

A Handy Checklist for Unfair Dismissal

This guide is for an employee who believes that they have been unfairly dismissed. It will take you through the various steps in challenging an unfair dismissal under Irish employment legislation.

Am I eligible to make a claim for unfair dismissal?

In order to make a claim for unfair dismissal in Ireland you must meet the following requirements:

1. Are you an employee? The relationship must be one of employer/employee. For more [see](#)
2. Have you been in continuous employment with your employer for at least twelve months ?
3. Were you dismissed? Your employer may claim that you resigned. If you believe that you were forced to resign, you may be able to claim constructive dismissal. For more [see](#)
4. Have you avoided an excluded category? The unfair dismissal acts do not apply to employees in any of these categories :
 - Age. If you are under 16, or excluded from the Redundancy Acts because of age, or have reached the normal retirement age covered in your contract.
 - Do you work for a close relative in a private house or farm where you both live? If yes then you are excluded.

What is unfair Dismissal?	See the handy summary below.
Definition	The dismissal of an employee shall be deemed, for the purposes of the Unfair Dismissals Act 1977, to be an unfair dismissal unless, having regard to all the circumstances, there were substantial grounds justifying the dismissal.
Proof	The onus is usually on the employer. Except in the case of constructive dismissal
Procedures	The employer must have written procedures in place and must follow them.
Notice	You are entitled to receive the reasons for your dismissal in writing
Justification	The grounds for dismissing an employee in Ireland which are considered fair are the following: <ul style="list-style-type: none">• Capability• Competence• Qualifications• Conduct• Redundancy• Contravening the law• Other substantial grounds
The Claim	6 months to claim. Make sure you claim on every ground available to you. Get help from an expert. It will save you money .
Redress	There are three options open to you, reinstatement, re-engagement or compensation.
The Hearing & More	Your claim will be heard by an Adjudication Officer. You go first. Get help. It can be daunting on your own. You may miss something, under pressure. Make sure you are prepared. The award can be enforced in the District Court if necessary.

- A member of the Defence Forces

- A member of the Garda Siochana
- Are you receiving full-time training or apprenticeship? If so, this is an excluded category.
- A county or city manager, the chief executive of the Health Service Executive, an officer of education and training boards.
- Employed on a written, fixed term contract, signed by all parties with a clause excluding the Unfair Dismissals Acts. [For more see](#)
- If you work outside the state, you will be excluded unless you were resident in the state for the period of the contract or are domiciled in the state and the employer was resident in the state for the period of the contract.
- Statutory apprentice, dismissed within the first six months of the apprenticeship or one month after completing the apprenticeship.
- Are you on probation or training at the start of employment of one year or less and written in the completed contract of employment? If yes, then you are excluded.
- Employees in training for qualification as a nurse or other specified para-medical employment are excluded.

If you are excluded because you are in one of the above categories you may be able to bring a claim for unfair dismissal if you are dismissed in contravention of anti-victimisation [More](#), Equality anti-discrimination [More](#) or similar legislation. Please contact us if you require more detailed information

How much notice am I entitled to receive as an employee in Ireland?

That depends on how long you have spent in your current job. The Minimum Notice and Terms of Employment Acts 1973 – 2005 set out your minimum entitlements to notice. The notice period varies depending on your length of service. The minimum amount for an employee with 13 weeks to 2 years service is 1 week. It increases for workers with longer service. See our [article on Minimum Notice and Terms of Employment here](#)

What are the fair grounds for dismissal?

The grounds for dismissing an employee in Ireland which are considered fair are the following:

- Capability
- Competence
- Qualifications
- Conduct
- Redundancy
- Contravening the law
- Other substantial grounds

This is a short summary of the remedies available to you.

If you feel you have been unfairly dismissed you should take professional advice before taking or refraining from action.

You don't have to make the decision on your own.

Contact us for a free consultation.
info@employmentrightsadvice.ie



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