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**An Bille um Cheadanna Fostaíochta (Forálacha Ilghnéitheacha), 2021**  
**Employment Permits (Miscellaneous Provisions) Bill 2021**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM CHEADANNA FOSTAÍOCHTA (FORÁLACHA ILGHNÉITHEACHA),  
2021  
EMPLOYMENT PERMITS (MISCELLANEOUS PROVISIONS) BILL 2021**

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*Mar a tionscnaíodh  
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ACTS REFERRED TO

Employment Permits Act 2003 (No. 7)

Employment Permits Act 2006 (No. 16)

Employment Permits Acts 2003 to 2020

Protection of Employees (Employers' Insolvency) Act 1984 (No. 21)

Protection of Employees (Employers' Insolvency) Acts 1984 to 2020

Workplace Relations Act 2015 (No. 16)



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**AN BILLE UM CHEADANNA FOSTAÍOCHTA (FORÁLACHA ILGHNÉITHEACHA),  
2021  
EMPLOYMENT PERMITS (MISCELLANEOUS PROVISIONS) BILL 2021**

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# **Bill**

*entitled*

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An Act to provide for the protection of certain foreign nationals in employment in the State and for that purpose to amend the Employment Permits Act 2003, the Employment Permits Act 2006, the Protection of Employees (Employers' Insolvency) Act 1984 and the Employment Permits Regulations 2017 and to provide for related matters.

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

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## **Application of Part 4 of Workplace Relations Act 2015**

1. The Employment Permits Act 2003 is amended by inserting the following section after section 2C:

“**2D.** (1) Subject to subsection (2), where a foreign national would, but for section 2, be entitled to present a complaint or refer a dispute under Part 4 of the Act of 2015, and where an employer referred to in section 2(1)(a) or, in the case of employment referred to in section 2(1)(b), a person referred to in section 2(1A)(a) or a contractor referred to in section 2(1A)(b) has contravened a provision specified in Schedule 5 to the Act of 2015, then the foreign national concerned shall be entitled to seek redress in accordance with Part 4 of the Act of 2015 as if he or she were an employee for the purposes of the Act of 2015.

(2) A foreign national shall not be entitled to present a complaint or refer a dispute under Part 4 of the Act of 2015 unless an adjudication officer is satisfied that the foreign national took the steps that were reasonably open to him or her to comply with section 2(1).

(3) In this section—

‘Act of 2015’ means the Workplace Relations Act 2015;

‘adjudication officer’ has the meaning assigned to it by the Act of 2015.”.

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## **Amendment of Employment Permits Act 2006**

2. The Employment Permits Act 2006 is amended—

- (a) in section 8(1) by substituting “Subject to sections 3A, 10, 10A, 12, 14, 20A, 20B and 20E” for “Subject to sections 3A, 10, 10A, 12, 14, 20A and 20B”,
- (b) in section 10A(7) by deleting “or” in paragraph (b) and inserting the following paragraph after paragraph (b):
- “(ba) the application is made in respect of a foreign national to whom section 20E applies and is an application referred to in section 20E(5), or”,
- (c) in section 12(1) by substituting the “6 months” for “12 months” in paragraph (e) (i),
- (d) in section 12(3) by substituting “Subject to sections 20A(5), 20B(5) and 20E(6),” for “Subject to sections 20A(5) and 20B(5),”,
- (e) in section 14(1C)(b) by substituting “section 20B or 20E” for “section 20B”,
- (f) by inserting the following section after section 20D:
- “Further provisions relating to foreign nationals to whom certain employment permits granted relate**
- 20E.** (1) This section applies to a foreign national to whom an employment permit pursuant to section 3A(2)(c) has been granted and he or she has been provided with employment that, during the period for which such permit is in force—
- (a) has failed or is failing to comply, in a material respect, with any or all of the information furnished to the Minister in the application for such permit, or
- (b) arising out of or in connection with the employment, has resulted or is resulting in a material risk to the foreign national’s health, safety, dignity or well-being.
- (2) Without prejudice to section 24, a foreign national to whom this section applies shall notify the Minister of the grounds referred to in paragraph (a) or (b) of subsection (1) and the notification shall be in such form as may be specified in regulations under section 29.
- (3) (a) The Minister shall, within 14 days of receipt of notification under subsection (2), inform the foreign national in a prescribed manner if the Minister is satisfied that the employer provided the foreign national with employment that revealed the grounds referred to in paragraph (a) or (b) of subsection (1).
- (b) In prescribing for the purposes of paragraph (a) of this section the Minister shall provide for the giving of reasons for his or her decision.
- (4) Where the Minister is satisfied that the employer provided the foreign national with employment that revealed the grounds referred to in paragraph (a) or (b) of subsection (1), an application for an employment permit may be made under, and in accordance with the requirements of, section 4 in respect of a foreign national to whom this

section applies within 6 months of the notification to the Minister in subsection (2) and such application shall be for an employment permit in respect of the purpose referred to in section 3A(2)(c) for—

- (a) an employment that is the same type of employment for which the employment permit referred to in subsection (1) was granted, or 5
  - (b) a different employment to the one for which the employment permit referred to in subsection (1) was granted that—
    - (i) is specified in regulations under section 14, in respect of the purpose referred to in subsection (1), as an employment for which an employment permit may be granted, or 10
    - (ii) is not an employment that is specified in such regulations as an employment for which an employment permit shall not be granted or falls within a category of employment for which an employment permit shall not be granted.
- (5) Where— 15
- (a) at the time an application referred to in subsection (4) is made the type of employment referred to in subsection (4)(a) is specified in regulations under section 14 as an employment, or falls within a category of employment, in respect of which an employment permit shall not be granted, and 20
  - (b) the Minister is satisfied that the employer provided the foreign national with employment that revealed the grounds referred to in paragraph (a) or (b) of subsection (1),  
the application may be made in respect of that employment by a foreign national to whom this section applies notwithstanding that the employment is an employment, or falls within a category of employment, that is specified in regulations under section 14 as an employment, or category of employment, for which an employment permit shall not be granted. 25
- (6) Notwithstanding section 12(3), the Minister may, subject to subsection (7), grant, under section 8, an employment permit for an employment referred to in subsection (5) pursuant to an application referred to in subsection (5) that is made within the period referred to in subsection (4) and for the avoidance of doubt— 30
- (a) section 12(3) shall apply to any other provision or requirement specified in regulations under section 14, that is required to be satisfied, and 35
  - (b) section 14 shall, in respect of such grant under section 8, apply in respect of any other provision or requirement specified in regulations under section 14 that is required to be satisfied. 40
- (7) Without prejudice to subsection (4) or (5), where an application referred to in subsection (4) or (5) is made by a foreign national who has made a notification to the Minister under this section, the Minister

shall not grant the employment permit concerned unless the Minister is satisfied that the employer provided the foreign national with employment that revealed the grounds referred to in paragraph (a) or (b) of subsection (1).

- (8) Having regard to the consideration, under section 11, of an application referred to in subsection (5)— 5
- (a) the provisions of any regulations referred to in section 11(3), other than the provisions of such regulations referred to in subsection (5), shall continue to apply in relation to the application concerned, and
  - (b) section 11(4) shall apply in respect of a provision or requirement of regulations under section 14, other than the provision referred to in subsection (5). 10
- (9) Nothing in this section shall be construed as providing a permission to be in the State for the period of 6 months referred to in subsection (4).”, 15

and

(g) in section 29(2) by inserting the following paragraph after paragraph (bh):

- “(bi) the form of the notification referred to in section 20E and the information and documents the Minister may require to satisfy himself or herself that the employer provided the foreign national with employment that revealed the grounds referred to in paragraph (a) or (b) of section 20E(1);”.
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**Amendment of section 6 (employees’ rights on insolvency of employer) of Protection of Employees (Employers’ Insolvency) Act 1984**

3. Section 6 of the Protection of Employees (Employers’ Insolvency) Act 1984 is amended— 25

(a) in subsection (2)(a)(xxxii) by substituting “Part 4 of that Act,” for “Part 4 of that Act.”, and

(b) by inserting the following subparagraph after subparagraph (2)(a)(xxxii):

- “(xxxiii) any amount that an employer is required to pay by virtue of a court order under section 2B of the Employment Permits Act 2003.”.
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**Amendment of Employment Permit Regulations 2017, etc.**

4. (1) Regulation 8(2) of the Employment Permit Regulations 2017 (S.I. No. 95 of 2017) is amended— 35

(a) in paragraph (m) by substituting “(including language training), and” for “(including language training).”, and

(b) by inserting the following paragraph after paragraph (m):

- “(n) in the case of an application for a General Employment Permit in



	respect of employment as a horticulture worker, meat processor operative or dairy farm assistant, a copy of a declaration signed by the person who makes the offer of employment confirming that the foreign national will, from the date of certification by a registered medical practitioner that the foreign national is unfit for work, be paid at least 70 per cent of remuneration, in so far as it relates to the salary to be paid to the foreign national, for a period of at least—	5
	(i) four weeks if certified with a personal illness or injury,	
	(ii) six months if certified with a work-related illness or injury,	10
	or until such time as the foreign national is deemed fit for work, whichever is earlier.”.	
(2)	Notwithstanding the insertion to the Employment Permit Regulations 2017 by <i>subsection (1)</i> , the power of the Minister for Enterprise, Trade and Employment to make regulations under sections 10A, 14, 14A, 29 and 30 of the Employment Permits Act 2006 shall be read as including a power to amend or revoke Regulation 8(2)(n) as if the amendment made by <i>subsection (1)</i> was made by regulations under those sections.	15
 <b>Short title, collective citations, construction and commencement</b>		
5.	(1) This Act may be cited as the Employment Permits (Miscellaneous Provisions) Act 2021.	20
	(2) This subsection, <i>sections 1</i> and <i>2</i> and the Employment Permits Acts 2003 to 2020 may be cited together as the Employment Permits Acts 2003 to 2021 and shall be construed together as one.	
	(3) This subsection, <i>section 3</i> and the Protection of Employees (Employers’ Insolvency) Acts 1984 to 2020 may be cited together as the Protection of Employees (Employers’ Insolvency) Acts 1984 to 2021 and shall be construed together as one.	25
	(4) 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.	30

An Bille um Cheadanna Fostaíochta  
(Forálacha Ilghnéitheacha), 2021

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# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do dhéanamh socrú maidir le cosaint a thabhairt do náisiúnaigh eachtracha áirithe atá i bhfostaíocht sa Stát agus, chun na críche sin, do leasú an Achta um Cheadanna Fostaíochta, 2003, an Achta um Cheadanna Fostaíochta, 2006, an Achta um Chosaint Fostaithe (Dócmhainneacht Fostóirí), 1984 agus na Rialachán um Cheadanna Fostaíochta, 2017 agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Na Teachtaí Brid Nic Gabhann, Pól Ó Murchú, Gino Ó Cionaoith, Risteard Buíd Bairéid agus Michéal de Barra a thug isteach,*

*1 Aibreán, 2021*

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Employment Permits (Miscellaneous  
Provisions) Bill 2021

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# BILL

*(as initiated)*

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An Act to provide for the protection of certain foreign nationals in employment in the State and for that purpose to amend the Employment Permits Act 2003, the Employment Permits Act 2006, the Protection of Employees (Employers' Insolvency) Act 1984 and the Employment Permits Regulations 2017 and to provide for related matters.

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*Introduced by Deputies Brid Smith, Paul Murphy, Gino Kenny, Richard Boyd Barrett and Mick Barry,*

*1st April, 2021*

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