



AN BILLE UM CHOSAINT FOSTAITHE (LEASÚ), 2012
PROTECTION OF EMPLOYEES (AMENDMENT) BILL 2012

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Amendment of section 9 of the Protection of Employment Act 1977 (obligation on employer to consult employees' representatives).
 3. Amendment of section 12 of the Protection of Employment Act 1977 (obligation on employer to notify Minister of proposed redundancies).
 4. Amendment of section 14 of the Protection of Employment Act 1977 (collective redundancies not to take effect for 30 days).
 5. Time limit for hearings.
 6. Amendment of section 1 of the Protection of Employees (Employers' Insolvency) Act 1984 (interpretation).
 7. Amendment of section 4 of the Protection of Employees (Employers' Insolvency) Act 1984 (insolvency for the purposes of the Act).
 8. Amendment of section 6 of the Protection of Employees (Employers' Insolvency) Act 1984 (employees' rights on insolvency of employer).
 9. Amendment of section 9 of the Protection of Employees (Employers' Insolvency) Act 1984 (complaints to Tribunal).
 10. Short title.
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ACTS REFERRED TO

Adoptive Leave Act 1995	1995, No. 2
Carer's Leave Act 2001	2001, No. 19
Criminal Justice Act 2011	2011, No. 22
Employees (Provision of Information and Consultation) Act 2006	2006, No. 9
Employment Equality Act 1998	1998, No. 21
Employment Permits Act 2006	2006, No. 16
Industrial Relations Act 1946	1946, No. 26
Industrial Relations Act 1969	1969, No. 14
Industrial Relations Act 1990	1990, No. 19
Industrial Relations (Miscellaneous Provisions) Act 2004	2004, No. 4
Maternity Protection Act 1994	1994, No. 34
National Minimum Wage Act 2000	2000, No. 5
National Tourism Development Authority Act 2003	2003, No. 10
Parental Leave Act 1998	1998, No. 30
Property Services (Regulation) Act 2011	2011, No. 40
Protection of Employees (Employers' Insolvency) Act 1984	1984, No. 21
Protection of Employees (Part-Time Work) Act 2001	2001, No. 45
Protection of Employment Act 1977	1977, No. 7
Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007	2007, No. 27
Redundancy Payments Act 1967	1967, No. 21
Redundancy Payments Act 2003	2003, No. 14
Social Welfare Act 1990	1990, No. 5
Social Welfare Act 1991	1991, No. 7



AN BILLE UM CHOSAINT FOSTAITHE (LEASÚ), 2012
PROTECTION OF EMPLOYEES (AMENDMENT) BILL 2012

BILL

entitled

5 AN ACT TO PROVIDE FOR EXTENSIONS TO THE PERIODS
OF NOTICE REQUIRED TO BE GIVEN IN COLLECTIVE
REDUNDANCIES, TO PROVIDE A TIME LIMIT WITHIN
WHICH APPLICATIONS FOR REDRESS FOR
10 EMPLOYEES MUST BE HEARD, TO CONFER CERTAIN
RIGHTS ON EMPLOYEES WHERE EMPLOYERS FAIL
TO PAY DEBTS DUE, TO PROVIDE A TIME LIMIT
WITHIN WHICH APPLICATIONS FOR REDRESS MUST
BE PROCESSED AND TO PROVIDE FOR RELATED
MATTERS.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act, unless the context otherwise requires—

Definitions.

“Act of 1977” means the Protection of Employment Act 1977 as
amended by the Protection of Employees (Part-Time Work) Act
2001, the National Tourism Development Authority Act 2003, the
20 Employees (Provision of Information and Consultation) Act 2006
and the Protection of Employment (Exceptional Collective Redun-
dancies and Related Matters) Act 2007;

“Act of 1984” means the Protection of Employees (Employers’
Insolvency) Act 1984 as amended by the Social Welfare Act 1990,
25 the Social Welfare Act 1991, the Maternity Protection Act 1994, the
Adoptive Leave Act 1995, the Employment Equality Act 1998, the
Parental Leave Act 1998, the National Minimum Wage Act 2000, the
Carer’s Leave Act 2001, the Redundancy Payments Act 2003, the
30 Industrial Relations (Miscellaneous Provisions) Act 2004, the
Employment Permits Act 2006, the Criminal Justice Act 2011, and
the Property Services (Regulation) Act 2011;

“adjudicative body” includes the Employment Appeals Tribunal
established by the Redundancy Payments Act 1967, the Labour
Court established by the Industrial Relations Act 1946, the Labour
35 Relations Commission established by the Industrial Relations Act
1990, Rights Commissioners established by the Industrial Relations
Act 1969 and the Equality Authority established by the Employment
Equality Act 1998.

Amendment of section 9 of the Protection of Employment Act 1977 (obligation on employer to consult employees' representatives).

2.—Section 9 of the Act of 1977 is amended by substituting the following for subsection (3):

“(3) Consultations under this section shall be initiated at the earliest opportunity and in any event at least—

(a) 60 days before the first notice of dismissal is given in an establishment normally employing at least 20 but fewer than 100 employees, 5

(b) 90 days before the first notice of dismissal is given in an establishment normally employing at least 100 employees.”. 10

Amendment of section 12 of the Protection of Employment Act 1977 (obligation on employer to notify Minister of proposed redundancies).

3.—Section 12 of the Act of 1977 is amended by substituting the following for subsection (1):

“(1) Where an employer proposes to create collective redundancies, he shall notify the Minister in writing of his proposals at the earliest opportunity and in any event at least— 15

(a) 60 days in an establishment normally employing at least 20 but fewer than 100 employees,

(b) 90 days in an establishment normally employing at least 100 employees,

before the first dismissal takes effect.”. 20

Amendment of section 14 of the Protection of Employment Act 1977 (collective redundancies not to take effect for 30 days).

4.—(1) Section 14 of the Act of 1977 is amended by substituting the following for subsection (1):

“(1) Collective redundancies shall not take effect before the expiry of the period of—

(a) 60 days in an establishment normally employing at least 20 but fewer than 100 employees, 25

(b) 90 days in an establishment normally employing at least 100 employees,

beginning on the date of the relevant notification under section 12.”. 30

(2) Section 14 of the Act of 1977 is amended by substituting the following for subsection (2):

“(2) Where the collective redundancies are effected by an employer before the expiry of the period of—

(a) 60 days in an establishment normally employing at least 20 but fewer than 100 employees, 35

(b) 90 days in an establishment normally employing at least 100 employees,

as mentioned in subsection (1) the employer shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding €250,000.”. 40

5.—(1) An application to an adjudicative body shall be heard at the earliest opportunity and in any event within 60 days from the date of the application.

Time limit for hearings.

5 (2) If the time limit provided in *subsection (1)* expires before a hearing takes place an adjudicative body shall notify the Minister for Jobs, Enterprise and Innovation in writing that the time limit has expired together with the reasons for the hearing not having taken place.

10 (3) The Minister shall not later than 30 days after receipt of a notification under *subsection (2)* publish a statement concerning the notification.

15 (4) The Minister shall, within 30 days of a publication under *subsection (3)* and at such further regular intervals as are required, publish an update concerning the notification until the hearing takes place or the application is determined.

6.—(1) Section 1(1) of the Act of 1984 is amended—

Amendment of section 1 of the Protection of Employees (Employers' Insolvency) Act 1984 (interpretation).

(a) by the insertion after the definition of “the Act of 2006” of the following:

“ ‘award’ has the meaning assigned to it by section 6(3);”

20 and

(b) by the insertion after the definition of “competent authority” of the following:

“ ‘debt’ has the meaning assigned to it by section 6(2);”.

(2) Section 1(3) of the Act of 1984 is amended—

25 (a) by the substitution in paragraph (e) of “; or” for “.”, and

(b) by the insertion of the following paragraph:

30 “(f) an employee, after the expiry of the statutory time limit for an appeal has elapsed, serves on the employer a demand in writing requiring the employer to pay a debt or award due to the employee and the employer has for 30 days thereafter neglected to pay the debt or the award.”.

7.—Section 4(1) of the Act of 1984 is amended—

Amendment of section 4 of the Protection of Employees (Employers' Insolvency) Act 1984 (insolvency for the purposes of the Act).

35 (a) by the substitution in paragraph (g) of “, and” for “.”, and

(b) by the insertion of the following paragraph:

40 “(h) where the employer has despite demand in writing from an employee failed to pay the employee a debt or an award, the date of the expiry of 30 days after the service by the employee of a demand in writing on the employer.”.

Amendment of
section 6 of the
Protection of
Employees
(Employers'
Insolvency) Act
1984 (employees'
rights on insolvency
of employer).

8.—Section 6 of the Act of 1984 is amended by the insertion of the following subsections:

“(11) Without prejudice to subsections (5), (6) and (7) and section 8 the Minister shall make a decision on an application without delay but in any event no later than 60 days after the application is made. 5

(12) (a) If the time limit provided in subsection (11) expires before the Minister makes a decision on an application the Minister shall, not later than 30 days after the expiry of the time limit, publish a statement containing the reasons for the delay in making a decision. 10

(b) The Minister shall, within 30 days of a publication under the preceding paragraph, and at further regular intervals until a decision is made, publish a subsequent statement containing an update on the application.”. 15

Amendment of
section 9 of the
Protection of
Employees
(Employers'
Insolvency) Act
1984 (complaints to
Tribunal).

9.—Section 9 of the Act of 1984 is amended by the insertion of the following subsection:

“(1A) A person who has applied for payment under section 6 of this Act of a debt or an award and to whom no decision of the Minister has been communicated may 60 days after the application is made present a complaint to the Tribunal that the Minister has failed to process their application.”. 20

Short title.

10.—(1) This Act may be cited as the Protection of Employees (Amendment) Act 2012. 25

(2) This Act shall come into operation three months after its passing or on such day as the Minister appoints by order, whichever is the earlier date.