



An Bille um Aitheantas a Thabhairt do Cheardchumann, 2021
Trade Union Recognition Bill 2021

Mar a tionscnaíodh

As initiated



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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Interpretation

PART 2

DISPUTES CONCERNING TRADE UNION RECOGNITION

2. Reference of disputes to Workplace Relations Commission
3. Further reference to Labour Court
4. Investigation by Labour Court
5. Matters to be investigated
6. Power of Labour Court to summon witnesses
7. Recommendation by Labour Court
8. Scope of recommendation
9. Form and content of recommendation
10. Supply and publication of decisions
11. Order of Labour Court
12. Scope of employment regulation order

PART 3

EFFECT OF RECOGNITION

13. Effect of recognition

PART 4

MISCELLANEOUS AND GENERAL

14. Repeal of Part III of Act of 1941

15. Unfair dismissal
16. Amendment of Act of 1990
17. Amendment of Act of 2001
18. Offences
19. Regulations
20. Short title

ACTS REFERRED TO

Industrial Relations (Amendment) Act 2001 (No. 11)

Industrial Relations (Amendment) Act 2015 (No. 27)

Industrial Relations Act 1946 (No. 26)

Industrial Relations Act 1990 (No. 19)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict.) c. 93

Trade Union Act 1941 (No. 22)

Unfair Dismissals Act 1977 (No. 10)



**AN BILLE UM AITHEANTAS A THABHAIRT DO CHEARDCHUMAINN, 2021
TRADE UNION RECOGNITION BILL 2021**

Bill

entitled

An Act to provide a legal mechanism for trade union recognition for workers who
comprise at least 20 per cent of the employees in an employment (or any category within
that employment). 5

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL 10

Interpretation

1. In this Act—

“Act of 1946” means the Industrial Relations Act 1946;

“Act of 1990” means the Industrial Relations Act 1990;

“Act of 2001” means the Industrial Relations (Amendment) Act 2001; 15

“Act of 2015” means the Industrial Relations (Amendment) Act 2015;

“Minister” means the Minister for Enterprise, Trade and Employment;

“trade union” includes an excepted body within the meaning of section 6 of the Trade
Union Act 1941.

PART 2 20

DISPUTES CONCERNING TRADE UNION RECOGNITION

Reference of disputes to Workplace Relations Commission

2. A dispute between a trade union and an employer concerning the failure or refusal by the
employer to recognise the trade union for the purposes of this Act may be referred by the
either party to the dispute to the Workplace Relations Commission pursuant to section 11 25
of the Act of 2015.

Further reference to Labour Court

3. If the Workplace Relations Commission reports to the Labour Court that it is satisfied that no further efforts on its part will advance the resolution of the dispute, then either party to the dispute may refer the dispute to the Labour Court for the purpose of resolving the dispute. 5

Investigation by Labour Court

4. (1) The Labour Court shall investigate every dispute referred to it under this Act and shall hear all persons appearing to that Court to be interested and desiring to be heard.
- (2) The Minister may, by regulations, specify—
- (a) procedures to be followed by the Labour Court in carrying out investigations under this section, and 10
 - (b) time limits applicable to such investigations, including procedures for extending those limits in certain circumstances, but before making any such regulations, the Minister shall consult the Labour Court.

Matters to be investigated

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5. In conducting an investigation under *section 3*, the Labour Court shall ascertain to the best of its ability—
- (a) the numbers of employees in the employment or any category thereof,
 - (b) the number of these who are members of the trade union concerned,
 - (c) the percentage that *paragraph (b)* represents of *paragraph (a)* and verify whether this is a significant amount of the total employees concerned and whether it surpasses 20 per cent of that total number employees in the employment or any category thereof. 20

Power of Labour Court to summon witnesses

6. (1) The Labour Court may for the purpose of any proceedings before it under this Act do any of the following things: 25
- (a) summon witnesses to attend before it;
 - (b) examine on oath or affirmation (which a member or the registrar of that Court is hereby authorised to administer) the witnesses attending before it;
 - (c) require any such witness to produce to the Court any document in his or her power or control. 30
- (2) A witness before the Court shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.
- (3) If any person—
- (a) on being duly summoned as a witness before the Court makes default in attending, or 35
 - (b) being in attendance as a witness refuses to take an oath or affirmation legally

required by the Court to be taken, or to produce any document in his or her power or control legally required by the Court to be produced by him or her, or to answer any question to which the court may legally require an answer,

he or she shall be guilty of an offence under this section and on summary conviction thereof shall be liable to a fine of €1,500 or to imprisonment for not more than 12 months or both. 5

Recommendation by Labour Court

7. (1) At the conclusion of an investigation under this Act, the Labour Court shall issue a recommendation thereon and shall invite the parties to consider the recommendation and to report back to the Court thereon within a period defined in the recommendation. 10

(2) Where the dispute concerns whether a trade union should be recognised by an employer for the purposes of this Act, the Labour Court shall recommend that the Trade Union is so recognised if it is satisfied that the trade union is representative of employees in the employment concerned and if its investigation has concluded that at least 20 per cent of employees in the employment or any category thereof are members of the Trade Union concerned. 15

Scope of recommendation

8. The types of redress for which a recommendation of the Labour Court may provide are:

- (a) that the employer recognise a particular trade union specified in the order; 20
- (b) that a person or persons specified in the recommendation take such other course of action as is so specified; or
- (c) such other redress as may be appropriate in the circumstances of the case.

Form and content of recommendation

9. (1) Every recommendation of the Labour Court under this Act shall be in writing and shall include a statement of the reasons for the recommendation. 25

(2) By notice in writing to the parties, the Chairperson of the Labour Court may correct any mistake (including an omission) of a verbal or formal nature in a recommendation under this Act.

Supply and publication of decisions

10. (1) A copy of every decision of the Labour Court under this Act shall be given to each of the parties and every such decision shall be published and a copy thereof made available for inspection at the office of the Labour Court. 30

(2) The contents of any document published or made available under this section shall be protected by absolute privilege. 35

Order of Labour Court

11. On or after the expiry of the period specified in *section 7(1)*, the Labour Court may, on the application of either party to the dispute, and having regard to the response (if any) received to the invitation tendered under that section, if it is satisfied that the recommendation has not been complied with, or is otherwise unlikely to resolve the dispute, and having afforded the parties an opportunity to be heard in that regard, make an employment regulation order under section 43 of the Act of 1946 in respect of the particular employer and the particular trade union specified in the order, and confined to the particular employment or any category thereof so specified, notwithstanding that such order is not made on the proposal of a joint labour committee, and whether or not an employment regulation order so made and applicable to that employment is in force under that section.

Scope of employment regulation order

12. An employment regulation order made under section 43 of the Act of 1946 pursuant to *section 11* include provision as to the manner in which consultations referred to in *section 13(b)* are to take place, and to the manner in which representation referred to in *section 13(c)* is to be provided, and the manner in which access to a workplace referred to in *section 13(d)* is to be secured.

PART 3

EFFECT OF RECOGNITION 20

Effect of recognition

13. Where a trade union is recognised for the purposes of this Act, then the employer shall—
- (a) negotiate with the trade union in respect of the pay and conditions of employment of its members,
 - (b) consult with the trade union in relation to its members on any matter in respect of which the employer is by any enactment required to consult with employees or their representatives,
 - (c) afford to each employee who is a member of the trade union the opportunity to be represented by the trade union in disciplinary proceedings,
 - (d) provide access to the workplace to union representatives for—
 - (i) purposes related to the employment of its members including:
 - (I) participating in collective bargaining and monitoring compliance with collective agreements;
 - (II) ensuring the health and safety of members is protected in line with statutory provisions;
 - (III) dealing with matters relating to the employment of individuals; and
 - (IV) ensuring compliance with employment legislation,

and

- (ii) purposes related to the union’s business including to seek to recruit employees as union members.

PART 4

MISCELLANEOUS AND GENERAL

5

Repeal of Part III of Act of 1941

- 14. Part III of the Trade Union Act 1941 is hereby repealed.

Unfair dismissal

- 15. The dismissal of an employee for reasons related to the seeking of recognition by a trade union in respect of that employee shall be an unfair dismissal for the purposes of section 6(2)(a) of the Unfair Dismissals Act 1977. 10

Amendment of Act of 1990

- 16. Section 8 of the Act of 1990 is hereby amended by the addition to the definition of “trade dispute” of “and includes a dispute between a trade union and an employer concerning the failure or refusal by the employer to recognise the trade union”. 15

Amendment of Act of 2001

- 17. (1) Section 5 of the Act of 2001 is amended by the deletion of subsection (2).
(2) Section 6 of the Act of 2001 is amended in subsection (2) by the deletion of the words “but shall not provide for arrangements for collective bargaining”.

Offences

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- 18. (1) Summary proceedings for an offence under this Act may be instituted by the Minister.
(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.
(3) Where an offence under this Act, which is committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person who, when the offence was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be guilty of an offence and shall be liable to be proceeded against and punished as if guilty of the offence committed by the body corporate. 25
(4) In relation to a body corporate whose affairs are managed by its members, *subsection (3)* shall have effect as if a director included a member of the body corporate. 30

Regulations

19. (1) The Minister may make regulations for the purpose of giving effect to this Act.

(2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder. 5

(3) Any order or regulation made under this Act may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient. 10

Short title

20. This Act may be cited as the Trade Union Recognition Act 2021.

An Bille um Aitheantas a Thabhairt do
Cheardchumann, 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do sholáthar sásra dlíthiúil chun aitheantas a thabhairt do cheardchumann le haghaidh oibrithe arb é atá iontu 20 faoin gcéad ar a laghad de na fostaithe i bhfostaíocht (nó in aon earnáil laistigh den fhostaíocht sin).

*An Teachta Risteard Buíd Bairéid, Pól Ó Murchú,
Brid Nic Gabhann agus Gino Ó Cionaoith a thug
isteach,*

5 Bealtaine, 2021

Trade Union Recognition Bill 2021

BILL

(as initiated)

entitled

An Act to provide a legal mechanism for trade union recognition for workers who comprise at least 20 per cent of the employees in an employment (or any category within that employment).

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

5th May, 2021

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.
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