provides another method of determining the dispute, unless the Labour Court is of opinion

that the dispute is likely to lead to a stoppage of work.

## **H — Registered employment agreement**

The Labour Court shall not investigate a dispute between persons to whom a registered employment agreement, within the meaning of the Act, applies concerning matters to which the agreement relates unless a) a party to the agreement so requests, or b) the Labour Court is of opinion that the dispute is likely to lead to a stoppage of work.

## **I — Recommendation of Labour Court**

The Labour Court, having investigated a dispute, shall make a recommendation setting forth its opinion on the merits of the dispute and the terms on which, in the public interest and with a view to promoting industrial peace, it should be settled, due regard being had to the fairness of the said terms to the parties concerned, and the prospects of the said terms being acceptable to them.

The Labour Court shall communicate a recommendation to all the parties to the dispute and to such other persons as the Labour Court thinks fit, and the Labour Court may also publish the recommendation in such manner as it thinks fit.

*There are many political philosophies today: there are many schemes for the regeneration of society. None can accomplish the goal that all seek — peace in this world — unless there is recognition of the fundamental principles of the love of justice and freedom, the sanctity of the inalienable rights of all.*

J. Howard McGrath

## **J — Trade dispute of a special nature**

Where the Labour Court becomes aware that a dispute has occurred resulting in a stoppage of work in any trade or industry the Labour Court may investigate the dispute, if satisfied that no union of workers is promoting or assisting the dispute. The Labour Court, through the newspapers, invites all persons involved in the dispute to appear before it. On hearing evidence the Labour Court shall, as it thinks proper, i) decide not to take any action in regard to the dispute, or ii) publish a recommendation setting forth the opinion of the Court on the merits of the dispute and the manner in which it should be settled, or iii) make an award (which shall not be inconsistent in its terms with a registered employment agreement, setting forth the conditions on which, in the opinion of the Court, the dispute should be settled.

If the Court decides to make an award, it shall be in force for the period of three months from the date of the award.

An employer who, otherwise than with the consent of the Court, employs or agrees to employ, during the said period, a worker under conditions inconsistent with those of the award shall be guilty of an offence and shall be liable to a maximum fine as determined in the Act.

*What a wonderful opportunity there is in every shop, factory, cross roads, grocery store, and business establishment to become a leader... by merely doing the thing that ought to be done whether you are told to do it or not.*

Eddie Rickenbacker