



An Bille Iomaíochta (Leasú), 2016
Competition (Amendment) Bill 2016

Mar a tionscnaíodh

As initiated



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ACTS REFERRED TO

Competition Act 2002 (No. 14)

Freedom of Information Act 1997 (No. 13)

National Economic and Social Development Office Act 2006 (No. 21)

Trade Union Act 1941 (No. 22)



**AN BILLE IOMAÍOCHTA (LEASÚ), 2016
COMPETITION (AMENDMENT) BILL 2016**

Bill

entitled

An Act to delimit the application of the Competition Act 2002 to Trade Unions and Trade Union Members and to certain agreements negotiated with public bodies, and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “public body” has the meaning assigned by section 2 of the Freedom of Information Act 1997, as amended. 10

Application of section 4 of Competition Act 2002 to certain trade union members

2. (1) Where an individual engages for gain under a contract with an undertaking personally to do any work or provide any services (whether work or services of a manual, clerical, professional or vocational nature or otherwise and whether for the undertaking that is party to the contract or for other persons)— 15
- (a) a trade union of which that individual and other individuals so engaged are members is deemed not to be an association of undertakings for the purposes of section 4 of the Competition Act 2002, and
- (b) the said section 4 does not apply to any agreement, decision or concerted practice affecting the terms or conditions under which such work is done or services are provided by two or more such individuals under similar contracts— 20
- (i) with the same undertaking, or
- (ii) with two or more different undertakings, that are members of an organisation that is (or is part of an organisation that is) a social partner for the purposes of the National Economic and Social Development Office Act 2006. 25
- (2) Nothing in *subsection (1)* prevents the application of the said section 4 to agreements, decisions or concerted practices affecting the terms or conditions under which work is done or services are provided to persons contracting outside the course of their business. 30
- (3) In *subsection (1)*—
- (a) “trade union” means a trade union which is the holder of a negotiation licence

under Part II of the Trade Union Act 1941,

(b) “undertaking” includes any public body.

Application of section 4 of Competition Act 2002 to certain collective agreements relating to services provided out of public funds

3. (1) This section applies to a scheme, whether under an enactment or otherwise, for payments out of public funds by a public body to members of a profession in consideration for the provision of services to members of the public or to a class of members of the public. 5
- (2) Where the Government makes a declaration under this subsection that there is, in relation to a scheme to which this section applies, a public interest in negotiating a collective agreement between the public body concerned and an organisation that is representative of the profession concerned, providing for the terms and conditions under which the services are to be provided— 10
- (a) the representative organisation concerned is deemed not to be an association of undertakings, for the purposes of section 4 of the Competition Act 2002, and 15
- (b) the said section 4 does not apply to the collective agreement.
- (3) Nothing in *subsection (2)* prevents the application of section 4 to agreements, decisions or concerted practices affecting the terms or conditions under which services are provided otherwise than under and for the purposes of the collective agreement concerned. 20
- (4) A declaration made by the Government under *subsection (2)*—
- (a) does not have effect until it is approved by resolutions passed by each House of the Oireachtas,
- (b) applies to negotiations for amendments to or replacements of a collective agreement, 25
- (c) continues in effect until it is annulled by resolution passed by either House of the Oireachtas.
- (5) (a) In this section, “profession” includes trade, vocation and other occupation.
- (b) For the purposes of this section, it is immaterial whether members of a profession provide services as sole traders or as members or employees of partnerships or corporate bodies. 30

Short title, collective citation and construction

4. (1) This Act may be cited as the Competition (Amendment) Act 2016.
- (2) This Act and the Competition Act 2002 may be cited together as the Competition Acts 2002 and 2016 and shall be construed together as one Act. 35

An Bille Iomaíochta (Leasú), 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do theorannú fheidhm an Achta Iomaíochta, 2002 do Cheardchumann agus Comhaltaí Ceardchumann agus do chomhaontuithe áirithe arna gcaibidil le comhlachtaí poiblí, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Seanadóir Ivana Bacik a thug thíolaic,

15 Eanáir, 2016

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An Act to delimit the application of the Competition Act 2002 to Trade Unions and Trade Union Members and to certain agreements negotiated with public bodies, and to provide for related matters.

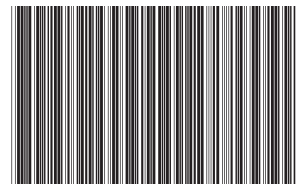
Presented by Senator Ivana Bacik,

15th January, 2016

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52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.
(Tel: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€1.27



978-1-4468-3327-8