



SEANAD ÉIREANN

**BILLE NA gCUIDEACHTAÍ (FORÁLACHA
ILGHNÉITHEACHA) (COVID-19), 2020
COMPANIES (MISCELLANEOUS PROVISIONS) (COVID-19)
BILL 2020**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

BILLE NA gCUIDEACHTAÍ (FORÁLACHA ILGHNÉITHEACHA) (COVID-19), 2020 —AN COISTE

COMPANIES (MISCELLANEOUS PROVISIONS) (COVID-19) BILL 2020 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 1

1. In page 5, between lines 22 and 23, to insert the following:

- “(3) This Act shall expire at the end of the interim period and on such expiry shall be deemed to have been repealed subject to the provisions of section 27 of the Interpretation Act 2005.
- (4) During the interim period the Act of 2014 shall have effect as though it is amended in accordance with Part 2.
- (5) During the interim period the Act of 1893 shall have effect as though it is amended in accordance with Part 3.”.

—Senators Michael McDowell, Victor Boyhan, Gerard P. Craughwell.

SECTION 2

2. In page 5, after line 26, to insert the following:

“ “interim period” has the same meaning as is provided in section 3 and section 29 respectively.”.

—Senators Michael McDowell, Victor Boyhan, Gerard P. Craughwell.

SECTION 14

3. In page 13, between lines 25 and 26, to insert the following:

“Amendment of section 557 of Act of 2014

14. Section 557 of the 2014 Act is amended by the insertion of the following subsections after subsection (4):

“(5) The court has the following power where, on the application of the Minister or the liquidator and/or a trade union or other employee representative in respect of a situation in which collective redundancies have arisen in circumstances in which the employer is insolvent, it can be shown that—

- (a) the employer is unable to fully discharge the debts owing to the employees,

[SECTION 14]

- (b) any property of the company of any kind whatsoever was disposed of either by way of conveyance, transfer mortgage, security, loan or in any way whatsoever whether by act or omission, direct or indirect, and
 - (c) the effect of such a disposal is to perpetrate a fraud on the company's employees by leaving inadequate resources to discharge the entitlements of the employees who are subsequently made redundant as a result of the employer's insolvency.
- (6) The power of the court is to order, if it deems it just and equitable to do so, any person who appears to have—
- (a) the use, control or possession of the property concerned, or
 - (b) the proceeds of the sale or development of that property, to deliver it or them, or pay any sum in respect thereof, to the liquidator on such terms or conditions as the court thinks fit.
- (7) If the Minister makes a payment to employees pursuant to section 10 of the Act of 1984 Protection of Employees (Employers' Insolvency) Act 1984 then the Minister shall have the right to make an application under subsection (5) in order to recover the sum expended.
- (8) Assets or value accrued pursuant to subsection (5) form part of the assets of the employer for the purposes of the liquidation and shall be distributed in accordance with section 621.
- (9) Notwithstanding the generality of the foregoing, payments due to discharge the entitlements of the employees who have been made redundant as a result of the employers insolvency shall have priority to all other debts.”.”.

—*Senator Paul Gavan.*

SECTION 27

4. In page 21, between lines 2 and 3, to insert the following:

“Amendment of section 5 of Act of 1893

27. Section 5 of the Act of 1893 is amended by the substitution of the following subsections for subsections (1) and (2):

- “(1) No society can be registered under this Act that does not consist of three persons at least.
- (2) For the purpose of registry an application to register the society, signed by three members and the secretary, and two printed copies of the rules, shall be sent to the registrar.”.”.

—*Senator Paul Gavan.*

[SECTION 27]

5. In page 21, between lines 2 and 3, to insert the following:

“Amendment of section 9 of Act of 1893

27. Section 9 of the Act of 1893 is amended in subsection (1) by the substitution of the following paragraph for paragraph (a):

“(a) If at any time it is proved to the registrar’s satisfaction that the number of the members of the society has been reduced to less than three, or that an acknowledgement of registry has been obtained by fraud or mistake, or that the society has ceased to exist;”.

—*Senator Paul Gavan.*

6. In page 21, between lines 2 and 3, to insert the following:

“Amendment of section 14 of Act of 1893

27. Section 14 of the Act of 1893 is amended in subsection (1) by substituting “Subject to section 14A, every registered society shall once in every year” for “Every registered society shall once in every year”.

—*Senator Paul Gavan.*

7. In page 21, between lines 2 and 3, to insert the following:

“Amendment of Act of 1893

27. The Act of 1893 is amended by the insertion of the following new section after section 14:

“Exemption from filing annual returns, etc., in certain cases

14A. (1) The Minister for Business, Enterprise and Innovation shall within six months of the passing of the *Companies (Miscellaneous Provisions) (Covid-19) Act 2020*, and may subsequently thereafter, make regulations exempting one or more than one specified class of registered societies from the obligation to file—

- (a) annual returns, or
- (b) certain specified classes of documents that would otherwise be required to be included as part of an annual return, and for that purpose that Minister may—
 - (i) provide for alternative procedures to be complied with in relation to the preparation and dissemination of specified information that would otherwise be required to be included in an annual return,
 - (ii) provide different procedures for different classes of registered societies, and
 - (iii) provide for matters to which subsection (2) relates.

[SECTION 27]

- (2) Having regard to any provisions relating to exemption from filing annual returns that apply to companies under the Companies Act 2014, the Minister for Business, Enterprise and Innovation may provide under subsection (1) for exemptions from filing the annual returns in respect of such class or classes of registered societies as he or she considers appropriate, where such exemptions would, in his or her opinion, correspond to exemption provisions applying to companies or any class of companies.”.”.

—*Senator Paul Gavan.*

SECTION 28

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

“Amendment of Act of 1893

29. The Act of 1893 is amended by the insertion of the following new section after section 74:

“Use of electronic communication

74A. (1) The Minister for Business, Enterprise and Innovation shall within six months of the passing of the *Companies (Miscellaneous Provisions) (Covid-19) Act 2020*, and may subsequently thereafter, make regulations under section 74 of this Act for the purpose of enabling—

- (a) the registration of industrial and provident societies by electronic means, and
- (b) specified forms or other documents, which are required to be lodged with or otherwise sent to the registrar by or under the Industrial and Provident Societies Acts 1893 to 2018, to be lodged or sent by electronic means, and for that purpose the said section 74 shall be read accordingly.
- (2) This section is without prejudice to the registrar, as a public body for the purposes of the Electronic Commerce Act 2000, from accepting any document by electronic means where either or both sections 12 and 13 of that Act have been applied in the circumstances.
- (3) In this section ‘electronic means’—
- (a) in the case of subsection (1), includes the use of electronic mail, and
- (b) in the case of subsection (2), means those provided for under the Electronic Commerce Act 2000 and effected in compliance with any requirements of the registrar of the kind referred to in sections 12(2)(b) and 13(2)(a) of that Act.”.”.

—*Senator Paul Gavan.*

[SECTION 29]

SECTION 29

9. In page 25, after line 38, to insert the following:

“ ‘worker co-operative’ shall mean an entity that—

- (a) has at least three members,
- (b) that only persons who are employed by, or by a subsidiary of, the body may be members of it, that (subject to any provision about qualifications for membership which is from time to time made by the members of the body by reference to age, length of service or other factors of any description which do not discriminate between persons by reference to politics or religion) all such persons may be members of the body and that members have equal voting rights at meetings of the body,
- (c) the body is controlled by a majority of the people working for the body and of the people working for the subsidiaries, if any, of the body,
- (d) the assets of the body are applied only for the purposes of objects of the body which do not include the making over of assets to any member of the body except for value and except in pursuance of arrangements for sharing the profits of the body among its members, and
- (e) if on the winding up or dissolution of the body any of its assets remain to be disposed of after its liabilities are satisfied, the assets are not distributed among its members but are transferred to such a worker co-operative enterprise or such a central fund maintained for the benefit of worker co-operative enterprises as may be determined by the members at or before the time of the winding up or dissolution or, in so far as the assets are not so transferred, are held for charitable purposes.”.

—*Senator Paul Gavan.*

NEW SECTION

10. In page 25, after line 38, to insert the following:

“Amendment of section 8 of Safety, Health and Welfare at Work Act 2005

30. Section 8 of the Safety, Health and Welfare at Work Act 2005 is amended by the insertion of the following paragraph after paragraph (l):

- “(m) allowing a representative of a union to enter a workplace where sufficient notice has been given to the employer to deal with the following:
 - (i) matters concerning the health and safety of union members,

[NEW SECTION]

- (ii) to monitor compliance with the operation of a collective agreement,
- (iii) to monitor compliance with this Act and other Acts dealing with employment-related rights in relation to union members,
- (iv) to seek compliance with relevant requirements in any case where non-compliance is detected.”.”.

—*Senator Paul Gavan.*