



An Bille Ceardchumann, 2019
Trade Union Bill 2019

Meabhrán Mínitheach
Explanatory Memorandum



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Introduction

The purpose of this Bill is to repeal key sections of the Industrial Relations Act 1990 which restrict workers from taking industrial action. This Bill would place greater power in the hands of union members by removing many of the grounds for injunctions against workers taking industrial action.

The principle of the Bill is to trust trade unions and workers to make their own independent decisions on industrial action without there being limitations in the law that can be used to place financial risk on their union.

Provisions of the Bill

Section 1 defines the “Act of 1990” as the Industrial Relations Act 1990.

Sections 2, 4, 5 and *6* of the Bill amend sections 8, 11, 12 and 13 of the Act of 1990. The 1990 Act restricted pickets to being about a trade dispute, it limited the locations of pickets, secondary pickets and who can take part in a picket.

The Bill amends section 11 of the 1990 Act to extend pickets to trade disputes and for the ‘furtherance of the aims and polices of the trade union’. This is a wording is used elsewhere in the Bill to give unions greater freedom to take industrial action for more than just narrow employment related issues, for instance it would allow greater freedom for union members to take part in protests on issues such as climate change, for women’s rights, and against racism and sectarianism.

The Bill removes the requirement to move a picket away from the workplace to an approach to the workplace. This is a problem for unions, but also for other businesses, when a picket is placed on an entrance to a shopping centre rather than at the entrance to the workplace that has the dispute.

These sections of the Bill remove the restriction on who can attend a picket. At present only workers in the workplace and trade union officials can attend a picket. This means that if people come to show their support for a strike it can result in an injunction being issued. The Bill allows anyone to accompany workers on a picket and not be enjoined. It is a decision of the union members to decide if someone supporting them is welcome to accompany them or not on a picket.

As mentioned above, the present definition of ‘industrial action’ and ‘strike’ in the 1990 Act limits this to employment matters only. Many of the most important strikes in labour history were not narrowly related to issues

between a specific employer and a workforce over terms and conditions of employment, for instance the Dunnes Stores anti-apartheid strike, the 1918 general strike, and the tax marches in the 1970s would also have had the character of a strike with workers leaving their workplaces to join the protests.

It is envisaged that the aims and policies of the union would be decided in the democratic structures of the trade unions.

Section 3 repeals subsections (2), (3) and (4) of section 9 the 1990 Act.

The 1990 Act removed the ability of a union to take industrial action over an issue affecting an individual worker, including such a worker being dismissed, unless there is an exhaustion of existing agreed procedures. There is not a requirement for there to be agreement with a union on the procedures and it can be by custom and practice.

This section removes this restriction and allows the union to take industrial action to defend individuals. This will be particularly important in cases of victimisation of union activists and where workplaces are being unionised for the first time.

Workers do not lightly take industrial action and will go through agreed procedures where they exist, however workers must also have the ability to take action swiftly in certain individual cases. This provision in the Bill will also encourage employers to take any agreed procedures seriously.

Section 7 amends the 1990 Act by substituting new wording for section 14, that Act introduced a requirement for secret ballots and one week's notice for industrial action. Employers facing strike action have extensively used these provisions to prevent industrial action proceeding by seeking injunctions on the conduct of ballots.

Section 8 repeals sections 15, 16, 17, 18 and 19 of the 1990 Act removing the ability of an employer to get an injunction, and the union will have immunity on costs, so long as the union's own rules on deciding on industrial action were followed.

Section 9 of the Bill contains the standard provisions for the citation, collective citation and construction of the enacted Bill.

*Mick Barry, TD,
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