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**An Bille um Chlásail Shóisialta i bhFáil Phoiblí, 2013**  
**Social Clauses in Public Procurement Bill 2013**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM CHLÁSAIL SHÓISIALTA I BHFÁIL PHOIBLÍ, 2013**  
**SOCIAL CLAUSES IN PUBLIC PROCUREMENT BILL 2013**

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ACTS REFERRED TO

Employment Equality Act 1998 (No. 21)

Equal Status Act 2000 (No. 8)



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**AN BILLE UM CHLÁSAIL SHÓISIALTA I BHFÁIL PHOIBLÍ, 2013**  
**SOCIAL CLAUSES IN PUBLIC PROCUREMENT BILL 2013**

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# Bill

*entitled*

An Act to provide for the inclusion of social clauses in all public procurement contracts, 5  
to provide opportunities for unemployed persons and apprentices, to ensure equality in  
the workplace in the carrying out of public contracts and to provide for sustainable  
development.

**Be it enacted by the Oireachtas as follows:**

## **Interpretation**

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### **1. In this Act—**

“Act of 1998” means the Employment Equality Act 1998;

“Act of 2000” means the Equal Status Act 2000;

“apprentice” means a person who is learning a trade from a skilled employer, having  
agreed to work for a fixed wage, for a fixed period of time; 15

“Chief Procurement Officer” means the Office of Government Procurement;

“main contractor” means the person or body corporate that is a main party to the  
public procurement contract, and who has agreed with the public body, to perform the  
terms of the contract as specified in the contract;

“Minister” means the Minister for Public Expenditure and Reform; 20

“project value” means the value placed on the contract as specified by the public  
authority;

“public authority” includes any person or body established by law and through which  
any of the legislative or executive powers of the State are exercised, other than the  
President; 25

“sustainable development” means the protection and improvement of the quality of  
the environment;

“unemployment” means any person who had been unemployed for a period exceeding  
12 months.

### **Social clause requirement**

2. Public procurement contracts, in which the overall project value of the contract is in excess of €1,000,000, shall hereby include the following social clauses—
- (a) a requirement that the main contractor comply with a local labour employment scheme to be determined by the Minister upon the enactment of this Act, 5
  - (b) a requirement that the main contractor recruit one long term unemployed person, directly or through the supply chain, for each €1,000,000 of project value while retaining all current employees of the company,
  - (c) a requirement that the main contractor recruit one apprentice, directly or through the supply chain, for each €2,000,000 of project value, 10
  - (d) a requirement that the main contractor complies with the application of fair employment, equality of treatment and anti-discrimination principles as identified in the Act of 1998 and the Act of 2000,
  - (e) a requirement that the main contractor provides, directly or through the supply chain, an opportunity for all employees to develop work-related skills and partake, where necessary, in specified training programmes, 15
  - (f) a requirement that the main contractor contribute to sustainable development,
  - (g) a scheme to be drafted and agreed to by parties to the contract in relation to a penalty process where a breach of contract, in relation to the social clauses contained within this section, has been deemed to have taken place, and 20
  - (h) any other social clause which the Minister or public authority sees fit to be included in the contract.

### **Role of the Chief Procurement Officer**

3. (1) The Chief Procurement Officer shall be informed by the public authority of all such contracts which are subject to the social clauses identified in *section 2* of this Act. 25
- (2) In fulfilling a duty to which it is subject under *section 2* of this Act, a party to a contract must take into account any guidelines issued by the Chief Procurement Officer.

### **Tender Process**

4. (1) All initial applications for contracts tendered by public authorities shall hereby include a draft scheme which shall detail the process through which the social clauses, outlined in *section 2* of this Act, shall be fulfilled. 30
- (2) Upon receipt of a draft scheme, a public authority shall consider the contents of a scheme in accordance with the criteria defined in *section 2* of this Act, and where satisfied, shall permit consideration of the remaining provisions of the application for the contract. 35
- (3) Where a public authority, upon consideration of a draft scheme, is not satisfied that the *section 2* criteria have been met, a public authority shall reject the application for the contract.

### **Quarterly Report and penalties for non-compliance**

5. (1) The main contractor shall provide the public authority with a quarterly report on the implementation of the draft scheme submitted in accordance with *section 4* of this Act.
- (2) Where a public authority is not satisfied upon consideration of a quarterly report provided by the main contractor, a public authority may seek a review of the contents of the report from the Chief Procurement Officer, and where following such review, the Chief Procurement Officer advises that the social clauses identified in *section 2* of this Act have been breached, a main contractor shall be subject to the penalty process agreed by the parties in accordance with *section 2(g)* of this Act. 5 10

### **Appeals mechanism**

6. (1) A main contractor shall be entitled to appeal the decision of the Chief Procurement Officer to an independent appeals board to be appointed by the Minister.
- (2) Appeals by a main contractor must be submitted within a period not exceeding 21 days. 15

### **Short title and collective citation**

7. (1) This Act may be cited as the Social Clauses in Public Procurement Act 2013.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions. 20

An Bille um Chlásail Shóisialta i bhFáil  
Phoiblí, 2013

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do dhéanamh socrú chun go n-áireofar clásail shóisialta i ngach conradh fála poiblí, do sholáthar deiseanna do dhaoine dífhostaithe agus do phrintísigh, chun comhionannas a chinntiú san áit oibre le linn conarthaí poiblí a chur i gcrích agus do dhéanamh socrú maidir le forbairt inmharthana.

*An Teachta Mary Lou McDonald a thug isteach,  
17 Nollaig, 2013*

Social Clauses in Public Procurement Bill  
2013

# BILL

*(as initiated)*

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An Act to provide for the inclusion of social clauses in all public procurement contracts, to provide opportunities for unemployed persons and apprentices, to ensure equality in the workplace in the carrying out of public contracts and to provide for sustainable development.

*Introduced by Deputy Mary Lou McDonald,  
17th December, 2013*

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