



**An Bille um Eagrú Ama Oibre (Cearta Oibrithe agus
Féinfhostaíocht Bhréagach) (Leasú), 2019**
**Organisation of Working Time (Workers Rights and
Bogus Self-Employment) (Amendment) Bill 2019**

Meabhrán Mínitheach
Explanatory Memorandum



**AN BILLE UM EAGRÚ AMA OIBRE (CEARTA OIBRITHE AGUS
FÉINFHOSTAÍOCHT BHRÉAGACH) (LEASÚ), 2019
ORGANISATION OF WORKING TIME (WORKERS RIGHTS
AND BOGUS SELF-EMPLOYMENT) (AMENDMENT) BILL 2019**

EXPLANATORY MEMORANDUM

Background

The purpose of this bill is to amend the Organisation of Working Time Act (the “Principal Act”) to bring it in line with recent changes in work practices that have seen a growth in bogus self-employment. It also amends the principal act to extend the terms of the act to members of the Garda Síochána, the Defences Forces, persons engaged in sea fishing or other work at sea, and trainee doctors. Finally, it extends certain rest and holiday rights to those who are self-employed in order to lessen the incentive for employers to engage in bogus self-employment.

Section 1 of the bill defines the Principal Act referenced in the bill.

Section 2 of the bill amends section 3 of the principal act in order to apply the act to members of the Garda Síochána, the Defences Forces, persons engaged in sea fishing or other work at sea, and trainee doctors.

Section 3 of the bill makes in an offence under the principal act for an employer to avoid the employer/employee relationship by drafting a contract that does not correspond to the reality of the actual relationship – that is, to create a contract for service for what is in effect a contract of service. It outlines factors to determine whether a contract of service exists. It gives a definition of a contract for service. It outlines factors to determine a contract for service. It makes it an offence for an employer to produce a contract for service where the reality of the relationship is that of a contract of service. It extends to self-employed persons the right to a daily rest period, rests and intervals at work, weekly rest periods, maximum average weekly working hours, night work rest periods, entitlement to annual leave, entitlement to annual leave pay, and entitlement to public holiday pay.

Section 4 of the bill updates the penalties for persons found guilty of an offence under the Principal Act to bring them in line with class A fines.

Section 5 of the bill outlines the short title of the bill.

*Maurice Quinlivan TD, John Brady TD, David Cullinane TD,
Meitheamh, 2019.*