

SEANAD ÉIREANN.

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



Coiste.
Committee.

Leasuithe.
Amendments.

SECTION 3.

1. In page 4, to delete the definition of the expression "trade union", lines 35 to 37, inclusive and substitute the following definition:—

"the expression 'trade union' has the same meaning as in the Trade Union Acts, 1871 to 1942",

—Senator Duffy.

SECTION 4.

2. In page 4, line 39, to delete the words "of the age of fourteen years or upwards".—Senator Duffy.
3. In subsection (1), page 5, to delete subparagraph (d).—Senator Foran.
4. In subsection (1), page 5, to delete subparagraph (e).—Senator Foran.
5. In subsection (1), page 5, to delete subparagraph (f).—Senator Foran.
6. In subsection (1), page 5, to delete subparagraph (g).—Senator Foran.
7. In subsection (1), page 5, to delete subparagraph (h).—Senator Foran.
8. In page 5, before subsection (2) to insert the following new subsection:—

"(2) The Minister may by regulation made under this subsection declare that any class of worker mentioned in paragraphs (a) to (g) of subsection (1) of this section is a class of worker to which this Act applies and thereupon the provisions of Part VI of this Act shall apply and have effect accordingly."

—Senator Duffy.

SECTION 7.

9. At the end of the section in page 5 to insert the following new subsection:—

"() Notwithstanding anything contained in section 10 of the Petty Sessions (Ireland) Act, 1851, a prosecution for an offence under section 45, section 48 or subsection (2) of section 52 of this Act may be brought at any time within whichever of the following periods later expires, that is to say:—

 - (a) three months from the date on which evidence sufficient in the opinion of the Minister to justify a prosecution for the offence comes to his knowledge, or
 - (b) twelve months after the commission of the offence,

and a certificate under the official seal of the Minister as to the date on which such evidence comes to his knowledge shall be conclusive evidence thereof."

—Senator Duffy.

SECTION 8.

10. At the end of the section, page 5, to insert the following new subsection:—

“() Notwithstanding the repeals effected by this section the provisions of the following enactments, that is to say:—

(a) The Conciliation Act, 1896, and

(b) The Industrial Courts Act, 1919,

shall in relation to every employment mentioned in *subsection (1) of section 4* of this Act continue to apply and have effect to the extent they would have applied if this Act had not been passed.”

—Senator Duffy.

SECTION 10.

11. In subsection (2), line 49, to delete the word “ four ” and substitute therefor the word “ two ”; and in line 50 and in line 51, to delete the word “ two ” and substitute in each place the word “ one ”.—Senator Foran.

12. To delete subsection (3) and substitute instead a new subsection (3) as follows:—

“(3) The Chairman shall be appointed by the President and shall be independent in his functions subject only to the Constitution and the law.”

—Senator Douglas, Senator Summerfield.

13. In subsection (3) to delete all words following the word “ be ” in line 1, page 6, to the end of the subsection, and to substitute the following words: “ one of the judges of the High Court for the time being to be assigned from time to time by the President of the High Court at the request of the Minister ”.—Senator Kingsmill Moore.

14. After subsection (3) to insert a new subsection as follows:—

“(4) The Chairman shall not be removed from office except for stated misbehaviour or incapacity and then only upon resolutions passed by Dáil Eireann and Seanad Eireann calling for his removal.”

—Senator Douglas, Senator Summerfield.

15. In subsection (4), subparagraph (a), in line 6 and in line 9, to delete the word “ each ” and substitute therefor in each place the word “ the ”.—Senator Foran.

16. In subsection (4) to add at the end of subparagraph (a) the following proviso:—

“ Provided that the Minister shall, in respect of one employers' member, designate as the trade union of employers to make the nomination a trade union representative of an agricultural interest.”

—Senator Counihan.

17. In subsection (4), page 6, to delete subparagraph (b).—Senator Foran.

18. In subsection (8), page 6, to delete all words after the word “ Minister ” in line 47 to the end of the subsection and substitute the words “ shall at the time of their appointment, with the consent of the Minister for Finance, determine ”.—Senator Duffy.

19. In subsection (8), to insert at the end of the subsection the words following: “ but in the case of the Chairman such remuneration shall not be less than the remuneration of a judge of the High Court ”.—Senator Kingsmill Moore.

20. In subsection (9), line 50, at the end of the subsection to add the words: “ and shall not retain a financial interest in any industrial or commercial undertaking ”.—Senator Foran.

SECTION 10—*continued*.

21. To delete subsection (10) and in lieu thereof to substitute the following subsection:—

“(10) An ordinary member shall not hold any other office of profit or emolument.”

—Senator Foran.

22. In subsection (10), page 6, after the word “shall” in line 51, to insert the following words: “not be a director, officer, employee or official of any company, be the proprietor or manager of any business concern or”.—Senator Duffy.

SECTION 11.

23. In paragraph (b), after the word “it” in line 15, to add the words “provided that matters referred to the Court under section 33 of this Act and matters involving interpretation or precedent must be considered by the whole Court”.—Senator Summerfield, Senator Douglas.

24. In page 7, after paragraph (c), in line 19, to insert the following words: “and the provisions of this Act shall, *mutatis mutandis*, have effect accordingly”.—Senator Duffy.

25. At the end of the section to insert the following new subsection:—

“() The quorum for a meeting or sitting of a divisional court appointed under this section shall be three”.

—Senator Duffy.

NEW SECTION.

26. Before section 12, to insert the following new section:—

“12.—(1) The Minister shall appoint—

(a) a deputy for the chairman, such deputy to be a person who is ordinarily resident in the State;

(b) on the nomination of an organisation, representative of trade unions of employers, designated by the Minister to make the nomination—a deputy for the employers' member, and

(c) on the nomination of an organisation, representative of trade unions of workers, designated by the Minister to make the nomination—a deputy for the workers' member.

(2) A deputy appointed under this section shall, unless he dies, resigns or is removed, hold office for such period as shall be fixed by the Minister when appointing him.

(3) A deputy appointed under this section may be removed from office by the Minister for stated reasons but, if the organisation by which he was nominated is in being, only with the consent of that organisation.

(4) Where in the opinion of the chairman of the Court, it is undesirable, by reason of interest, that a particular member of the Court should act in relation to a particular matter, he may rule accordingly and that member shall not act during consideration of the matter.

(5) A deputy appointed under this section shall, if the member of the Court, whose deputy he is, is absent or prohibited from acting, act in the place of that member.

(6) Deputies appointed under this section may be paid such fees as the Minister, with the consent of the Minister for Finance, determines.”

—Senator Foran.

(NOTE.—Acceptance of this amendment will involve the deletion of section 12.)

SECTION 12.

27. To delete subsection (4).—Senator Duffy.

SECTION 17.

28. In page 8, line 3, after the word "Court" to insert the words "or of a division thereof".—Senator Duffy.

SECTION 20.

29. In subsection (1), line 29, to delete the word "five" and substitute therefor the word "three".—Senator Foran.

30. To delete subsection (2).—Senator Foran.

31. Before subsection (3), in page 8, to insert the following new subsection:—

"(3) No direction shall be given by the Chairman under subsection (2) of this section in relation to any matter arising under sections 32, 33, 57, 58 or 77 of this Act."

—Senator Duffy.

32. In subsection (3), line 37, page 8, after the word "question" to insert the words following: "other than a question of law".—Senator Kingsmill Moore.

33. In subsection (3) (b) (i), line 42, to delete the words "the majority of".—Senator Foran.

34. In subsection (3) (b) (ii), line 45, to delete the words "a majority of".—Senator Foran.

35. After subsection (4) to insert a new subsection as follows:—

"(5) Where any question of law arises under this Act at a meeting or sitting of the Court such question shall be decided by the Chairman".—Senator Kingsmill Moore.

36. In subsection (5), page 9, after the word "proceedings" in line 2, to insert the words "and the proceedings of a divisional court appointed under section 11 of this Act".—Senator Duffy.

37. In subsection (6), to delete all words after the word "solicitor" in line 4 to the end of the subsection.—Senator Sweetman.

SECTION 21.

38. In subsection (3), to delete subparagraph (b) and substitute therefor a new subparagraph as follows:—

"(b) being in attendance as a witness refuses to take an oath legally required by the Court to be taken or to produce any document in his power or control which is relative to the matter before the Court and which the Court has legally required him to produce or to answer any relevant question to which the Court may legally require an answer."

—Senator Douglas, Senator Summerfield.

39. In subsection (4), to delete all words from the word "section" in line 33, page 9, to the end of the subsection, and to substitute the words following: "the Court may sanction the payment to him of such expenses as it considers reasonable and the Minister for Finance shall make such payment".—Senator Kingsmill Moore.

SECTION 22.

40. In page 9, line 37, after the word "Court" to insert the words "nor any member thereof".—Senator Duffy.

SECTION 23.

41. In subsection (3), line 49, to insert after the word "each" the word "registered", and in lines 50 and 51 to delete the words "registered by the Court under Part V of this Act".—Senator Quirke.

SECTION 23—*continued*.

42. In subsection (3), line 51, after the word "secretary" to insert the words "or secretaries".—Senator Foran.

43. In page 9, before subsection (4) to insert the following new subsection:—

"(4) An annual report shall contain particulars of each Joint Labour Committee established under *section 35* of this Act together with the name and address of the secretary thereof."

—Senator Duffy.

44. In subsection (4), page 9, line 53, after the word "shall" to insert the words "as soon as may be".—Senator Duffy.

SECTION 25.

45. In page 10, lines 13 to 19 inclusive, to delete the definition of "employment agreement" and substitute the following definition:—

"the expression 'employment agreement' means a written agreement relating to the remuneration or the conditions of employment or to both the remuneration and conditions of employment of workers of any class made between a trade union of workers or more than one trade union of workers and an employer or trade union of employers or made by a registered Joint Industrial Council."

—Senator Duffy.

46. In page 10, in the definition of "employment agreement", line 15, to delete the words "or workers in any trade or industry".—Senator Quirke.

47. In page 10, line 15, to delete the words "or workers in any trade or industry" and substitute therefor the words "type or group".—Senator Kingsmill Moore.

48. In page 10, in the definition of "employment agreement", to delete all words after the word "made" in line 17, and substitute the words "by a registered Joint Industrial Council".—Senator Duffy.

SECTION 26.

49. In line 27, page 10, to delete the word "maintain" and substitute the word "keep".—Senator Kingsmill Moore.

SECTION 27.

50. In subsection (3) (a), page 10, line 40, after the word "agreement" to insert the words "in support of its registration".—Senator Duffy.

51. In subsection (3) (a), in line 42, after the word "respectively" to add the words "that it should be registered".—Senator Kingsmill Moore.

52. In page 10, lines 43 to 47, to delete paragraph (b) and substitute the words "that the agreement is expressed to apply to a defined class of workers and their employers".—Senator Duffy.

53. In subsection (3) (b), after the word "class" in lines 44 and 47, to insert in each place the words "type or group".—Senator Kingsmill Moore.

54. In subsection (3) (d), line 52, after the word "class" to insert the words "type or group".—Senator Kingsmill Moore.

55. In subsection (4), to delete all words from and including the word "direct" in line 9, to and including the word "to" in line 10.—Senator Foran.

SECTION 27—*continued*.

56. In page 11, subsection (5), lines 15 to 17, to delete the words "publication of particulars of the agreement in accordance with subsection (4) of this section" and substitute the words "the direction mentioned in subsection (4) of this section has been complied with".—Senator Duffy.
57. In subsection (6), page 11, to delete the word "Act", in line 30, and substitute the words "enactment, contract or otherwise".—Senator Duffy.

SECTION 28.

58. In subsection (1), line 36, before the word "group" to insert the words "class, type or".—Senator Kingsmill Moore.
59. In subsection (2), page 11, before paragraph (a), to insert the following paragraph:—
- "(a) the Court shall hear all parties appearing to the Court to be interested and desiring to be heard, and after compliance with the foregoing provisions of this subsection,".
- Senator Duffy.

SECTION 29.

60. In subsection (3), page 11, line 58, to delete the word "six" and substitute the word "three".—Senator Duffy.
61. In subsection (4) (a), line 3, page 12, after the word "period" to insert the words "and notwithstanding any provision that it shall cease to have effect at the expiration of such period"; and to delete all words after the word "section" in line 5 to the end of the subsection.—Senator Kingsmill Moore.
62. In subsection (4) (b), line 8, page 12, after the word "may" to insert the words "at any time after the expiration of the period specified therein for its duration"; to substitute the word "consent" for the word "application" in line 9, and to delete the words "made after three months' notice to the Court"; and at the end of the section to add the words: "provided that three months' notice is given to the Court by one of the parties to such registered employment agreement of the intention of such party to make an application for cancellation".—Senator Kingsmill Moore.

SECTION 30.

63. To insert after the word "class" wherever it occurs in the section the words "type or group".—Senator Kingsmill Moore.
64. In subsection (1), line 17, to delete the words "by virtue" and substitute the words "for the purposes".—Senator Quirke.

SECTION 32.

65. In page 13, before subsection (2), to insert the following new subsection:—
- "(2) If a trade union representative of workers affected by a registered employment agreement complains to the Court that any employer of any class to which the agreement relates or a trade union representative of such employers is by means of lock-out or by monetary contributions assisting an employer or a group of employers who in contravention of the agreement is or are seeking to enforce against a worker or a group of workers any conditions which are inconsistent with the agreement, the following provisions shall have effect:—
- (a) the Court shall consider the complaint and shall hear all persons appearing to the Court to be interested and desiring to be heard;

SECTION 32—*continued*.

- (b) if, after such consideration, the Court is satisfied that the complaint is well-founded the Court may, by order, direct the said employer or group of employers as the case may be to desist from so acting as aforesaid."

—Senator Duffy.

66. In subsection (2), page 13, line 16, to delete the words "an employer or".—Senator Duffy.
67. In subsection (2), in lines 18-19, to delete the words "affected by the agreement".—Senator Summerfield, Senator Douglas.
68. In subsection (2), after the word "funds" in line 19 to insert the words "or otherwise".—Senator Summerfield, Senator Douglas.
69. In subsection (2), page 13, to insert after the word "worker" in line 23 the words "to whom the agreement is expressed to apply"; and in line 24 to delete the words "other than" and substitute the words "inconsistent with".—Senator Duffy.
70. In subsection (2), paragraph (b), subparagraph (i), after the word "funds" in line 33, to insert the words "or otherwise".—Senator Summerfield, Senator Douglas.
71. In subsection (3), paragraph (b), to delete the words "or decline" in line 42.—Senator Summerfield, Senator Douglas.

SECTION 33.

To delete the section.—Senator Kingsmill Moore.

(NOTE.—*This proposal will be taken on the question "That the section stand part of the Bill"*).

SECTION 35.

72. In line 24, page 14, after the word "class" to insert the words "type or group".—Senator Kingsmill Moore.

SECTION 37.

73. In page 14, line 49, after the word "workers" to insert the words "or any of them".—Senator Duffy.

SECTION 38.

74. In page 15, line 19, after the word "Court" to insert the words "by any person having an interest in the making of the establishment order".—Senator Duffy.

SECTION 43.

75. In page 16, line 36, to delete the word "committee" and substitute the word "Court".—Senator Duffy.
76. In page 16, in line 39, and in line 40, to delete the word "committee" and substitute in each place the word "Court".—Senator Duffy.
77. In page 16, to delete all words after the word "representations" in line 41, to the end of paragraph (c).—Senator Duffy.
78. In page 16, to delete lines 45 and 46, and substitute the words "Court having received representations has considered them, the Court may, as it thinks fit".—Senator Duffy.
79. In subsection (3), page 16, to delete the word "Act" in line 57 and substitute the words "enactment, by contract or otherwise".—Senator Duffy.

SECTION 57.

To delete the section.—Senator Kingsmill Moore.

(NOTE.—*This proposal will be taken on the question "That the section stand part of the Bill"*).

SECTION 58.

80. In subsection (1), line 60, page 21, to delete the words "a male" and substitute therefor the word "an".—Senator Foran.

81. In subsection (2), page 22, to add to the subsection the following words:—

"The Court shall also have regard to the desirability of raising the general standard of wages to a level which will enable a worker to maintain himself and his family in decent comfort."

—Senator Foran.

SECTION 59.

82. In paragraph (a) of the definition of "qualified joint industrial council" to delete all words from the words "or of workers" in line 16 to the word "employers" in line 19.—Senator Quirke.

83. In subparagraph (a), line 16, page 22, to insert after the word "class" the words "type or group", and to delete all words after the word "employers" in that line to the end of the subparagraph.—Senator Kingsmill Moore.

84. In page 22, lines 30 and 31, to delete the words "an association" and substitute the words "a qualified Joint Industrial Council".—Senator Duffy.

SECTION 61.

85. In subsection (2), page 22, line 38, to delete the words "an association" and substitute the words "a qualified Joint Industrial Council"; and in line 40, to delete the words "with respect to the association".—Senator Duffy.

86. In subsection (3), line 44, after the word "secretary" to insert the words "or secretaries".—Senator Foran.

SECTION 64.

87. In page 23, line 2, after the word "secretary" to insert the words "or secretaries".—Senator Foran.

SECTION 66.

88. In page 23, line 9, to delete the word "either"; and at the end of line 11 to add the words "or a manual worker employed by a local authority"—Senator Foran.

89. In page 23, line 10, after the word "Act" to insert the words "or a person who is a manual worker employed by a local authority".—Senator Duffy.

SECTION 67.

90. At the end of subsection (3), in page 23, to insert the following words: "unless the Court is of opinion that the dispute is likely to lead to a stoppage of work".—Senator Duffy.

SECTION 69.

91. In subsection (1), page 23, line 52, after the word "officer" to insert the words "or some suitable person".—Senator Duffy.

SECTION 71.

92. In subsection (2), page 24, to delete lines 34 to 38, inclusive, and substitute the following:—

"(iii) make an award appropriate to the case (having

SECTION 71—*continued.*

regard to any registered employment agreement within the meaning of Part III of this Act which relates to analagous employment in the district) setting forth the conditions on which in the opinion of the Court the dispute should be settled.”

—Senator Duffy.

93. At the end of the section to add a new subsection as follows:—

“ (3) Where—

(a) a strike continues after the Court has made a decision, recommendation or award under *subsection* (2) of this section in respect of the strike, and

(b) members of a trade union of workers, whose rates of remuneration or conditions of employment are not the subject of the strike, are unable or decline to work while the strike continues,

then the payment to these members of strike benefit in accordance with the rules of the trade union shall not be regarded for the purpose of this section as assisting in the maintenance of the strike.”

—Senator Foran.

SECTION 72.

94. In paragraph (a), line 42, to delete the word “ six ” and substitute the word “ three ”.—Senator Quirke.

95. In paragraph (b), lines 44 and 45, to delete the words “ during the said period, employs or agrees to employ ” and substitute the following words: “ otherwise than with the consent of the Court, employs or agrees to employ, during the said period.”.—Senator Quirke.

NEW SECTION.

96. Before section 75 to insert a new section as follows:—

“ This Part does not apply to workers whose remuneration is fixed by a Minister of State under any enactment for the time being in force.”

Restriction on
operation of
Part VII.

—Senator Quirke.

SECTION 75.

97. In subsection (3), page 25, after the word “ made ” in line 39, to insert the words “ either personally by an accredited representative of the person making the application or ”.—Senator Duffy.

SECTION 77.

98. In subsection (1), page 26, line 51, before the word “ orders ” to insert the word “ said ”.—Senator Duffy.
99. In subsection (1), paragraph (d), after the word “ funds ” in line 54, to insert the words “ or otherwise ”.—Senator Summerfield, Senator Douglas.
100. In page 27, after the word “ funds ” in line 3, to insert the words “ or otherwise ”.—Senator Summerfield, Senator Douglas.

101. In subsection (1), page 27, before line 7, to insert the following new paragraph:—

“ (e) if a trade union representative of workers to whom the said orders relate complains to the Court that an employer to whom the said orders relate or a trade union representative of such employers is by means of lock-out or by monetary contributions assisting an employer or a group of employers who is or are seeking to enforce a reduction in wages in contravention of the provisions of the said orders the following provisions shall have effect:—

SECTION 77—*continued.*

- (i) the Court shall consider the complaint and shall hear all persons appearing to the Court to be interested and desiring to be heard;
- (ii) if after such consideration the Court is satisfied that the complaint is well-founded, the Court may, by order, direct the said employer or group of employers, as the case may be, to desist from so acting as aforesaid."

—Senator Duffy.

102. In subsection (2), paragraph (b), page 27, in lines 11-12, to delete the words " or decline ".—Senator Summerfield, Senator Douglas.