



# *Introduction to the Irish Legal System and Labour Law*

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# HOUSEKEEPING

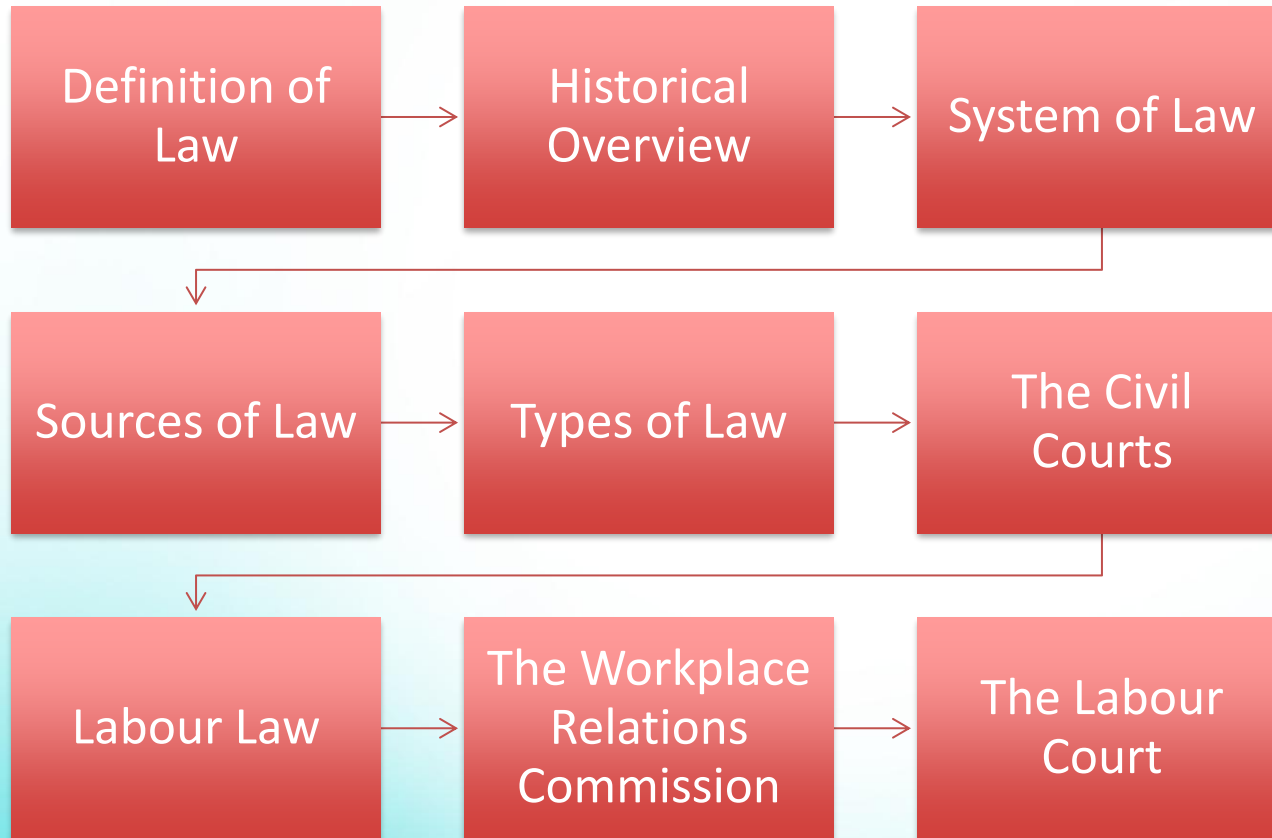
THESE SLIDES ARE NOT A  
STATEMENT OF LEGAL  
ADVICE.

THEY ARE INTENDED TO  
PROVIDE UNION  
REPRESENTATIVES WITH  
INFORMATION RELATING  
TO EMPLOYMENT RIGHTS  
AND ENTITLEMENTS.

IF IN DOUBT ALWAYS SEEK  
ADVICE FROM YOUR  
UNION OFFICIAL.



# CONTENTS



# DEFINITION OF LAW

The written and unwritten body of rules, derived from custom, formal enactments or judicial decisions, which are recognised as binding on persons who constitute a community or state, so that they will be imposed upon and enforced among those persons by appropriate sanctions.

Simplified - That body of legal rules administered in Irish Courts.



# HISTORICAL OVERVIEW

Brehan Law was a body of ancient native Irish law which was generally operational in Gaelic areas until the early 17th century. Tribal, Rural, Hierarchical and Familiar in nature. The Brehon was a wandering lawyer. They were banned when English common law was introduced.

Norman Conquest 1170 saw the introduction of English Common Law. Poynings's Law 1494 allowed all statutes previously passed in the English Parliament to have full effect in Ireland. The Dependency of Ireland Act, 1719 gave the English Parliament the right to legislate directly for Ireland.



# SYSTEM OF LAW

Common law is based on parliament making legislation and the judiciary interpreting the legislation (case law). These decisions then take precedent, bind all lower Courts and can be relied on later by others (“Stare decisis”)

Judges will consider the law (primary and secondary legislation), the facts (evidence) and previous judicial interpretation (case law)



# SOURCES OF LAW

International  
Conventions

European  
Law

The  
Constitution

Primary  
Legislation

Secondary  
Legislation

Case Law

Contract

Tort

Custom and  
Practice



# INTERNATIONAL AND EUROPEAN CONVENTIONS

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European Convention on Human Rights

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European Social Charter

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International Covenant on Civil and Political Rights

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International Covenant on Economic, Social and Cultural Rights

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EU Charter of Fundamental Rights

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Conventions of the International Labour Organisation

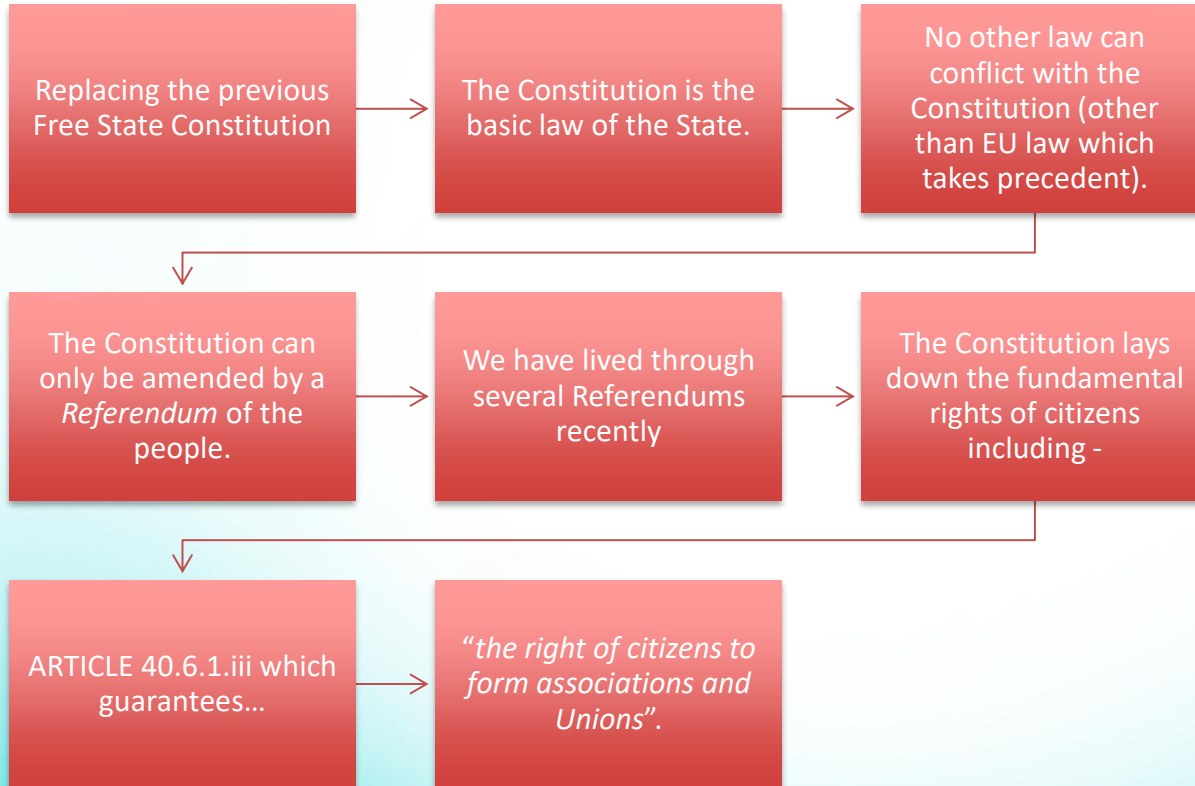


# EUROPEAN LAW

- Ireland joined the EEC (EU) 1973 – Amendment to the Constitution allowing for accession. We accept certain obligations (such as supremacy) as part of this membership and the majority of our Employment Law comes from the EU.
- These come through Regulations, Directives and Court Decisions:
  - **REGULATIONS:-** are binding on member states and have direct effect. Example the GDPR
  - **DIRECTIVES:-** must be transposed into national law by a certain date and set out an overall objective to be achieved, member states determine how to achieve this goal. Example The EU Minium Wage Directive
  - **DECISIONS:-** relate to the parties that took the case and are binding on those parties however can be relied upon in other member states as persuasive argument.



# BUNREACT NA hEIREANN 1937



# PRIMARY LEGISLATION - STATUTE

- "Primary Legislation"  
i.e. the main Acts such as  
the Unfair Dismissals Act  
1977.

- Must be passed by the  
Oireachtas (Dail, Seanad,  
President) having gone  
through five stages and  
the Presidents signature.

- Must not be repugnant  
to the Constitution.



# SECONDARY LEGISLATION – STATUTORY INSTRUMENTS

Within Primary Legislation the Minister has the power to make orders or regulations which are provided for but not fully specified in the original Act. This is referred to as secondary legislation and is contained in Statutory Instruments.

An example of a statutory Instrument is S.I. No. 146 of 2000: Industrial Relations Act 1990 Code of Practice on Grievance and Disciplinary Procedures (Declaration) Order 2000



# CASE LAW, CONTRACT, TORT AND CUSTOM AND PRACTICE

Case Law is the name given to the body of Court decisions that have been delivered by the Civil Courts, the Workplace Relations Commission and the Labour Court

Contract Law contains the principles that govern a contract between two parties. For example the Employment Contract

Tort law is the law of negligence and is considered when someone has a duty of care to another

Custom and Practice is a source of law that is considered when there is no written proof of what is being alleged

These concepts, along with primary and secondary legislation will be discussed in more detail throughout the coming weeks.



# TYPES OF LAW

Civil Law - a private individual or organisation “sues” for compensation. Standard of proof is the ‘balance of probabilities’. Civil law is a type of private law as it does not involve the state.

Criminal Law - the state “prosecutes” to secure a conviction, leading to imprisonment, probation, a fine or jail. Standard of proof is ‘beyond reasonable doubt’. Criminal law is a type of public law as it involves the state.

So what is Labour Law?

It is private civil law that is sometimes governed in the civil courts but often governed in a separate forum such as the Workplace Relations Commission and the Labour Court.



# THE CIVIL COURTS

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**District Court** – civil claims below €15,000, minor criminal offences, enforcement of Workplace Relations Commission / Labour Court decisions

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**Circuit Court** – civil claims between €15 – 75,000, more serious criminal offences, family law matters

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**High Court** – civil claims higher than €75,000, severe criminal offences, appeals from District Court and appeal on points of law from Labour Court

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**Court of Appeal** – appeals from Circuit Court and High Court and appeals on Criminal matters

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**Supreme Court** – final court of appeal in civil and criminal matters but must be of public importance, ultimate interpreter of the Constitution, determines the constitutionality of Bills before they become legislation



# LABOUR LAW

Three different  
areas covered  
by Labour Law:

1.  
EMPLOYMENT  
LAW

2. INDUSTRIAL  
RELATIONS  
LAW

3. TRADE  
UNION LAW



# EMPLOYMENT LAW

Defines the rights and obligations between employers and individual employees



Must consider primary legislation, secondary legislation, the contract of employment, custom and practice and case law for breaches and remedies



Breaches are dealt with in the Workplace Relations Commission and the Labour Court on appeal



Legislation provides a minimum floor of rights and obligations, these can be improved upon through collective bargaining.



# INDUSTRIAL RELATIONS LAW (IR)

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Deals with disputes that a collective group of members have or a individual dispute that is not governed by employment law

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Mechanisms of redress are set out in the Industrial Relations Acts and pursued in the Workplace Relations Commission or the Labour Court

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Recommendations are generally not binding on either the employee or employer unless they opt for them to be under certain provisions

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Unionised workplaces benefit more than non unionised workplaces when utilising IR mechanisms



# TRADE UNION LAW

Defines the rights and duties of a Trade Union when engaging in collective action.

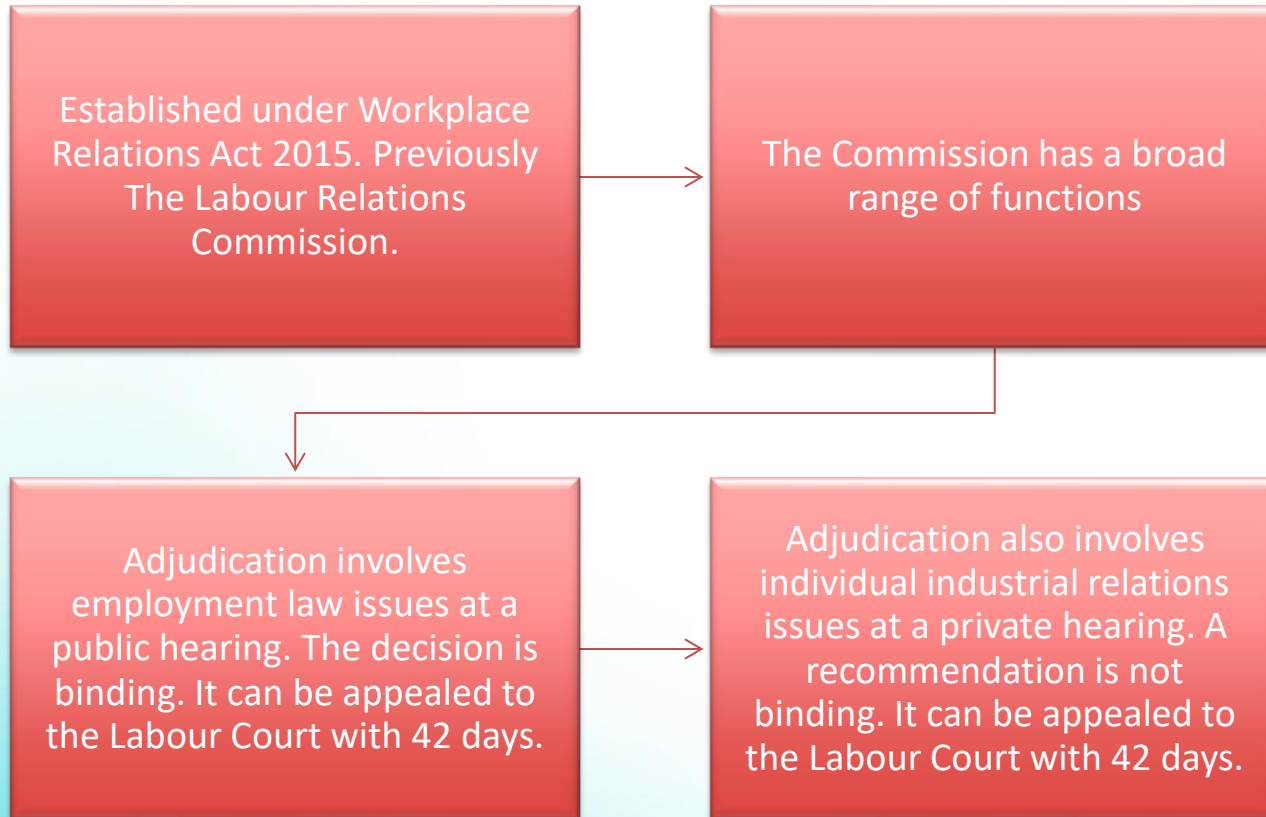
Must consider primary legislation, secondary legislation, collective agreements and case law to determine the rights and duties

Breaches are dealt with in the Civil Courts as the actions are considered a Tort

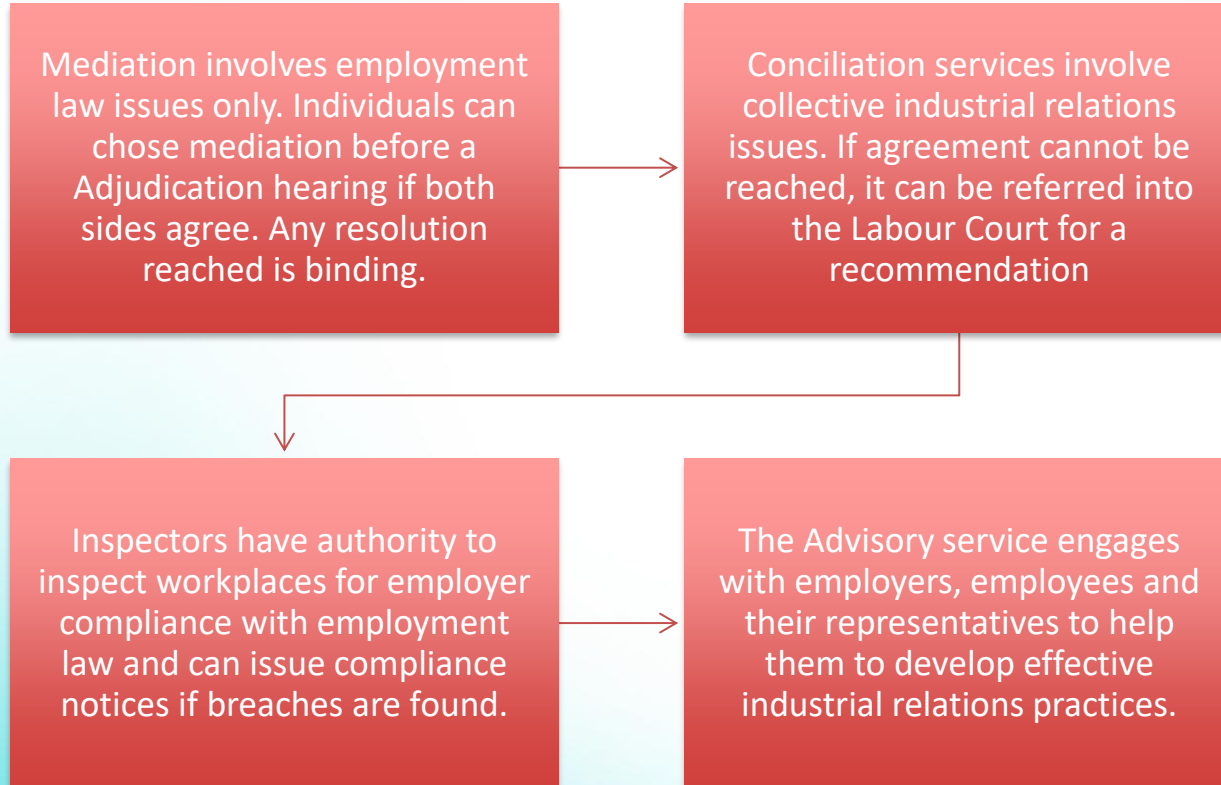
Penalties for breaching the duties are extremely high



# THE WORKPLACE RELATIONS COMMISSION (WRC)



# THE WORKPLACE RELATIONS COMMISSION (WRC)



# THE LABOUR COURT (LC)

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Court of Appeal for Adjudication Services

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Collective industrial relations matters not resolved at conciliation

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Review JLC's, SEO's and ERO's

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Thirteen full time members – employee and employer reps



# DISCUSSION



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