



# **DÁIL ÉIREANN**

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## **AN BILLE CEIMICEÁN 2008 CHEMICALS BILL 2008**

## **LEASUITHE TUARASCÁLA REPORT AMENDMENTS**

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## AN BILLE CEIMICEÁN 2008 —AN TUARASCÁIL

## CHEMICALS BILL 2008 —REPORT

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### *Leasuithe Amendments*

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1. In page 8, line 33, to delete “service by such means;” and substitute the following:

“service by such means, provided that there is a facility for confirming receipt of electronic communication and that such receipt has been confirmed;”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

2. In page 8, line 33, after “means” to insert the following:

“provided the notice is also served by one of the other ways specified in this subsection or that the person receiving the electronic communication has a facility which is capable of acknowledging receipt of the electronic communication and the communication is so acknowledged”.

—Willie Penrose.

3. In page 9, line 34, after “chemicals,” to insert “and”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

4. In page 9, line 38, to delete “and”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

5. In page 12, line 10, after “shall” to insert “publish on the internet and”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

6. In page 12, line 10, after “shall” to insert “post on its internet website and”.

—Willie Penrose.

7. In page 19, between lines 41 and 42, to insert the following:

“(11) Documents subject to legal professional privilege shall not be liable to production under this section.”.

—Willie Penrose.

8. In page 27, line 9, to delete “may compile a list” and substitute “shall, each year, compile lists”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

9. In page 27, to delete lines 18 to 20 and substitute the following:

“(2) The Authority shall, each year, cause any list referred to in *subsection (1)(a)* and *(c)* to be published in such manner as it considers appropriate.

“(3) The Authority may, each year, cause any list referred to in *subsection (1)(b)* to be published in such manner as it considers appropriate.”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

10. In page 27, between lines 34 and 35, to insert the following:

“Protection of employees from penalisation for reporting breaches of Act.

26.—(1) An employer shall not penalise an employee for having formed an opinion of the kind referred to in *section 25* and communicated it, whether in writing or otherwise, to a national authority if the employee has acted reasonably and in good faith in forming that opinion and communicating it to the national authority concerned.

(2) In proceedings under this section before a rights commissioner or the Employment Appeals Tribunal in relation to a complaint that *subsection (1)* has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.

(3) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2007, relief may not be granted to the employee in respect of that penalisation both under this section and under those Acts.

(4) An employee may present a complaint to a rights commissioner that his or her employer has contravened *subsection (1)* in relation to him or her and, if he or she does so, the commissioner shall—

- (a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint, and
- (b) give a decision in writing in relation to it and communicate the decision to the parties.

(5) A decision of a rights commissioner under *subsection (4)* shall do one or more of the following:

- (a) declare that the complaint was or, as the case may be, was not well founded;
- (b) require the employer to comply with *subsection (1)* and, for that purpose, require the employer to take specified steps;
- (c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all the circumstances, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.

(6) For the purposes of this section—

- (a) subsections (3) to (6) and subsection (7)(a) of section 7 of the Act of 1994 shall apply in relation to a complaint presented under this section as they apply in relation to a complaint presented under subsection (1) of the said section 7, subject to the following modifications, namely—

- (i) the deletion in subsection (3) of all the words from “if it is presented” to the end of that subsection and the substitution of “unless it is presented to him within the period of 12 months beginning on the date of the contravention to which the complaint relates or (in a case where the rights commissioner is satisfied that exceptional circumstances prevented the presentation of the complaint within the period aforesaid) such further period, not exceeding 6 months from the expiration of the said period of 12 months, as the rights commissioner considers reasonable”,
  - (ii) the substitution in subsection (6) of a reference to a decision for the reference to a recommendation, and
  - (iii) any other necessary modifications,
- (b) sections 8, 9 and 10 of the Act of 1994 shall apply as they apply for the purposes of that Act, subject to the following modifications, namely—
- (i) the substitution in those provisions of references to a decision for references to a recommendation, and
  - (ii) the substitution in section 9 of the Act of 1994 of—
    - (I) references to the Circuit Court for references to the District Court,
    - (II) the following subsection for subsection (3):
 

“(3) An application under this section to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the employer concerned ordinarily resides or carries on any profession, trade or business.”,

and
    - (III) any other necessary modifications.

(7) In this section—

“Act of 1994” means the Terms of Employment (Information) Act 1994;

“penalisation” includes any act or omission by an employer or a person acting on behalf of an employer that affects, to his or her detriment, an employee with respect to any term or condition of his or her employment.”.

—An Tánaiste agus Aire Fiontar, Trádála agus Fostaíochta.

**11.** In page 28, between lines 29 and 30, to insert the following:

“(7) Documents subject to legal professional privilege shall not be liable to production under this section.”.

—Willie Penrose.