



AN BILLE UM PÁIRTEACHAS LUCHT OIBRE (FIONTAIR STÁIT), 1986

WORKER PARTICIPATION (STATE ENTERPRISES) BILL, 1986

EXPLANATORY AND FINANCIAL MEMORANDUM

Introduction

The purposes of this Bill are

- (a) to facilitate the introduction of sub-board participative arrangements in a broad range of State enterprises by agreement between the enterprise and employee interests, and
- (b) to extend arrangements as provided for in the Worker Participation (State Enterprises) Act, 1977 for the election of worker directors to three further enterprises, Aer Rianta, Foras Forbartha and the National Rehabilitation Board.

The Bill also contains a number of amendments to the 1977 Act (the Principal Act), the main ones being

- (i) to allow the Minister for Labour to provide for worker representation in numbers which are less than one-third of board size in certain State enterprises, subject to a minimum of two worker directors;
- (ii) to enable the Minister for Labour by order to add to or delete from the list of State enterprises involved in worker director elections or sub-board participative arrangements;
- (iii) to allow employees of subsidiaries of State enterprises to participate in the election of worker directors to the board of the parent enterprise, where the enterprise concerned requests it, after consultation with staff interests;
- (iv) to increase the term of office of worker directors from 3 years to 4 years;
- (v) to broaden the definition of "employee" to include part-time staff working a minimum of 18 hours a week, and
- (vi) to provide that a worker director who ceases to be an employee shall at the same time relinquish membership of the board of the enterprise concerned.

Section 1 deals with interpretations and definitions.

Sub-Board Participative Arrangements

Section 2 provides for an "appropriate officer" in each State enterprise who will have responsibility for procedures relating to the establishment of sub-board participative arrangements. The appropriate officer may be the secretary of the enterprise, or alternatively, the secretary of the enterprise may appoint another person as appropriate officer, providing the latter is acceptable to a majority of employees. In addition, the appropriate officer may authorise any person to carry out functions of the appropriate officer on his/her behalf.

Section 3 prescribes one method of initiating sub-board participative arrangements. It provides that the arrangements may be initiated by application to the appropriate officer from a trade union or trade unions or similar body or bodies which, either singly or collectively, represent a majority of employees or by petition signed by a majority of employees.

Section 4 prescribes an alternative method of initiating sub-board participative arrangements. It requires the appropriate officer, on receipt of an application for such arrangements signed by at least 15 per cent. of employees, to take a poll of all employees to determine whether a majority would favour the establishment of sub-board participation. If a majority of employees are found to favour the proposal, arrangements for the establishment of sub-board participation must be put in train. No further poll may be held for four years, should a majority of employees reject the proposal. The section gives the appropriate officer instructions for the conduct of the poll. No poll may take place while participative arrangements pursuant to *section 6* are in operation.

Section 5 lays down that the appropriate officer's decision shall be final and unappealable in the event of disputes arising concerning eligibility to sign applications under *sections 3* and *4*, eligibility to vote at a poll held under *section 4*, and the clarity of meaning of the question on the ballot paper.

Section 6 provides for the drawing up of an agreement between the State enterprise and its employees concerning the specific sub-board participative arrangements to be introduced. Each participative agreement must include the following essential features:

- a regular exchange of views and information between management and employees concerning matters which are specified in the agreement;
- the giving in good time by management to employees of information about certain decisions which are liable to have a significant affect on employees' interests;
- dissemination to all employees of information and views arising from the participative arrangements.

Agreements may contain, in addition, such other features as management and employees may decide between them.

The section also allows for review, amendment and replacement of a participative agreement and for winding up of the participative agreement.

Section 7 requires a State enterprise to describe in its Annual Report any action taken during the year to introduce sub-board participative arrangements and any participative agreement made during the year. The section is operative from 1st January, 1988.

Section 8 provides that expenses incurred by State enterprises in establishing and maintaining sub-board participative arrangements shall be borne by the enterprise itself.

Amendments to the Principal Act (Worker Director Arrangements)

Section 9 provides that the Minister for Labour may enfranchise, by order, employees of subsidiaries of State enterprises for the purpose of worker director/member elections to the board of the parent enterprise. Such an order would extend the vote in worker director/member elections to employees of the subsidiary and would entitle their trade unions to nominate candidates and to call for a preliminary poll subject to the provisions of the Principal Act. The Minister may make an order under this section only on the request of the State enterprise concerned and the enterprise must have consulted first with the representatives of employees in the enterprise. Before making an order the Minister must consult with the Minister for the Public Service and the Minister responsible for the State enterprise concerned.

The section also deals with the making of orders and matters of interpretation arising from the provision.

Section 10 increases to four years the term of office of worker directors/members. It replaces the provision for a three year term of office in the Principal Act. The section also assigns to the returning officer the responsibility for setting the nomination day in election years. It requires him to set a nomination day within a specified time. If he does not, any employee of the enterprise concerned may ask the Minister for Labour to arrange for the setting of a nomination day. The section prescribes subsequent procedures including, where necessary, the setting of the nomination day by the Minister. In the Principal Act, the setting of nomination days had been the direct responsibility of the Minister for Labour.

Section 11 makes supplementary provisions relating to orders under sections 23 and 25 of the Principal Act.

Section 12 requires that a worker director/member who ceases to be an employee of the State enterprise concerned, shall at the same time cease to be a worker director/member. The resulting vacancy shall be treated in the same way as a casual vacancy (i.e. the vacancy may be filled by the appropriate Minister, who shall have regard to the results of the previous election in making an appointment).

Section 13 amends, replaces and inserts certain interpretations in section 1 of the Principal Act. The definition of "employee" in the Principal Act is amended to include part-time staff working at least 18 hours a week.

Section 14 amends section 2 of the Principal Act. It specifies the Minister who is the "appropriate Minister" in relation to each designated State enterprise and includes the transfer of appropriate Ministerial functions from the Taoiseach to the Minister for Energy in the case of the ESB.

Section 15 amends section 5 of the Principal Act consequential on

the replacement in *section 24* of the Bill of the Schedule to the Principal Act.

Section 16 amends *section 8* of the Principal Act to allow for receipt of nominations over a seven-day period. It replaces a provision for a single nomination day which was found to be too short in some cases.

Sections 17 and 18 amend *sections 12 and 13* of the Principal Act to allow for receipt of postal ballots over a thirty-day period. It replaces a provision for a five-day period which was found to be too short in some cases.

Section 19 broadens the scope of *section 15 (3)* of the Principal Act to allow the Minister to appoint worker members to the board of any designated State enterprise listed in *Part I* of the *First Schedule*.

Section 20 replaces *section 22 (3)* of the Principal Act which deals with the duration of appointments to casual vacancies. In addition to the provisions of *section 22 (3)* in the Principal Act, *section 20* sets down the term of office of an appointee to a casual vacancy which can arise where no candidate or insufficient candidates are nominated in an election.

Section 21 amends *section 23 (2)* of the Principal Act which allows the Minister to set by order the number of worker directors/members in any of the designated State enterprises. It provides for the setting of a number equivalent to one-third of total board membership in the case of enterprises listed in *Part I* of the *Second Schedule*. In the case of enterprises listed in *Part II* of the *Second Schedule*, the Minister may vary by order the number of worker directors/members below the one-third arrangement, providing the number fixed is not less than two worker directors/members. The section also replaces *section 23 (4)* of the Principal Act consequential on the replacement in *section 24* of the Bill of the Schedule to the Principal Act.

Section 22 replaces *section 25 (2)* of the Principal Act consequential on the replacement in *section 24* of the Bill of the Schedule to the Principal Act.

Section 23 amends *section 26* of the Principal Act so as to extend to "specified bodies" generally the provisions relating to the alteration, where necessary, of memoranda and articles of association.

THE ENTERPRISES COVERED BY THE BILL

Section 24 replaces the Schedule to the Principal Act with two Schedules.

The First Schedule

All the State enterprises to which the sub-board participative arrangements will apply are listed in the *First Schedule (Parts I to III inclusive)*. These enterprises are termed "specified bodies" in the Bill. The bodies (termed "designated bodies") which are covered by the worker director/member arrangements are listed in *Parts I and II* of the *First Schedule*.

The Second Schedule

Part I of the *Second Schedule* lists the designated State enterprises which are covered by the arrangements for one-third worker representation at board level. The enterprises in respect of which the Minister may vary by order the number of worker directors/members below the one-third arrangements, providing the number fixed is not

less than two worker directors/members, are listed in *Part II* of the *Second Schedule*.

The section also empowers the Minister for Labour by order, either to increase the number of specified bodies or designated bodies or to delete bodies from the Schedules.

FINANCIAL IMPLICATIONS

Costs will arise in the State enterprises concerned in the administration involved in developing and maintaining the participative arrangements proposed and in freeing staff, where necessary, to take part in the arrangements (e.g. time off for worker directors to attend board meetings). It is not possible to estimate the costs but they are likely to be small and should be offset by the benefits of greater employee involvement.

There will be no staffing implications for the Department of Labour or other Departments. The Department of Labour anticipates expenditure not exceeding £6,000 in relation to the promotion of the provisions of the Act and the briefing of "appropriate officers" and "returning officers" on their responsibilities under the legislation.

*An Roinn Saothair,
Nollaig, 1986.*

less than two worker directors/members are listed in Part II of the Second Schedule. The section also empowers the Minister for Labour by order, either to increase the number of specified bodies or designated bodies or to delete bodies from the schedules. The section also empowers the Minister for Labour by order, either to increase the number of specified bodies or designated bodies or to delete bodies from the schedules.

Sections 17 and 18 of the Principal Act provide for the Minister to allow for receipt of postal ballots over a thirty-day period. It does not seem to be in the state enterprises concerned in the administration involved in developing and maintaining the participative arrangements proposed and in freeing staff, where necessary, to take part in the arrangements (e.g. time off for worker directors/members to attend board meetings). It is not possible to estimate the costs of the arrangements likely to be small and should be offset by the benefits of greater employee involvement. There will be no staffing implications for the Department of Labour or other Departments. The Department of Labour anticipates expenditure of £5,000 in relation to the promotion of the provisions of the Act and the briefing of appropriate officers and returning officers on their responsibilities under the legislation in an election.

Section 21 amends section 23 (2) of the Principal Act which allows the Minister to set by order the number of worker directors/members in any of the designated State enterprises. It provides for the setting of a number equivalent to one-third of total board membership in the case of enterprises listed in Part I of the Second Schedule. In the case of enterprises listed in Part II of the Second Schedule, the Minister may vary by order the number of worker directors/members below the one-third arrangement, providing the number fixed is not less than two worker directors/members. The section also replaces section 23 (4) of the Principal Act consequential on the replacement in section 24 of the Bill of the Schedule to the Principal Act.

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The Second Schedule

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BILLE NA dTITHE (FORALACHA ILGHNEITHEACHA) 1985
HOUSING (MISCELLANEOUS PROVISIONS) BILL, 1985

EXPLANATORY MEMORANDUM

The main purposes of the Bill are:

- (i) to revise and update the statutory framework for the provision, management and letting of local authority housing so as to ensure, in particular, that the needs of categories of persons such as the homeless, the aged, the disabled, travellers etc., get due priority in the formulation of local authority housing programmes and the allocation of dwellings;
- (ii) to entrust to housing authorities additional responsibilities and powers in regard to the accommodation of homeless persons;
- (iii) to provide statutory backing for grants, subsidies and assistance for housing introduced in recent years, e.g. the mortgage subsidy scheme, the £5,000 grant for persons surrendering their local authority or army accommodation to buy a private house, the scheme of assistance for voluntary organisations providing housing for certain categories of persons in need and the reconstruction of defective "low cost" and other rented local authority houses; and
- (iv) to make a number of other amendments to the housing code, the City and County Management (Amendment) Act, 1955, the Local Government (Planning and Development) Act, 1963 and the Building Societies Act, 1976.

Section 1 is the general interpretation section and includes definitions of terms used in the Bill. Since the Bill, other than *Sections 26* to *28*, will be construed together with the Housing Acts, 1966 to 1979 definitions in those Acts will also apply as appropriate.

Section 2 defines the circumstances in which a person shall be regarded by a housing authority as being homeless. In addition to persons who have no accommodation available to them, persons living in hospitals, county homes, night shelters etc. solely because they have no other available accommodation may be regarded as homeless. However, a person is not to be regarded as homeless if his lack of accommodation is due to a deliberate act or omission on his part. The substantive provisions dealing with the accommodation of homeless persons are contained in *section 10*.

Section 3 deals with the scheme in operation since 10th April, 1981 under which a subsidy is paid in instalments (amounting at present to

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