



April 2021

Landmark Supreme Court Ruling on WRC

Zalewski v Adjudication Officer & Ors [2021] IESC 24

The Supreme Court has found, by a narrow majority, that the Workplace Relations Act 2015 (the **Act**) as implemented by the Workplace Relations Commission (**WRC**) is not unconstitutional.

WRC Proceedings

The *Zalewski* case involved proceedings for unfair dismissal and non-payment of wages which were initiated in the WRC. The hearing was adjourned to allow evidence to be given by certain witnesses. However, when the matter returned before the WRC, the applicant was informed that the adjudication officer had already issued a decision dismissing his complaint.

High Court

A judicial review of the WRC process was sought in the High Court. It was alleged that the WRC was engaged in the administration of justice which was required by the Constitution to be within the sole remit of the courts. Further, that the lack of an appeal procedure, the fact that hearings were not held in public and that there was no right to cross-examine witnesses, rendered parts of the Act unconstitutional. Ultimately, the High Court held, on the basis that an order of the District Court was required to enforce its decisions, that the WRC was not engaged in the administration of justice.

Supreme Court

The decision of the High Court was appealed directly to the Supreme Court which, by a 4-3 majority decision of O'Donnell J, upheld the constitutionality of the Act - holding that WRC adjudication officers are engaged in the administration of justice in a manner that does not offend the Constitution. However it did find that certain aspects of the WRC's procedures needed amendment, depending on the type of claim being heard.

For further information on any of the issues discussed in this article please contact:



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Commentary

The WRC has issued a statement following the narrow defeat in this case, which can be read [here](#). According to the statement “*the provision for a private hearing no longer applies and also, as a consequence, that decisions will be published including the names of the parties – in other words the names of the parties will no longer be anonymised*”. It can be expected that there will be amending legislation as to how the WRC operates.

If you require advice in relation to the matters covered in this briefing please contact a member of our [Employment Team](#).

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