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**An Bille Caidrimh Thionscail (Forálacha i leith Teidlíochtaí Pinsin Oibrithe  
Scortha), 2021**

**Industrial Relations (Provisions in Respect of Pension Entitlements of Retired  
Workers) Bill 2021**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE CAIDRIMH THIONSCAIL (FORÁLACHA I LEITH TEIDLÍOCHTAÍ  
PINSIN OIBRITHE SCORTHA), 2021  
INDUSTRIAL RELATIONS (PROVISIONS IN RESPECT OF PENSION  
ENTITLEMENTS OF RETIRED WORKERS) BILL 2021**

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*Mar a tionscnaíodh*

*As initiated*

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ACTS REFERRED TO

Financial Services and Pensions Ombudsman Act 2017 (No. 22)

Industrial Relations Act 1990 (No. 19)

Industrial Relations Acts 1946 to 2019

Pensions Act 1990 (No. 25)

Trade Union Acts 1871 to 1990



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**AN BILLE CAIDRIMH THIONSCAIL (FORÁLACHA I LEITH TEIDLÍOCHTAÍ  
PINSIN OIBRITHE SCORTHA), 2021  
INDUSTRIAL RELATIONS (PROVISIONS IN RESPECT OF PENSION  
ENTITLEMENTS OF RETIRED WORKERS) BILL 2021**

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# Bill

5

*entitled*

An Act to amend and extend certain rights and protections of retired persons and certain representative associations in relation to industrial relations and trade disputes and for that purpose to amend the Trade Union Acts 1871 to 1990 and the Industrial Relations Acts 1946 to 2019, to make provision for enhanced representation of retired workers in relation to the administration of certain pension schemes, to amend the Pensions Act 1990 and to provide for related matters. 10

**Be it enacted by the Oireachtas as follows:**

## **Definition**

1. In this Act, “Act of 1990” means the Industrial Relations Act 1990. 15

## **Amendment of section 8 (Definitions for Part II) of Act of 1990**

2. Section 8 of the Act of 1990 is amended—

(a) in the definition of “trade dispute” by inserting “and includes any dispute between employers and retired workers relating to a matter affecting retired workers’ benefits under a relevant occupational pension scheme” after “of any person”, 20

(b) in the definition of “strike” by substituting “employment;” for “employment.”, and by inserting the following definition after the definition of “strike”, and

(c) by the insertion of the following definition:

“ ‘retired worker’ means any person who is entitled to receive benefits under a relevant occupational pension scheme.”. 25

## **Amendment of section 25 (Functions of Commission) of Act of 1990**

3. Section 25 of the Act of 1990 is amended—

(a) in subsection (1)(c) by substituting “unions, employer organisations and, where appropriate, organisations representing retired persons” for “unions and employer organisations”, and 30

- (b) in subsection (4) by substituting “, trade unions and organisations representing retired persons” for “and trade unions”.

**Amendment of section 26A (Time limit in relation to trade dispute where retired worker is party to dispute) of Act of 1990**

4. Section 26A of the Act of 1990 is amended— 5
- (a) in subsection (1)—
- (i) by substituting the following paragraph for paragraph (a):
- “(a) the dispute was referred to the Commission for conciliation—
- (i) within a period of 6 months from the date on which the worker’s employment ceased, or the date on which the event to which the dispute relates occurred, whichever is the earlier, or 10
- (ii) in so far as a dispute or any issue in a dispute relates to a matter affecting the retired worker’s benefits under a relevant occupational pension scheme, but only in so far as such dispute or issue in a dispute relates to such a matter, within a period of 6 months from the date on which the worker’s employment ceased, or the date on which the event to which the dispute relates occurred, whichever is the later, 15
- or”,
- and 20
- (ii) in paragraph (b) by substituting “subparagraph (i) or (ii) of paragraph (a), as appropriate” for “paragraph (a)”,
- and
- (b) by inserting the following subsection after subsection (3):
- “(4) For the purposes of subsection (3), a trade dispute shall not be considered to be subject to investigation by the Financial Services and Pensions Ombudsman by reason only that such dispute relates to conduct in respect of which a complaint may be made to the Financial Services and Pensions Ombudsman under section 44 of the Financial Services and Pensions Ombudsman Act 2017 if no such complaint has been made.”. 25 30

**Referral of trade disputes by retired workers representative associations**

5. The Act of 1990 is amended by inserting the following section after section 26A:
- “26B. (1) This section applies in respect of any trade dispute relating to a matter affecting retired workers’ benefits under a relevant occupational pension scheme.”. 35
- (2) For the purposes of any provision in the Industrial Relations Acts 1946 to 2021 that permits a trade union to refer a trade dispute to the Commission or the Court, the provision concerned shall be read as

also permitting a retired workers representative association to refer a trade dispute to which this section applies and any references in those Acts to a trade union shall, where appropriate, be read accordingly.

(3) In this section—

‘retired worker’ has the meaning given to it in Part II; 5

‘retired workers representative association’ means an organisation to which an order under section 6A of the Trade Union Act 1941 applies.”.

#### **Amendment of section 42 (Codes of Practice) of Act of 1990**

6. Section 42 of the Act of 1990 is amended by inserting the following subsection after subsection (2): 10

“(2A) Without prejudice to subsection (2), the Commission shall, where a draft Code relates to any matter which may affect the rights or interests of retired persons, seek and consider the views of such organisations that the Commission considers to be representative of retired persons before submitting the draft code to the Minister.”. 15

#### **Review of codes of practice**

7. The Act of 1990 is amended by inserting the following section after section 42:

“42A. (1) The Commission shall not later than 3 months after the coming into operation of the *Industrial Relations (Provisions in Respect of Pension Entitlements of Retired Workers) Act 2021*, commence a review into each code of practice that, on the date of the coming into operation of that Act, is declared to be a code of practice for the purposes of this Act. 20

(2) A review under subsection (1) shall— 25

(a) identify each code of practice that, in the Commission’s opinion, relates to any matter that affects the rights and interests of retired persons, and

(b) consider the effectiveness of each code of practice referred to in paragraph (a) in protecting the rights and interests of retired persons. 30

(3) For the purpose of subsection (2), the Commission shall seek and consider the views of such organisations that the Commission considers to be representative of retired persons.

(4) Not later than 6 months after the commencement of a review under subsection (1) the Commission shall— 35

(a) prepare and submit to the Minister a report of the findings made on foot of the review and details on any amendments to a code of practice which it recommends on foot of the review,

- (b) publish a copy of the report on its website, and
- (c) cause a copy of the report published under paragraph (b) to be laid before each House of the Oireachtas.”.

**Amendment of section 3 (Definitions generally) of Industrial Relations Act 1946**

8. Section 3 of the Industrial Relations Act 1946 is amended in the definition of “trade dispute” by inserting “, including any dispute or difference relating to a matter affecting a retired worker’s benefits under a relevant occupational pension scheme that arises after the person’s employment has ceased,” after “any such dispute or difference”.

**Exemption in respect of certain retired workers representative associations from requirement to hold negotiating licence, etc.**

9. The Trade Union Act 1941 is amended—

- (a) in section 6(3) by inserting the following paragraph after paragraph (a):

“(aa) an organisation in respect of whom an order under section 6A is for the time being in force,”,

and

- (b) by inserting the following section after section 6:

**“Exemption in respect of certain retired workers representative associations from requirement to hold negotiating licence**

6A. (1) This section applies in respect of any organisation whose membership consists wholly or mainly of retired workers.

(2) An organisation to which this section applies may apply to the Minister exempting it from the requirements of section 6(1) to the extent provided for in subsection (5) of this section.

(3) An application for an exemption under this section shall—

- (a) be made in the prescribed form,
- (b) contain the prescribed particulars,
- (c) be accompanied by the prescribed documents, and
- (d) be accompanied by the prescribed fee, if any.

(4) Upon receipt of an application, the Minister shall make an order under this section if the Minister is satisfied that—

- (a) the organisation concerned is an organisation to which this section applies, and
- (b) the organisation has as one of its purposes the representation of retired workers in relation to matters affecting the benefits of such workers under relevant occupational pension schemes.

(5) Notwithstanding section 6(1), an organisation in respect of which an order under subsection (4) of this section is made may carry on



negotiations in relation to any matter affecting the benefits of retired workers under a relevant occupational pension scheme.

(6) Upon making an order under this section, the Minister shall as soon as is practicable cause a copy of the order to be published in *Iris Oifigiúil*. 5

(7) In this section, ‘retired worker’ has the meaning given to it in Part II of the Industrial Relations Act 1990.”.

**Amendment of section 62 (Selection by members of funded schemes of persons for appointment as trustees) of Pensions Act 1990**

10. Section 62 of the Pensions Act 1990 is amended by inserting the following subsection after subsection (2): 10

“(2A) (a) This subsection applies to any matter to which regulations under subsection (1) relates—

(i) concerning the selection of 2 or more persons for appointment or retention as trustees by members of a scheme, and 15

(ii) in respect of which one or more pensioner members are duly nominated as candidates for selection.

(b) For the purposes of subsection (2)(b), regulations under subsection (1) shall specify the following matters in relation to a matter to which this subsection applies: 20

(i) not less than one person selected for appointment or retention as a trustee or trustees by members shall be a pensioner member;

(ii) the requirement referred to in subparagraph (i) shall be without prejudice to the right of members to select more than one pensioner member for appointment or retention as a trustee. 25

(c) In this subsection, ‘pensioner member’, in relation to a scheme, means a member of the scheme who is in receipt of benefits under the scheme.”.

**Amendment of section 81E (The forum for seeking redress) of Pensions Act 1990**

11. Section 81E of the Pensions Act 1990 is amended— 30

(a) in subsection (5) by substituting “the relevant date” for “the date of termination of the relevant employment”,

(b) in subsection (7) by substituting “the relevant date” for “the date of termination of the relevant employment”, and

(c) by inserting the following subsection after subsection (7): 35

“(8) In this section, ‘relevant date’ means the later of the following:

(a) the date of termination of the relevant employment concerned;

(b) the date on which the breach of the principle of equal pension

treatment or victimisation concerned occurred or, as the case may be, the date of its most recent occurrence.”.

### **Amendment of Financial Services and Pensions Ombudsman Act 2017**

**12.** The Financial Services and Pensions Ombudsman Act 2017 is amended—

(a) in section 44 by inserting the following subsection after subsection (2): 5

“(2A) For the purposes of paragraph (c)(i) of subsection (2) but without prejudice to paragraph (a)(i) of that subsection, conduct shall not be considered to relate to a matter that is within the jurisdiction of the Workplace Relations Commission or an alternative suitable forum or tribunal by reason only that such conduct relates to a matter that could be referred to the Workplace Relations Commission or the Labour Court under the Industrial Relations Acts 1946 to 2021 as a trade dispute within the meaning of those Acts.” 10

and

(b) in section 50 by inserting the following subsection after subsection (3): 15

“(4) For the purposes of paragraph (c) of subsection (3) but without prejudice to paragraph (b) of that subsection, conduct shall not be considered to relate to a matter that is within the jurisdiction of the Workplace Relations Commission or an alternative suitable forum or tribunal by reason only that such conduct relates to a matter that could be referred to the Workplace Relations Commission or the Labour Court under the Industrial Relations Acts 1946 to 2021 as a trade dispute within the meaning of those Acts.” 20

### **Short title, collective citation, construction and commencement**

**13.** (1) This Act may be cited as the Industrial Relations (Provisions in Respect of Pension Entitlements of Retired Workers) Act 2021. 25

(2) This subsection, *sections 2 and 9* and the Trade Union Acts 1871 to 1990 may be cited together as the Trade Union Acts 1871 to 2021 and shall be construed together as one.

(3) This subsection, *sections 3 to 8* and the Industrial Relations Acts 1946 to 2019 may be cited together as the Industrial Relations Acts 1946 to 2021. 30

(4) This subsection, *sections 10 and 11* and the Pensions Acts 1990 to 2018 may be cited together as the Pensions Acts 1990 to 2021 and shall be construed together as one.

(5) This Act comes into operation three months after the date of its passing or on such earlier date than the said three months as the Minister for Enterprise, Trade and Employment may by order appoint. 35



An Bille Caidrimh Thionscail (Forálacha i  
leith Teidlíochtaí Pinsin Oibrithe Scortha),  
2021

# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do leasú agus do leathnú cearta agus cosaintí áirithe de chuid daoine scortha agus de chuid comhlachais ionadaíocha áirithe i ndáil le caidreamh tionscail agus le haighnis cheirde agus, chun na críche sin, do leasú na nAchtanna Ceardchumann, 1871 go 1990 agus na nAchtanna Caidrimh Thionscail, 1946 go 2019, do dhéanamh socrú maidir le hionadaíocht fheabhsaithe d'oibrithe scortha i ndáil le riaradh scéimeanna pinsean áirithe, do leasú Acht na bPinsean, 1990 agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Na Teachtaí Bríd Nic Gabhann, Gino Ó Cionnaith,  
Risteard Buíd Bairéid agus Pól Ó Murchú a thug  
isteach,*

*11 Feabhra, 2021*

Industrial Relations (Provisions in Respect  
of Pension Entitlements of Retired Workers)  
Bill 2021

# BILL

*(as initiated)*

*entitled*

An Act to amend and extend certain rights and protections of retired persons and certain representative associations in relation to industrial relations and trade disputes and for that purpose to amend the Trade Union Acts 1871 to 1990 and the Industrial Relations Acts 1946 to 2019, to make provision for enhanced representation of retired workers in relation to the administration of certain pension schemes, to amend the Pensions Act 1990 and to provide for related matters.

*Introduced by Deputies Bríd Smith, Gino Kenny,  
Richard Boyd Barrett and Paul Murphy,*

*11th February, 2021*

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