



DÁIL ÉIREANN

AN BILLE CAIDRIMH THIONSCAIL (LEASÚ), 2015 INDUSTRIAL RELATIONS (AMENDMENT) BILL 2015

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE CAIDRIMH THIONSCAIL (LEASÚ), 2015 —ROGHCHOISTE

INDUSTRIAL RELATIONS (AMENDMENT) BILL 2015 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 5, line 18, to delete “other than *section 35*” and substitute “other than *sections 23** and *35*”.

—An tAire Post, Fiontar agus Nuálaíochta.

[**This is a reference to the section proposed to be inserted by amendment No. 24.*]

2. In page 5, line 20, after “*Part 3*” to insert “, other than *section 35*”.

—An tAire Post, Fiontar agus Nuálaíochta.

SECTION 2

3. In page 5, between lines 27 and 28, to insert the following:

“Definitions

2. In this Act—

“Act of 2015” means the Workplace Relations Act 2015;

“Minister” means the Minister for Jobs, Enterprise and Innovation.”.

—An tAire Post, Fiontar agus Nuálaíochta.

[*Acceptance of this amendment involves the deletion of section 2 of the Bill.*]

SECTION 7

4. In page 8, between lines 28 and 29, to insert the following:

“(6) An employer may subsequently apply to the Court to become party to the agreement in its application to any worker or workers to whom it applies.”.

—Peadar Tóibín.

[SECTION 8]

SECTION 8

5. In page 9, lines 20 and 21, to delete “Labour Relations Commission” and substitute “Workplace Relations Commission”.

—An tAire Post, Fiontar agus Nuálaíochta.

6. In page 9, line 22, to delete “Labour Relations Commission” and substitute “Workplace Relations Commission”.

—An tAire Post, Fiontar agus Nuálaíochta.

SECTION 9

7. In page 10, line 26, after “concerned” to insert the following:

“and 3 months’ notice of this decision shall be given to the trade union by the Court of its decision after which an appeal maybe heard no later than 6 weeks after the decision has been made”.

—Peadar Tóibín.

SECTION 10

8. In page 10, line 31, after “apply,” to insert “agency worker,”.

—Peadar Tóibín.

SECTION 12

9. In page 11, between lines 33 and 34, to insert the following:

“(g) subsistence,”.

—Peadar Tóibín.

SECTION 15

10. In page 13, after line 41, to insert the following:

“(e) the percentage of workers in the identified economic sector earning two-thirds or less of median income;

(f) the pervasiveness of part time and/or short hour contracts in the identified economic sector;”.

—Peadar Tóibín.

SECTION 16

11. In page 15, line 13, to delete “The Minister shall” and substitute “Subject to *subsection (4)**, the Minister shall”.

—An tAire Post, Fiontar agus Nuálaíochta.

[*This is a reference to the subsection proposed to be inserted by amendment No. 12.]

12. In page 15, to delete lines 26 to 30 and substitute the following:

“(4) Where it is proposed to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House.”.

—An tAire Post, Fiontar agus Nuálaíochta.

[SECTION 19]

SECTION 19

13. In page 16, line 25, after “not” to insert “blacklist,”.

—Peadar Tóibín.

14. In page 16, between lines 25 and 26, to insert the following:

“(a) trade union membership or activity,”.

—Peadar Tóibín.

15. In page 16, line 27, to delete “Minister” and substitute “Workplace Relations Commission”.

—An tAire Post, Fiontar agus Nuálaíochta.

16. In page 16, line 33, after “proceedings” to insert “under Part 4 of the Act of 2015”.

—An tAire Post, Fiontar agus Nuálaíochta.

17. In page 16, between lines 36 and 37, to insert the following:

“(4) If a penalisation of a worker, in contravention of *subsection (1)*, constitutes a dismissal of the worker within the meaning of the *Unfair Dismissals Acts 1977 to 2015*, relief may not be granted to the worker in respect of that penalisation both under Part 4 of the Act of 2015 and under those Acts.”.

—An tAire Post, Fiontar agus Nuálaíochta.

18. In page 17, line 9, to delete “or intimidation” and substitute “, intimidation or harassment”.

—Peadar Tóibín.

19. In page 17, between lines 9 and 10, to insert the following:

“(5) The Minister may authorise other persons, including designated union officials, to carry out inspections and monitoring of Registered Employment Agreements, Registered Employment Orders and Employment Regulation Orders.

(6) The Minister may make regulations providing access, for union officials, to the workplace and employees for the purpose of this Act.

(7) An employer shall not coerce workers to relinquish or abstain from a registered employment agreement.”.

—Peadar Tóibín.

SECTION 20

20. In page 17, between lines 9 and 10, to insert the following:

“Union entitled to represent members’ interests

20. (1) A trade union, at the request of the employee, may represent the employee in relation to the employee’s rights and entitlements under a registered employment agreement and sectoral employment order.

(2) A union is entitled to represent its members in relation to any matter involving the discipline or grievance procedure.”.

—Peadar Tóibín.

21. In page 17, between lines 9 and 10, to insert the following:

“Access to workplaces

20. (1) A trade union official is entitled, in accordance with this section to enter a workplace for purposes related to—
- (a) monitoring compliance with the operation of a registered employment agreement and sectoral employment order,
 - (b) monitoring compliance with other Acts dealing with employment-related rights of trade union members,
 - (c) seek compliance with relevant requirements in any case where non-compliance is detected,
 - (d) discuss trade union business with trade union members,
 - (e) seek to recruit employees as trade union members,
 - (f) provide information on the trade union and trade union membership to any employee on the premises.
- (2) A discussion in a workplace between an employee and a trade union official who is entitled under this section to enter the workplace for the purpose of the discussion must not exceed a reasonable duration.
- (3) An employer may deduct from an employee’s wages any amount in respect of the time the employee is engaged in a discussion referred to in *subsection (1)(d)*.”.

—Peadar Tóibín.

22. In page 19, between lines 26 and 27, to insert the following:

“CHAPTER 4

Miscellaneous

Records

21. (1) An employer, to whom a registered employment agreement or sectoral employment order applies, shall keep, at the premises or place where his or her worker works or, if the worker works at 2 or more premises or places, the premises or place from which the activities that the worker is employed to carry on are principally directed or controlled, such records as are necessary to show whether this Part is being complied with in relation to the worker and those records shall be retained by the employer for at least 3 years from the date of their making.
- (2) An employer who, without reasonable cause, fails to comply with *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a class C fine.
- (3) Without prejudice to *subsection (2)*, where an employer fails to keep records under

[SECTION 20]

subsection (1) in respect of his or her compliance with a particular provision of this Part in relation to a worker, the onus of proving, in proceedings before the Workplace Relations Commission or the Labour Court, that the provision was complied with lies on the employer.”.

—An tAire Post, Fiontar agus Nuálaíochta.

NEW SECTION

23. In page 19, between lines 26 and 27, to insert the following:

“Decision of adjudication officer under section 41 of Act of 2015

22. (1) This section applies to a decision of an adjudication officer under section 41 of the Act of 2015 in relation to a complaint of a contravention of—

- (a) *subsection (1) of section 19,*
 - (b) a registered employment agreement (within the meaning of *Chapter 2*), or
 - (c) a sectoral employment order (within the meaning of *Chapter 3*).
- (2) A decision of an adjudication officer to which this section applies shall do one or more of the following, namely—
- (a) declare that the complaint was or, as the case may be, was not well founded,
 - (b) require the employer to comply with the provision in respect of which the complaint concerned relates and, for that purpose, require the employer to take a specified course of action, or
 - (c) require the employer to pay to the worker compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all the circumstances, but not exceeding 104 weeks’ remuneration in respect of the worker’s employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977,

and the references in the foregoing paragraphs to an employer shall be construed, in a case where ownership of the business of the employer changes after the contravention to which the complaint relates occurs, as references to the person who, by virtue of the change, becomes entitled to such ownership.

- (3) A decision of the Court under section 44 of the Act of 2015, on appeal from a decision of an adjudication officer to which this section applies, shall affirm, vary or set aside the decision of the adjudication officer.”.

—An tAire Post, Fiontar agus Nuálaíochta.

24. In page 19, between lines 26 and 27, to insert the following:

“Amendment of Act of 2015

23. The Act of 2015 is amended—

- (a) in section 3 by the insertion of the following subsection after subsection (5):

[NEW SECTION]

- “(5A) For the purpose of the operation of this Act, and to the extent only that this Act applies, in relation to *Part 2* of the *Industrial Relations (Amendment) Act 2015*, references in this Act to employee shall be construed as references to worker within the meaning of that Part.”,
- (b) in section 41, by the insertion of the following subsection after subsection (18):
- “(19) In this section, references to specified person for the purposes of a complaint in relation to a provision specified in—
- (a) paragraph 29 or 30 of Part 1 of Schedule 5, or
- (b) paragraph 11 of Part 2 of Schedule 5,
- shall be construed as references to a trade union representative of the person entitled to present the complaint.”,
- (c) in Part 2 of Schedule 1, by the insertion of the following paragraph after paragraph 18:
- “19. *Part 2* of the *Industrial Relations (Amendment) Act 2015*”,
- (d) in Schedule 5—
- (i) in Part 1, by the insertion of the following paragraphs after paragraph 28:
- “29. A registered employment agreement within the meaning of *Chapter 2* of *Part 2* of the *Industrial Relations (Amendment) Act 2015*
30. *Section 19(1)* of the *Industrial Relations (Amendment) Act 2015*”,
- and
- (ii) in Part 2, by the insertion of the following paragraph after paragraph 10:
- “11. A sectoral employment order within the meaning of *Chapter 3* of *Part 2* of the *Industrial Relations (Amendment) Act 2015*”,
- and
- (e) in Schedule 6—
- (i) in Part 1 (*Acts of Oireachtas*), by the insertion of the following paragraph after paragraph 34:
- “35. *Section 22(2)** of the *Industrial Relations (Amendment) Act 2015*”,
- and
- (ii) in Part 2 (*Acts of Oireachtas*), by the insertion of the following paragraph after paragraph 34:
- “35. *Section 22(3)** of the *Industrial Relations (Amendment) Act 2015*”.”.

—An tAire Post, Fiontar agus Nuálaíochta.

[*This is a reference to the section proposed to be inserted by amendment No. 23.]

[SECTION 23]

SECTION 23

25. In page 20, line 11, to delete “voluntary”.

—Peadar Tóibín.

SECTION 26

26. In page 25, line 18, after “established” to insert “, to the satisfaction of the Court,”.

—An tAire Post, Fiontar agus Nuálaíochta.

SECTION 27

27. In page 26, line 20, after “established” to insert “, to the satisfaction of the Court,”.

—An tAire Post, Fiontar agus Nuálaíochta.

SECTION 30

28. In page 27, to delete line 6 and substitute the following:

“Dismissals Act 1977”.

- (3) An application to the Circuit Court under this section shall be made to the Circuit Court sitting in the circuit in which the employer concerned carries on his or her business.”.

—An tAire Post, Fiontar agus Nuálaíochta.

TITLE

29. In page 5, line 11, after “1977;” to insert “to amend the Workplace Relations Act 2015;”.

—An tAire Post, Fiontar agus Nuálaíochta.