



AN BILLE CAIDRIMH THIONSCAIL, 1946.
INDUSTRIAL RELATIONS BILL, 1946.



EXPLANATORY MEMORANDUM.

PART I.

(1) The Act will come into operation on a date prescribed by the Minister for Industry and Commerce. It is intended that this date will be as soon after the passing of the Act as arrangements necessary for bringing it into operation can be completed. As from the date it comes into operation the Emergency Powers (No. 260) Order, 1943, and the various amending Orders which relate to control of wages will be revoked. *Commencement.*

(2) All workers in the State will be covered except agricultural workers (for whom minimum wages are fixed by the Agricultural Wages Board), persons remunerated out of State funds, and workers and officers employed by Local Authorities. Employees of Harbour Boards and other statutory bodies will be included. *Scope.*

PART II.

ESTABLISHMENT OF LABOUR COURT.

(3) A Labour Court will be established, consisting of a Chairman appointed by the Minister and two other members representing employers and workers, appointed on the nomination of bodies representing trade unions of employers and trade unions of workers, respectively. The members will be full time and will be paid salaries by the State. During the period of appointment the ordinary members cannot be removed except for stated reasons and with the concurrence of the bodies which nominated them originally. Deputy members will be appointed at the same time, and will be available when the permanent members, for any reason, are unable to act. *Constitution of Labour Court.*

(4) The Court will be provided with a staff and may, as occasion requires, appoint Technical Assessors to assist it. *Staff of Court.*

(5) The Labour Court will have the powers of a Court of Law in regard to summoning and examination of witnesses, production of documents, etc., in connection with any inquiry it undertakes. The decision of the Court on any matter within its jurisdiction will be final and conclusive. *Labour Court to have power to summon and examine witnesses.*

(6) In addition to other functions, the Labour Court will investigate any matter relating to industrial conditions in any trade or industry which may be referred to it by the Minister for Industry and Commerce and, if necessary, make a recommendation to the Minister with reference to such matter. *Court to investigate matters referred to it by the Minister.*

(7) The Court will furnish a report of the proceedings every year to the Government. Such report may include general observations on the trend of wage rates and matters arising therefrom. *Annual Report.*

PART III.

EMPLOYMENT AGREEMENTS.

(8) Under Section 50 of the Conditions of Employment Act, 1936, provision is made for the registration of wages agreements which, on registration, become binding on all employers in the industry. Actually only one agreement has been registered, due *Registration of employment agreements.*

mainly to the fact that the provision is confined to agreements concerning wages only. It was found that most agreements related to conditions of employment as well as wages. Great difficulty was also experienced in defining the classes to be covered by an agreement. It is proposed to repeal this provision and to enact instead that the Labour Court will maintain a Register of employment agreements and that an agreement relating to wages and conditions of employment may be submitted to the Court for registration by any party thereto.

Conditions for Registration.

(9) The Court will register an agreement when it is satisfied that—

- (a) all parties or (if more than one trade union is a party) a substantial number agree to registration;
- (b) the signatories to the agreement are substantially representative of the employers and workers;
- (c) the agreement applies to all employers and workers in the trade or industry. The Court may, however, register an agreement for a particular area when it is satisfied that it is a normal and desirable practice or that it is expedient;
- (d) the agreement will not have the effect of unduly restricting employment or the class of person that may be employed;
- (e) it does not provide for the retention of inefficient or unduly costly methods of working or machinery;
- (f) no strike or lock-out will take place until the dispute has been submitted for settlement by negotiation in a manner specified in the agreement.

Effect of Registration.

(10) When an agreement has been voluntarily submitted by the parties thereto and registered it becomes binding on the parties. It will not be lawful for an employer to employ a worker in the trade or industry covered by the registered agreement at rates of wages or conditions less favourable than those specified in the agreement. Neither will it be lawful for any trade union of workers to promote or assist a strike to compel any employer in the trade or industry to grant to any worker wages or conditions other than those provided for in the registered agreement.

Interpretation of registered agreement.

(11) Any dispute arising out of the interpretation or application of a registered agreement will be decided by the Labour Court.

Breaches of registered agreement.

(12) If an employer employs a worker on terms less favourable than those provided in the registered agreement, or if a trade union is responsible for a strike to compel an employer to grant more favourable terms, the matter may be investigated by the Labour Court on request by any party. If the Court is satisfied that the complaint is well-founded it may direct the offending party to take such action (including payments to the aggrieved worker or workers) as will fulfil the terms of the agreement. An employer or trade union who fails to carry out the directions given by the Court will be liable to penalties.

Cancellation of registration.

(13) The registration of an agreement may be cancelled at any time on the application of all the parties thereto, or when the Court is satisfied that there has been such substantial change in the circumstances of the trade or industry since the agreement was registered that maintenance of registration is undesirable.

Enforcement.

(14) The obligations on employers and trade unions of workers in relation to registered agreements will not be enforced by inspection by officers of the Minister. Provisions of agreements will, however, become implied conditions of contract.

PART IV.

JOINT LABOUR COMMITTEES.

(15) Under the provisions of the Trade Boards Acts, 1909 and 1918, the Minister for Industry and Commerce is empowered to establish a Trade Board for any trade in which rates of wages are unduly low owing to the lack of organisation amongst the workers in the trade. A Trade Board consists of representatives of employers and workers in equal numbers under an independent Chairman, and has power to fix minimum rates of wages for workers in the trade for which it is established. These minimum rates consist of hourly time rates and piece-work rates. When these rates have been confirmed by the Minister they become legally enforceable on employers. A Trade Board may also fix maximum hours of work and overtime rates, and may determine the proportion of learners employed at special lower rates to other workers enjoying full rates of wages. Fifteen Trade Boards are at present functioning.

Trade Boards.

(16) It is proposed to repeal the Trade Boards Acts which were primarily designed to deal with the problem of "sweated" trades and to re-enact their main provisions with amendments to suit existing conditions.

Repeal of existing legislation.

(17) The power to set up Trade Boards, which are being re-named Joint Labour Committees, is being transferred from the Minister to the Labour Court. The Court may establish a Joint Labour Committee provided that it has received an application from the Minister, or a trade union, or any interested organisation or group of workers or employers and provided that it first holds an inquiry into such application giving an opportunity to parties to present observations on the proposal. An application for the establishment of a Joint Labour Committee must be on the ground that the existing machinery for the effective regulation of wages and conditions of employment of workers concerned is inadequate and that, having regard to existing rates of wages and conditions of employment, it is expedient that a Joint Labour Committee should be established. Similarly the Court may abolish or vary the field of operation of an existing Joint Labour Committee.

Establishment of Joint Labour Committees.

(18) At present a Trade Board may be established only for workers in a particular trade, e.g., shirtmaking, tailoring, button-making, etc. It is proposed that a Joint Labour Committee may be set up for any class of workers. This will enable a Committee to be set up for any class of worker where it is desirable that a Committee should be established irrespective of whether the group of workers constitutes a trade or not.

Classes of workers for which a Committee may be established.

(19) A Joint Labour Committee will consist of equal numbers of representatives of employers and workers appointed by the Court and a Chairman and other independent persons appointed by the Minister.

Constitution of Committee.

(20) The present wage fixing powers of Trade Boards will be extended so as to permit Joint Labour Committees to fix minimum weekly remuneration. This will enable a Committee to fix a guaranteed minimum weekly wage for a worker irrespective of the number of hours actually worked in the week. This provision will avoid the necessity for Joint Labour Committees fixing elaborate sets of piece rates in certain trades in which such rates have hitherto been usual, e.g., boot and shoe repairing, shirt-making, etc. In addition to the powers to fix statutory remuneration, Joint Labour Committees are being granted powers to prescribe conditions of employment for workers.

Powers of Committee.

(21) Existing Trade Boards will become Joint Labour Committees under the Act and will operate in respect of the same class of workers in respect of which they operated under the Trade Boards Acts. Orders already in force confirming minimum

Existing Trade Boards to become Joint Labour Committees.

rates of wages for workers in Trade Board trades will continue to have statutory force until amended by the Joint Labour Committee concerned.

Notice of proposals by Committees.

(22) The remaining proposals in relation to Joint Labour Committees are mainly a re-enactment of the provisions of the Trade Boards Acts with minor amendments designed to remove defects in the administrative machinery which have come to light during the working of these Acts. Notice of proposals by Joint Labour Committees to regulate remuneration or conditions of employment will be given by the Labour Court and objections to the proposals may be lodged within thirty days. If any objections are made they will be considered by the Committee, and the Committee may then submit the proposals, amended or otherwise, for confirmation by the Court. The Court in its discretion may or may not confirm the proposals.

Employers bound to pay statutory minimum remuneration.

(23) When the proposals are confirmed by the Court they become statutory minimum remuneration and statutory conditions of employment, and employers will be bound under penalties to pay rates of wages not less than those prescribed and to observe conditions of employment not less favourable than those prescribed.

Repeal of provision for Shop Wages Board.

(24) In view of the fact that Joint Labour Committees may be established for any class of worker without the limitations previously in existence it is not considered necessary to retain the proposals (Part V) in the Shops (Conditions of Employment) Act, 1938, for the establishment of a Shop Wages Board which would have had the same functions in relation to workers in shops as a Trade Board had in relation to the workers in the trade for which it operated. Accordingly the relevant provisions of the Shops (Conditions of Employment) Act, 1938, are being repealed and no special provision is being made in respect of shop workers.

Enforcement.

(25) The provisions relating to observance by employers of statutory minimum remuneration and statutory conditions of employment will be enforced by officers of the Minister in the same way as the Trade Boards Acts are at present enforced.

Standard Wage.

(26) The Court may also publish a Standard Wage for any area. The Standard Wage shall be the wage which, in the opinion of the Court, should be paid to an adult male worker performing unskilled work for 48 hours in a week in the area. In arriving at the wage the Court will have regard to the latest Cost of Living Index Number, the prevailing level of wages for skilled workers, and the statutory minimum wage for agricultural workers. There will be no legal obligation on employers to pay this Standard Wage.

PART V.

JOINT INDUSTRIAL COUNCILS.

Definition of Joint Industrial Councils.

(27) A Joint Industrial Council is defined as a standing body representing employers and workers in a trade or industry, the object of which is the promotion of harmonious relations between employers and workers, with rules which provide that no trade dispute will result in a strike or lock-out until the matter has been referred to the Council and considered by it. A number of such Councils are at present in existence.

Registration of Councils.

(28) Any Joint Industrial Council, whether established before or after the commencement of the Act, may apply to the Labour Court for registration. If the Court is satisfied that the constitution of the Council complies with the definition in the preceding paragraph, it will register the Council.

(29) The Court may appoint a Chairman and Secretary, or both, to a Council if requested by the parties on the Council to do so. *Appointments to Councils.*

(30) Trade Unions of employers or workers will not require a Negotiation Licence under the Trade Union Act, 1941, to take part in the proceedings of a registered Council. *Trade Union Act, 1941, and Councils.*

PART VI.

TRADE DISPUTES.

(31) Legislation relating to conciliation in trade disputes is at present contained in the Conciliation Act, 1896, and the Industrial Courts Act, 1919. It is proposed to repeal these Acts and to enact instead that the Labour Court shall take over the functions of the Minister for Industry and Commerce in relation to trade disputes. When a trade dispute exists the Court may arrange for the parties to meet under the auspices of one of its officials with a view to the settlement of the dispute, or if a permanent settlement is not possible, for settlement on a temporary basis pending full investigation by the Court. *Mediation in Trade Disputes.*

(32) Where it is not possible to settle a trade dispute by means of conciliation the Court may, if requested by any of the parties concerned, investigate the dispute. The Court may decline to investigate the dispute unless a stoppage of work occasioned by the dispute is terminated on a temporary basis either agreed by the parties or decided by the Court, such temporary basis being without prejudice to the final recommendation of the Court. *Investigation of Trade Disputes.*

(33) Having investigated the dispute the Court will publish a recommendation setting forth its views on the merits of the dispute and the way in which it should be settled. In deciding on its recommendation, the Court will have regard, apart from the over-riding consideration of the public interest, to the arrangement which is most fair to the parties and most likely to be acceptable to the parties. The recommendation will not be binding on any of the parties in the dispute, but it is hoped that the practice of accepting recommendations made by the Court will become general. *Recommendation in Trade Disputes.*

(34) The Court will not investigate any dispute if it is satisfied that the parties thereto have an agreement in existence providing for alternative methods of settling trade disputes, or if there is a registered Joint Industrial Council for the trade or industry, unless the dispute has been referred to the Court by the Council. *Certain disputes not to be investigated.*

(35) Where a dispute results in a stoppage of work and is a dispute where no trade union of workers is promoting or assisting the dispute the Labour Court may summon the parties before it and on hearing them may decide either:— *Court to have special powers in certain disputes.*

- (i) Not to take any action if it is satisfied that the dispute is likely to be settled at an early date, or
- (ii) To publish a recommendation setting forth its opinion of the merits of the dispute and the manner in which it should be settled, or
- (iii) Make an Award setting forth the conditions on which, in its opinion, the dispute should be settled.

Only when the Court decides to make an Award under (iii) above will its decision have binding effect. Such an award will be binding for a period of one year and during that period it will be unlawful for any employer to grant any conditions other than those contained in the Award.

PART VII.

TRANSITORY PROPOSALS.

*Recording of
Wages (Standard
Rate) Orders and
Bonus Orders.*

(36) Within three months from the date on which the Act comes into operation any trade union of workers or body representative of workers may on its own initiative, record with the Court a Wages (Standard Rate) Order and any Bonus Orders relating to such Wages Order which have been issued by the Minister under the provisions of the Emergency Powers (No. 166) Order, 1942, or the Emergency Powers (No. 260) Order, 1943. Recording can be done by registered post and the Court will automatically record all orders submitted.

*Effect of
Recording.*

(37) The effect of recording will be to make an employer covered by the Order legally bound to pay to his workers wages not less than the rates specified in the Wages Order, together with the bonus specified in the Bonus Order. The trade union which records the Orders forgoes its right to enforce the payment of higher rates than those recorded until an application for increased rates has been made to the Court and has been decided by the Court.

*Increases in rates
Recorded.*

(38) When an Order has been recorded, a trade union of workers or body representative of workers may apply to the Court for an increase in the rates of wages specified in the Order. The Court, having heard all parties, may make an Award providing for such higher rates of wages as it thinks fit. The body which applied for increased wages must then decide whether or not it will accept the award of the Court and must notify the Court within sixteen days. If no objection is received within this period it will be deemed to have accepted the Award.

*Acceptance or
non-acceptance of
Award.*

(39) When an Award is accepted it will replace the Wages Order and will be binding on all parties, i.e., the employers concerned will be legally bound to pay the higher rates. If, however, the applicant body does not accept the Award there will be no obligation on the employer to pay any specific rates of wages, i.e., the rates of wage will be a matter for free negotiation between the parties, and the recording of the original Standard Rate and Bonus Orders will be cancelled.

*Provisions for a
limited period
only.*

(40) The provisions of this Part will remain in force for one year only, but may be continued for a further period by order of the Minister after consultation with organisations representative of trade unions. They are intended to provide simple, workable machinery by which wage adjustment can be facilitated, without numerous, and possibly, protracted trade disputes, during the transition period following on the revocation of the Emergency Powers (No. 260) Order, and pending the negotiation of new permanent agreements in a form suitable for registration with the Labour Court.

Roinn Tionnscail agus Tráchtála.

Meitheamh, 1946.