COLLECTIVE BARGAINING

Glossary of Industrial Relations Terms

Aggregate Ballot: This refers to a situation where the votes of more than one union are combined and counted together for the purpose of determining acceptance or rejection of a proposal put to workers in a particular company. Congress recommends aggregate balloting where unions have negotiated together and\or the outcome has important implications for all of the workers concerned.

All-Out Strike: Under Congress procedures, unions in dispute with their employer may seek to have an ***all-out picket***. This, under Congress rules, obliges all other unions to observe that picket. The Industrial Relations Committee of Congress decides on the awarding of all-out pickets. The procedure is recognised in the Industrial Relations Act, 1990.

Annualised Hours: These refers to a system of payment where workers work flexible hours, without recourse to overtime payments, but are paid an agreed number of hours annually even though they may not be required to work all these hours. For workers, this provides some security of earnings but allows employers to achieve greater flexibility with regard to staffing levels during busy and slack periods.

Arbitration: Some disputes are settled by arbitration. This involves the appointment of an ***arbitrator*** or ***arbitration panel*** who rule on the issues in dispute. In some cases, the arbitrator's recommendation is mandatory, i.e. both sides must accept the result. This is referred to as ***binding arbitration***.

Ballot: A ballot is a vote by members of a union on a proposal put to them. The proposal may be in relation to the acceptance of an offer made by management, or may be a proposal to take industrial action in respect of a claim. Under the Industrial Relations Act, 1990, ballots held for the purpose of conducting an industrial dispute with an employer, must be a ***secret ballot.***

Centralised Bargaining: Since the 1970s most wage round increases were negotiated centrally, until the breakdown of T2016. This has involved negotiations between Congress and employers at a national level. In the 1970s and early '80s, national wage agreements dealt with pay and conditions of employment only. The advent of National Understandings, followed by National Programmes, broadened the scope for bargaining into social and economic policy. Currently we are not covered under Programmes; however the Haddington Road Agreement is in place for the Public Sector.

Closed Shop: In some companies, unions have negotiated exclusive recognition agreements whereby the employer recognises that union as the sole union in their organisation and accepts that all employees will become members of that union as part of their contract of employment. This is referred to as a closed shop. Where such an agreement is reached before employment commences, it is known as a ***pre-entry closed shop***. Closed shop arrangements may relate to the whole workforce or part of the workforce, e.g. hourly paid staff.

Check-Off: This refers to the payment of union dues through direct debiting from wages and salaries by the employer, who then transfers the monies deducted to the union.

Conciliation: Where a dispute cannot be resolved by direct negotiations, the parties may decide to refer the matter for conciliation. This means they will involve a third party with the objective of helping to achieve an agreement. Industrial Relations Officers of the Labour Relations Commission provide a Conciliation Service. The task of a conciliator is to assist the parties in reaching an agreement. While a conciliator may make recommendations, these are usually not binding.

Council of Trade Unions: Local Councils of Trade Unions exist in most urban areas and are a forum for trade unions in the particular city, town or region. Trades Councils play an important role with regard to the establishment of Congress Unemployed Centres and in the development of local area development strategies.

Court Injunctions: Employers may, in situations of existing or pending industrial disputes, seek a Court injunction to prevent picketing of its premises. Prior to 1990, employers were able to seek ex-parte injunctions. This procedure involves stating a case to a judge without the other party being present. However, since the enactment of the Industrial Relations Act 1990, the Courts may not grant an ex-parte injunction against a union or individuals in situations where the industrial action has been approved by a secret ballot and the employer has been given at least one week's notice of the union's intention to take industrial action. The employer may still seek an injunction but the application will be heard in Court with both sides represented. If the union can make out a fair case that the strike or industrial action is in contemplation or furtherance of a trade dispute, an injunction will not be granted.

Demarcation: This often refers to the traditional areas of work performed by one category of worker, especially craft worker, which may be regarded as the sole preserve of that category. A ***demarcation dispute*** concerns a dispute between an employer and a union or between workers represented by different unions concerning the work allocated to different categories. Disputes between workers are not covered by immunities provided for in the Industrial Relations Act. Under Congress rules, disputes between unions concerning demarcation are referred to a ***Demarcation Tribunal*** for resolution and unions must accept the outcome of this procedure. Disputes concerning demarcation have diminished greatly in recent years.

Department of Jobs, Enterprise and Innovation: This Government department deals with labour and industrial relations policy.

Differentials: This refers to relative pay levels of different categories of workers, particularly where there is a traditional relationship. A ***relativities dispute*** relates to any dispute concerning relative pay, i.e. a dispute about a claim for the establishment or restoration of a differential.

Dispute: A dispute refers to the absence of agreement between an employer and a union or unions. Many companies and unions have agreed ***disputes procedures*** which lay down methods and procedures to be followed before a dispute can lead to industrial action.

Disputes Committee: Any dispute between two unions concerning the organisation of workers into particular unions can be referred to an ICTU Disputes Committee. The Committee makes a finding on the dispute which, if approved by the Executive Committee, must be accepted by the unions involved.

****Employment Appeals Tribunal:*** The EAT deals with appeals in respect of a number of labour laws including:

* The Redundancy Payments Acts

* Minimum Notice and Terms of Employment
* Unfair Dismissals Acts
* Maternity Protection of Employment
* Protection of Employees (Employer's Insolvency)

Each panel of the Tribunal consists of a legally qualified Chairperson and two others selected from panels nominated by Congress and employer organisations. The Tribunal is a quasi-judicial court which interprets the terms of the relevant legislation in the context of each case referred to it.

Employment Equality: Equality of pay and equal opportunities between men and women at work are covered by the ***Employment Equality Acts.*** The Employment Equality Agency was established under the 1977 Act to promote equality between men and women and it assists in the elimination of gender based discrimination in employment. Under collective agreements, many unions and employers have included ***Equal Opportunities Agreements***, which aim to foster and promote equality in particular organisations.

Equal Value: This term is usually used to describe ***like work*** between dissimilar jobs for the purposes of establishing equal pay under equality and related legislation. Equal value may be determined by comparing the work done in terms of the skill, effort, responsibility inherent in the work and the conditions under which it is done. ***Job Evaluation*** is sometimes used to determined equal value.

ESOP: This abbreviation refers to Employee Share Ownership Plans. Such plans permit workers to obtain shares in their company. Plans sanctioned by the Revenue Commissioners allow workers to be exempt from taxation on the proportion of their earnings used to purchase shares. They may also be exempt from Capital Gains Tax if they retain their shares for a specified number of years.

Employer Labour Conference: This was the forum used to negotiate and monitor national wage agreements during the 1970s and '80s. It is occasionally revived to provide a forum for discussion between Congress and the employers for the purpose of particular agreements or dispute resolution.

Executive Committee: The governing body of each union is an Executive Committee, sometimes called a ***National Executive***

Committee or ***Council***, elected by the members and largely composed of lay members of the union. Under the rules of most unions, sanction for strike action must be approved by the Executive Committee. The Irish Congress of Trade Unions has an Executive Committee elected every two years at its Biennial Conference.

Flexibility: This can relate to work practices or working time arrangements. Employers are usually interested in obtaining a high level of flexibility from their staff in order to maximise worker efficiency. A number of agreements have been conducted concerning flexibility including ***multi-skilling*** and ***cross-crafting*** arrangements, which reduce or eliminate ***demarcation*** and ***restrictive practices*****.**

Grievance Procedure: Most company\union ***procedural agreements*** stipulate the procedures to be taken in respect of individual or collective grievances. Most such agreements will require all the procedures to be followed before industrial action can be contemplated.

Group of Unions: Where more than one union organises workers in a particular company, they may form a group of unions for the purposes of negotiating with their employer on issues that concern the workforce as a whole. A group of unions may also exist for sectors of employment, e.g. construction.

Human Resource Management: HRM refers to a management approach for dealing with personnel matters, which is pro-active rather than reactive. The Human Resource Manager, who is usually employed at a senior level in the organisation, will attempt to create a climate and culture conducive to good staff relations and high labour productivity. Some human resource managers may attempt to prevent union organisation or, where workers are already unionised, restrict the influence and activities of the union within the company. This is often referred to as ***'hard HRM'***. In most companies, however, human resource managers recognise and work with trade unions.

Incremental Pay: In some employments, particularly in the white collar sector, workers' earnings are based on an incremental scale reflecting their service in the employment. Usually an annual incremental increase is paid until the worker reaches the top of the scale. Where staff appraisal systems are in operation, the incremental increase may be dependent upon a satisfactory ***performance appraisal*****.**

Indexation: Any system which increases pay or benefits in line with inflation, as measured by the Consumer Price Index, is referred to as indexation.

Industrial Action: Where a dispute leads to strike, work to rule, ban on overtime or other sanction taken by the workers, it is regarded as industrial action as defined by the Industrial Relations Act, 1990. There is no law prohibiting employers from dismissing workers who take industrial action, however, such workers cannot be discriminated against when employers are re-employing workers following the end of any industrial action. ***Unofficial industrial action*** is where workers take action without the sanction of their union.

Industrial Democracy: This relates to the concept of democracy within work. In its most advanced form, this will involve the ownership or management control of the company by the workforce, or their representatives. This would arise in a workers' co-operative or where the workers own the majority of shares in the company. Lesser forms of industrial democracy would involve ***co-determination*** as practiced in Germany, where, by law, workers' representatives compose between one-third and one-half of the supervisory board of management, which is roughly equivalent to a Board of Directors. The term can also refer to ***worker participation*** and ***employee involvement*** **procedures.**

Industrial Relations: This is a general term referring to the relations between workers, their unions and employers and the structures established to regulate and facilitate collective bargaining.

Irish Business and Employers' Confederation (IBEC): IBEC is the principal employers' organisation in Ireland. It was formed from a merger of the Federation of Irish Employers and the Confederation of Irish Industries, in 1993. The majority of Irish employers are affiliated to IBEC and frequently use its services for the purpose of conducting negotiations and advising on employee relations generally.

Irish Congress of Trade Unions: Congress is the organisation to which virtually all trade unions in Ireland are affiliated. It represents trade union and worker interests in dealings with the government and European institutions. It is affiliated to ***The European Trade Union Confederation (ETUC),*** and ***International Confederation of Free Trade Unions (ICFTU).*** The Executive Council of Congress is composed of representatives of various trade unions elected at its Biennial Conference.

Job Evaluation: This term is used to describe a number of techniques designed to evaluate the relative value of different jobs for the purposes of setting ***wage grades*** and ***relativities.***

Joint Industrial Council: This describes a body representative of management and unions, with an independent chairperson, established for the purposes of overseeing collective bargaining in a particular employment or sector.

Joint Labour Committee: JLCs are established under the Labour Court to determine minimum rates of pay and conditions of employment in particular sectors. They deal with sectors where it is perceived that trade union organisation or negotiating strength is weak, and where pay levels are low. Joint Labour Committees are representative of employers and unions in the industries. Minimum rates are established through ***Employment Regulation Orders***. Employers who fail to pay their workers the terms of the EROs can be prosecuted. Inspectors from the ***Department of Jobs, Enterprise and Innovation*** enforce the Orders. (Just reviewed)

****Labour Court***: The Labour Court was established under the Industrial Relations Act 1946. Its functions, as clarified by the Industrial Relations Acts 1969 and 1990, include the investigation of disputes and the hearing of appeals against a recommendation of a ***Rights Commissioner*** or ***Equality Officer***. The Labour Court is composed of an independent Chairperson and Vice-Chairpersons nominated by the Minister for Enterprise and Employment. The other, ordinary, members of the Court are nominated by the Irish Congress of Trade Unions and employers' organisations. A division of the Court which hears a case consists of the Chairperson or Vice-Chairperson and two ordinary members. The Court will normally issue a recommendation following the hearing. A recommendation of the Court is normally not binding. However, if a case is heard under Section 20 of the Industrial Relations Act, 1969, the Court's recommendation is binding on the parties seeking its intervention. This usually occurs where an employer refuses to attend the Court or to recognise the union.

Labour Relations Commission: The LRC was established under the Industrial Relations Act, 1990. Its task is to oversee and improve industrial relations. It provides a Conciliation, Equality, Advice and Research Service. The Commission is comprised of a Chairperson and six members appointed by the Minister for Enterprise and Employment. Two of these are nominated by Congress and two by IBEC.

Local Bargaining: This refers to collective bargaining conducted at the level of the company or employment, as distinct from national or sectoral bargaining.

Local Government Staff Negotiating Board: The LGSNB assists local authorities and health boards in the conduct of industrial relations. It provides a conciliation and arbitration service for disputes in the local authority sector.

Mediation: The involvement of a third party as a mediator can help to resolve difficult disputes. Mediators may be selected for their expertise in particular areas, or because their status or personality is likely to produce an acceptable compromise.

Negotiation: Communication, both verbal and written, for the purpose of reaching an agreement, is the negotiating phase of collective bargaining. Formal round table discussions constitute the most visible stage of negotiations but, in difficult disputes, more progress is often made through less formal contacts and the use of mediation.

Negotiating Licence : Every union must obtain a negotiation licence from the Minister for Jobs, Enterprise and Innovation. The Industrial Relations Act (1990) lays down a minimum membership requirement of 1,000 and a deposit of at least £20,000. The intention of these laws is to deter the establishment of new and ***breakaway*** unions.

No-Strike Clause: This describes an article of an agreement restricting the right of a union to take industrial action. This might amount to a virtual prohibition or, most usually, an arrangement whereby full procedures must be exhausted before industrial action can be served.

Participation: Formal systems have been developed in a number of companies which permit workers to participate in varying degrees in the management of the company. Worker participation is legislated for in most semi-State companies under the ***Worker Participation (State Enterprise) Act, 1977*** and **the *Worker Participation (State Enterprises) Act, 1988***. These laws provide for worker directors and sub-Board participation in most of the commercial State enterprises. Few private companies have formal systems of worker participation although many, either through the collective bargaining process or through a system of ***employee involvement***, provide opportunities for consultation concerning the company's operation and performance.

Payment by Results: This describes any method of payment that is linked to output, performance or productivity.

Performance Appraisal: This relates to systems which attempt to evaluate the performance of individual employees with reference to stated goals or company objectives. Frequently, each employee is asked annually to assess their own performance for the past year and agree with their manager a number of targets for future years. This process is often linked to ***performance related pay.***

Performance Related Pay: This describes any method of payment which relates part or all of earnings to the measured performance of an individual, group or company. Piece rate systems are the traditional method of performance related pay, which was the norm in industry in the early part of the century, but which, as a result of trade union opposition, fell into disuse. However, systems of total or partial piece rates exist in some industries, especially clothing and textiles. Today, performance related pay is more likely to relate to ***bonus incentive schemes, performance appraisal*** and ***profit sharing arrangements.***

Productivity: Productivity is a measure of output over input. The extent to which the input content per unit of output can be reduced is a growth in productivity. Output is the product or service produced and inputs can relate to labour, materials and capital resources. ***Productivity bargaining*** is a process of attempting to achieve an increase in pay relative to the growth in productivity, which usually involves concessions with regard to working practices. A resulting ***productivity agreement*** permits earnings increases which are self-financing.

Red Circling: This is a term used to describe a situation where an individual's rate of pay is preserved on an individual basis, even though the worker may not be deemed to be doing work equivalent to that rate of pay. This often arises as a result of a grading scheme to avoid individuals suffering loss of pay. The procedure permits new job holders to be remunerated at a lower level, even though they are doing the same work as the ***'red circled'*** worker. The term can also relate to a group whose position is protected with an acceptance that their position will not be the subject ***comparability claims.***

Redundancy: Redundancy arises where, because of new technology ***rationalisation*** or a down turn in the market, an employer seeks to reduce the level of staff through redundancy. This is usually achieved through a ***voluntary redundancy agreement*** whereby only volunteers are selected for redundancy. Unions normally resist ***compulsory redundancy*** but, where it is inevitable, will seek to have it arranged on a ***'last in, first out'*** basis in order to protect against unfair selection. Unfair selection for redundancy can be illegal under the ***Unfair Dismissals Act 1977***. The Redundancy Payments Acts deal with rights to statutory payments, although in most cases, unions will seek to have payment above statutory implemented.

Relativities: The relationship between the remuneration of one group as against others.

****Rights Commissioner***: Rights Commissioners operate under the umbrella of the Labour Relations Commission. They investigate and recommend on disputes dealing with ***rights issues***. They also have a role in relation to the Unfair Dismissals Act and other legislation. When dealing with industrial relations rights issues, the recommendations of the Rights Commissioner are not binding unless the parties agreed in advance to accept a recommendation. However, if appealed to the ***Labour Court*** the result is binding. A recommendation concerning an unfair dismissal under the Act can be appealed to the Employment Appeals Tribunal.

Secondary Picketing: This relates to the picketing, during a dispute, of any premises other than that of the direct employer involved in the dispute. This can arise where the workers on strike have reason to believe that a second employer is assisting their employer to defeat the strike. Rights to secondary picketing are proscribed in the Industrial Relations Act 1990.

Strike: Strike is the ultimate form of industrial action initiated by a union on behalf of its members in a particular employment. Under the Industrial Relations Act, 1990, an employer must be given at least 7 days' notice of intention to strike. Most unions require strikes to be sanctioned by their Executive Committee.

Trade Dispute: This term is used in law to describe a strike or other form of industrial action.

Unfair Dismissal: Under the Unfair Dismissals Act, 1977, any worker adjudged to be dismissed unfairly is entitled to reinstatement in the same job, re-engagement in a comparable job, or compensation. The onus is on the employer to prove that any dismissal was not unfair. In order to seek the protection of the Act, employees must be one year in employment, except where the dismissal was because of trade union membership or pregnancy, where no qualifying period is necessary. Other options are to bring a claim to the Labour Court or a Rights Commissioner or to take a case of ***wrongful dismissal*** through the ordinary Courts.

Voluntarism: This is a term used to describe a system of industrial relations practice which is based on ***free collective bargaining*** with a minimum of legal intervention.

Work Study: Work Study is a technique incorporating ***method study***, a process to find the best way of doing a job and ***work measurement***, which uses ***time study*** or other approach to measure the time it should take to complete a task if the worker is working to a ***standard performance***. Work Study schemes are usually used to determine output targets for bonus purposes under a ***bonus incentive scheme*.**

Work to Rule: This is a form of industrial action where the workers stick strictly to their formal contract of employment or traditional work practices.