



An Bille um Chosaint Fostaithe (Dócmhainneacht Fostóirí) (Leasú), 2025
Protection of Employees (Employers' Insolvency) (Amendment) Bill 2025

Mar a leasáíodh sa Roghchoiste um Fhiontair, Turasóireacht agus Fostaíocht

As amended in the Select Committee on Enterprise, Tourism and Employment



**AN BILLE UM CHOSAINN FOSTAITHE (DÓCMHAINNEACHT FOSTÓIRÍ)
(LEASÚ), 2025
PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) (AMENDMENT)
BILL 2025**

*Mar a leasáíodh sa Roghchoiste um Fhiontair, Turasóireacht agus Fostaíocht
As amended in the Select Committee on Enterprise, Tourism and Employment*

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**AN BILLE UM CHOSAINN FOSTAITHE (DÓCMHAINNEACHT FOSTÓIRÍ)
(LEASÚ), 2025
PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) (AMENDMENT)
BILL 2025**

Bill

5

entitled

An Act to amend the Protection of Employees (Employers' Insolvency) Act 1984; to give further effect to Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008¹ on the protection of employees in the event of the insolvency of their employer; to make provision for the deeming of employers to be insolvent in certain circumstances; to make further provision on the treatment of employees whose employer enters into an insolvency arrangement; to make further provision for the manner of calculation of certain payments made out of the Social Insurance Fund to certain employees in respect of insolvent employers; to amend the Employment Equality Act 1998; and to provide for related matters. 10 15

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, citation and commencement

1. (1) This Act may be cited as the Protection of Employees (Employers' Insolvency) (Amendment) Act 2025. 20
- (2) The Protection of Employees (Employers' Insolvency) Acts 1984 to 2020 and this Act, other than *Part 3*, may be cited together as the Protection of Employees (Employers' Insolvency) Acts 1984 to 2025 and shall be construed together as one Act. 25
- (3) This Act shall come into operation on such day or days as the Minister for Enterprise, Tourism and Employment may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

¹ OJ No. L 283, 28.10.2008, p. 36

Definition

2. In this Act, “Principal Act” means the Protection of Employees (Employers’ Insolvency) Act 1984.

Saver

3. Where— 5
- (a) an application is made to the Minister for Enterprise, Tourism and Employment under section 6 of the Principal Act before the date on which *section 7(d)* comes into operation, and
 - (b) the Minister for Enterprise, Tourism and Employment has not made a payment to the applicant (within the meaning of section 6 of the Principal Act) in respect of that application before that date, 10
- subsection (4) of section 6 of the Principal Act shall, notwithstanding the substitution of paragraph (a) of that subsection by *section 7(d)*, continue to apply in relation to the application as if that substitution had not been made.

PART 2 15

AMENDMENT OF PRINCIPAL ACT

Amendment of section 1 of Principal Act

4. Section 1 of the Principal Act is amended—
- (a) in subsection (1)—
 - (i) by the substitution of the following definition for the definition of “employee”: 20
 - “ ‘employee’ means a person who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract of employment with an employer, and ‘employer’ and any reference to employment shall, subject to subsection (1A), be 25 construed accordingly;”
 - and
 - (ii) by the insertion of the following definitions:
 - “ ‘Act of 2012’ means the Personal Insolvency Act 2012;
 - ‘contract of employment’ means— 30
 - (a) a contract of service or apprenticeship, or
 - (b) any other contract whereby an individual agrees with a person who is carrying on the business of an employment agency, and is acting in the course of that business, to do or perform personally any work or service for another person (whether or not that other person is a 35 party to the contract),

whether the contract is express or implied and, if express, whether it is oral or in writing;

‘deeming applicant’ has the meaning it has in section 4A(2);

‘deeming application’ has the meaning it has in section 4B(2);

‘employment agency’ has the meaning it has in the Employment Agency Act 1971; 5

‘General Data Protection Regulation’ has the meaning it has in section 8A(3);

‘insolvency arrangement’ has the meaning it has in the Act of 2012;

‘personal data’ has the meaning it has in section 8A(3); 10

‘Registrar’ has the meaning it has in section 2 of the Companies Act 2014;

‘special categories of personal data’ has the meaning it has in section 8A(3);

‘taxpayer information’ has the meaning it has in section 851A of the Taxes Consolidation Act 1997;” 15

(b) by the insertion of the following subsection after subsection (1):

“(1A) In the case of a contract of employment under which an individual agrees with an employment agency to do or perform any work or service for another person, whether or not that other person is a party to the contract, the individual’s employer is, for the purposes of this Act, the person who is liable (or, in the case of a contract that has been terminated, was liable) to pay the wages of the individual in respect of the work or service to which the contract relates.” 20

and 25

(c) in subsection (3)—

(i) in paragraph (f), by the substitution of “the State; or” for “the State.”, and

(ii) by the insertion of the following paragraphs after paragraph (f):

“(g) the employer is deemed insolvent under section 4E; or

(h) the employer is deemed insolvent under section 4F; or 30

(i) the employer has, on or after the first date on which any provision of the *Protection of Employees (Employers’ Insolvency) (Amendment) Act 2025* comes into operation, entered into an insolvency arrangement.”.

Amendment of section 4 of Principal Act 35

5. Section 4 of the Principal Act is amended—

(a) in paragraph (g) of subsection (1), by the substitution of “Member State,” for “Member State, and”;

- (b) in paragraph (h) of subsection (1), by the substitution of “United Kingdom,” for “United Kingdom.”, and
- (c) by the insertion of the following paragraphs after paragraph (h) of subsection (1):
- “(i) where the employer is deemed insolvent under section 4E, subject to subsection (4), the date on which notice is served on the employer under section 4A, 5
 - (j) where the employer is deemed insolvent under section 4F, subject to subsection (5), the date notified by the Minister under section 4F(4)(a)(ii), and
 - (k) where the employer is insolvent in the circumstances referred to in section 1(3)(i)— 10
 - (i) where the employment was terminated no more than one year before the date on which the insolvency arrangement comes into effect in accordance with the Act of 2012, the date on which the insolvency arrangement comes into effect or the date of termination of employment, whichever the employee shall nominate, or 15
 - (ii) in any other case, the date on which the insolvency arrangement comes into effect in accordance with the Act of 2012.”,
- and 20
- (d) by the insertion of the following subsections after subsection (3):
- “(4) Where an employer is deemed insolvent under section 4E, the employer shall be regarded as having become insolvent on the date referred to in paragraph (i) of subsection (1) only in relation to the employee who served the notice referred to in that paragraph. 25
 - (5) Where an employer is deemed insolvent under section 4F, the employer shall be regarded as having become insolvent on the date referred to in paragraph (j) of subsection (1) only in relation to the employee who made the application under section 4F(1).”.

Insertion of sections 4A to 4H in Principal Act 30

6. The Principal Act is amended by the insertion of the following sections after section 4:

“Notice to employer of amount due to employee

- 4A. (1) An employee, or a person acting on an employee’s behalf, may serve notice on the employer in the prescribed form setting out all amounts that the employee considers are due to the employee from the employer. 35
- (2) In this Act, ‘deeming applicant’ means the employee by whom, or on whose behalf, a notice is served under this section.

Application to Minister for employer to be deemed insolvent

- 4B. (1) This section applies where— 40

- (a) an employer on which a notice is served under section 4A—
 - (i) is not taken to be, or to have become, insolvent in any of the circumstances referred to in paragraphs (a) to (f), (h) or (i) of section 1(3) on or before the date on which the deeming application is made, and 5
 - (ii) does not pay, to the deeming applicant, the amounts referred to in the notice within 8 weeks from the day on which that notice is served,
- and
- (b) the amounts referred to in the notice became due to the employee— 10
 - (i) during the period of 18 months ending on the day on which section 6 of the *Protection of Employees (Employers' Insolvency) (Amendment) Act 2025*, insofar as it relates to this section, or any provision of this section, comes into operation, or 15
 - (ii) after the period referred to in subparagraph (i).
- (2) Where this section applies, the deeming applicant may apply to the Minister in the prescribed form for the employer to be deemed insolvent (in this Act referred to as a 'deeming application').
- (3) A deeming application— 20
 - (a) shall include a copy of the notice served on the employer in accordance with section 4A, and
 - (b) may include—
 - (i) information provided to the deeming applicant by or on behalf of the employer relating to the employment relationship, and 25
 - (ii) information that is publicly available relating to any of the following:
 - (I) the employment relationship between the deeming applicant and the employer;
 - (II) the employer's trading status; 30
 - (III) the extent to which the employer has ceased acting as an employer in relation to the employee or any other person.
- (4) Where the Minister is satisfied that an application under subsection (2) is made—
 - (a) in relation to an employer to which this section does not apply, or 35
 - (b) by or on behalf of an employee to whom this Act does not apply, the Minister—
 - (i) shall notify the deeming applicant of that fact, and

- (ii) shall not take any action under sections 4C to 4E in relation to the application.

Notice to employer of making of deeming application

4C. Subject to section 4B(4), the Minister shall, within 21 days from the date on which a deeming application is received, serve notice on the employer concerned informing the employer of the following: 5

- (a) that the application has been made;
- (b) the identity of the deeming applicant and the amount to which the notice under section 4A relates;
- (c) that the employer may respond to the Minister, in writing, in accordance with section 4D within such period, being not less than 4 weeks from the date of the notice, as the Minister shall specify. 10

Response of employer to deeming application

4D. (1) Subject to subsection (4)(b), an employer on which a notice under section 4C is served may, within the period specified in the notice— 15

- (a) provide the Minister with such information as the employer considers relevant to the deeming application, and
- (b) request that the Minister provide the employer with information that—
 - (i) was provided as part of the deeming application, and 20
 - (ii) was not included with the notice under section 4C.

(2) Where the employer on which a notice under section 4C is served—

- (a) is a natural person who is, at the time the notice is served, acting as an employer in respect of any employee, the employer may inform the Minister, in writing, of that fact within the period specified in the notice, or 25
- (b) is not a natural person and is, at the time the notice is served, continuing to trade, the employer may inform the Minister, in writing, of that fact within the period specified in the notice.

(3) The information that an employer provides to the Minister under subsection (1)(a) may include the following: 30

- (a) details of any payment made by the employer to a deeming applicant in respect of amounts relevant to the deeming application;
- (b) where the deeming application relates to an amount referred to in subparagraph (i), (ii), (iii)(III) or (iv) of section 6(2)(a), the extent to which the employer disputes an amount, or part of an amount, to which the deeming application relates. 35

(4) Where an employer requests information under subsection (1)(b) within the period specified in the notice under section 4C—

- (a) the Minister shall, within 21 days from the day on which the request is received, provide the employer with the information where—
 - (i) the information can be provided in a manner (including in redacted or anonymised form) that ensures that personal data, other than the personal data of the deeming applicant and the employer, are not provided with the information, and 5
 - (ii) the Minister is satisfied that the information requested is relevant and that it is appropriate, in all the circumstances, to provide the information, 10
- and
- (b) the period within which the employer may provide the Minister with information under subsection (1)(a) shall stand suspended on the day the request is made and shall resume on the day on which the Minister, in writing— 15
 - (i) provides the employer with the information, or
 - (ii) confirms that there is no such information relevant to the application.

Deeming employer insolvent

- 4E.** (1) The Minister shall deem an employer to be insolvent for the purposes of this Act where— 20
- (a) the employer—
 - (i) has provided the Minister with information under section 4D, or
 - (ii) has provided no such information within the period specified in the notice under section 4C, 25
 - (b) the employer has not, under section 4D(3)(b), disputed the entirety of all amounts due to the employee, and
 - (c) the Minister, having regard to the matters referred to in subsection (2), is satisfied that the employer—
 - (i) in the case of an employer who is a natural person, is no longer continuing to act as an employer in relation to the employee or any other person, and 30
 - (ii) in the case of an employer who is not a natural person, is no longer continuing to trade.
- (2) For the purposes of subsection (1)(c), the matters to which the Minister shall have regard are— 35
- (a) all relevant information provided to the Minister by the deeming applicant under section 4B,
 - (b) all relevant information provided to the Minister by the employer under section 4D, 40

- (c) the taxpayer information of the employer, and
 - (d) where the employer is not a natural person, all information on the register (within the meaning of section 2 of the Companies Act 2014) that relates to the employer.
- (3) Subject to subsection (4), the Minister shall notify the employer and the deeming applicant— 5
- (a) where the employer is deemed insolvent under this section, of that fact, or
 - (b) where the employer is not deemed insolvent under this section, of that fact. 10
- (4) Where an employer does not provide information to, or request information from, the Minister under section 4D, the Minister may elect not to notify the employer under subsection (3).
- (5) Where an employer is deemed insolvent under this section, that shall not influence any other consideration of, or process regarding, whether or not the employer is insolvent for any other purpose. 15

Application to Minister for employer to be deemed insolvent in relation to period before coming into operation of *Protection of Employees (Employers’ Insolvency) (Amendment) Act 2025*

- 4F. (1) An employee or a person acting on an employee’s behalf may apply to the Minister in the prescribed form, accompanied by such information as the employee considers to be relevant to the application, for the employer to be deemed insolvent under this section. 20
- (2) Subject to subsections (6) and (7), the Minister shall deem an employer to be insolvent under this section for the purposes of this Act where— 25
- (a) the application under subsection (1) is made—
 - (i) no later than 2 years from the applicable date, or
 - (ii) where the Minister is satisfied that, due to exceptional circumstances outside the control of the employee, it was not possible for the employee to make such an application within the period referred to in subparagraph (i), no later than 2 years from the end of that period, 30
- and
- (b) the Minister, having regard to the matters referred to in subsection (3), is satisfied that the employer— 35
 - (i) in the case of an employer who is a natural person, ceased acting as an employer, in relation to the employee or any other person, during the applicable period and did not, after such cessation, resume acting as an employer, or 40

- (ii) in the case of an employer who is not a natural person, ceased trading during the applicable period and did not, after such cessation, resume trading.
- (3) For the purposes of subsection (2)(b), the matters to which the Minister shall have regard are— 5
 - (a) all relevant information provided to the Minister under subsection (1),
 - (b) the taxpayer information of the employer, and
 - (c) where the employer is not a natural person, all information on the register (within the meaning of section 2 of the Companies Act 2014) that relates to the employer. 10
- (4) The Minister shall notify the employee by whom, or on whose behalf, the application under subsection (1) was made—
 - (a) where the employer is deemed insolvent under this section—
 - (i) that the employer is deemed insolvent under this section, and 15
 - (ii) of the date on which the Minister, having considered the matters referred to in subsection (3), considers the employer to have become insolvent under this section,
 - or
 - (b) where the employer is not deemed insolvent under this section, of that fact. 20
- (5) Where an employer is deemed insolvent under this section, that shall not influence any other consideration of, or process regarding, whether or not the employer is insolvent for any other purpose.
- (6) Where the Minister is satisfied that an application under subsection (1) is made— 25
 - (a) in relation to an employer that is taken to be, or to have become, insolvent in the circumstances referred to in paragraphs (a) to (g) or (i) of section 1(3) on or before the date on which the application under subsection (1) is made, or 30
 - (b) by or on behalf of an employee to whom this Act does not apply, the Minister—
 - (i) shall notify the employee of that fact, and
 - (ii) shall not take any action in relation to the application under this section. 35
- (7) Where the Minister is satisfied that an application under subsection (1) is made in respect of a debt to which section 6(2), as it stood on the relevant date (within the meaning of section 6), did not apply, the Minister shall not take any action under this section in relation to the application, insofar as it relates to that debt. 40

(8) In this section—

‘applicable period’ means the period beginning on the 22nd day of October 1983 and ending on the day before the applicable date;

‘applicable date’ means the day on which *section 6* of the *Protection of Employees (Employers’ Insolvency) (Amendment) Act 2025*, insofar as it relates to this section, or any provision of this section, comes into operation. 5

Serving notices under certain provisions of Act

4G. A notice served on an employer under section 4A, 4C or 4E may be sent or given to the employer in any of the following ways: 10

(a) where the employer is a natural person, by sending the notice by prepaid post to the address at which the employer ordinarily resides;

(b) where the employer is a company—

(i) by sending the notice by prepaid post to the registered office of the company, or 15

(ii) where the company has not given notice to the Registrar of the situation of its registered office, by delivering the notice to the Registrar;

(c) where the employer is a partnership, by sending the notice by prepaid post to the head office or a principal office of the partnership. 20

Treatment of personal data

4H. (1) Where—

(a) a relevant body holds— 25

(i) the personal data of an employee or employer, or

(ii) the taxpayer information of a person,

and

(b) the Minister considers the data or the information is necessary and proportionate for the performance of the Minister’s functions under section 4E or 4F, 30

the Minister may request the data and the information from the relevant body.

(2) Where a relevant body holds data or information to which a request under subsection (1) relates, it shall disclose the information and the data, other than special categories of personal data, to the Minister as soon as practicable. 35

(3) The Minister shall enter into a data-sharing agreement with each relevant body relating to the disclosure of personal data under this section, and the agreement shall— 40

- (a) specify the names of the parties to the agreement in a schedule to the agreement,
- (b) specify the information to be disclosed,
- (c) specify the purpose of the data-sharing,
- (d) specify the function of the relevant body to which the purpose referred to in paragraph (c) relates, 5
- (e) specify the legal basis for the data-sharing and for any further processing, by the parties to the agreement, of the information to be disclosed under the agreement,
- (f) specify whether, where information is disclosed under the agreement, the disclosure will be of information in relation to individual data subjects or classes of data subjects, 10
- (g) specify whether the disclosure of information under the agreement will be on a once-off or ongoing basis,
- (h) specify how the information to be disclosed is to be processed following its disclosure, 15
- (i) specify any restrictions on the disclosure of information after the processing referred to in paragraph (h),
- (j) include an undertaking by the parties to the agreement to comply with Article 5 of the General Data Protection Regulation in disclosing information under the agreement, 20
- (k) where a data protection impact assessment has been carried out in relation to the data-sharing, include a summary of the matters referred to in Article 35(7) of the General Data Protection Regulation in a schedule to the agreement, 25
- (l) specify the security measures to apply to the transmission, storage and accessing of personal data, in a manner that does not compromise those security measures,
- (m) specify the requirements in relation to the retention of—
 - (i) the information to be disclosed, and 30
 - (ii) the information resulting from the processing of that information,
for the duration of the agreement and in the event that the agreement is terminated,
- (n) specify the method to be employed to destroy or delete— 35
 - (i) the information to be disclosed, and
 - (ii) the information resulting from the processing of that information,

at the end of the period for which the information is to be retained in accordance with the agreement,

(o) specify the procedure in accordance with which a party may withdraw from the agreement, and

(p) include in a schedule to the agreement a statement summarising the grounds on which the Minister considers the disclosure of the information to be necessary and proportionate for the purpose of performing the functions under section 4E or 4F, as the case may be. 5

(4) In this section— 10

‘data protection impact assessment’ means an assessment carried out for the purposes of Article 35 of the General Data Protection Regulation;

‘data subject’ has the same meaning as it has in the General Data Protection Regulation; 15

‘processing’ has the same meaning as it has in the General Data Protection Regulation;

‘relevant body’ means the Registrar and the Revenue Commissioners, or either of them, as the case may be.”.

Amendment of section 6 of Principal Act 20

7. Section 6 of the Principal Act is amended—

(a) by the insertion of the following subsections after subsection (1):

“(1A) Where an application under subsection (1) relates to an employer deemed insolvent under section 4E or 4F, the application shall be accompanied by a statutory declaration of the applicant stating that all particulars in the application are true to the best of the applicant’s knowledge and belief. 25

(1B) Where an application under subsection (1) relates to an employer who has become insolvent in the circumstances referred to in section 1(3)(i)— 30

(a) the application shall be accompanied by—

(i) a copy of the insolvency arrangement, and

(ii) a copy of the court order relating to the insolvency arrangement, and

(b) the Minister shall not make a payment to the applicant— 35

(i) in respect of any amount paid, or to be paid, to the applicant under the insolvency arrangement, or

(ii) in respect of any debt that is not specified in the insolvency arrangement.

- (1C) Where—
- (a) an application under subsection (1) relates to an amount referred to in subparagraph (i), (ii), (iii)(III) or (iv) of subsection (2)(a), and
 - (b) the employer disputes the amount, or any part of the amount, under section 4D(3)(b),
- 5
- the Minister shall not pay the disputed amount or the disputed part of the amount, as the case may be, under subsection (1).
- (1D) Where an application under subsection (1) relates to an employer deemed insolvent under section 4F, the Minister shall not make a payment to an applicant under this section—
- 10
- (a) in respect of a debt to which subsection (2), as that subsection stood on the relevant date, did not apply, or
 - (b) in respect of an award that was not referred to in subsection (3) as that subsection stood on the relevant date.”,
- (b) in subsection (2)(a)(iii)—
- 15
- (i) by the substitution of “at the election of the employee, one of the following” for “at the election of the employee, either”,
 - (ii) in clause (I), by the substitution of “the said section 4,” for “the said section 4, or”,
 - (iii) in clause (II), by the substitution of “Act of 1973, or” for “Act of 1973,”, and
 - (iv) by the insertion of the following clause after clause (II):
- 20
- “(III) in the case of an employer deemed insolvent under section 4E or 4F, any unpaid normal weekly remuneration due to the employee in lieu of the statutory notice prescribed in section 4 of the Act of 1973,”,
- 25
- (c) in subsection (3), by the substitution of “subject to paragraphs (a) and (aa) of subsection (4)” for “subject to subsection (4)(a)”,
- (d) in subsection (4)—
- (i) by the substitution of the following paragraphs for paragraph (a):
- 30
- “(a) An amount payable to an employee in respect of any debt mentioned in subsection (2) or award mentioned in subsection (3) shall not exceed €600 in respect of any one week.
- (aa) Where, in relation to a debt mentioned in subsection (2) or award mentioned in subsection (3)—
- (i) the normal weekly remuneration of an employee to whom the debt or award is payable exceeds the euro amount specified in paragraph (a),
 - (ii) the debt or award relates to a period other than one week, or
 - (iii) the debt or award is not expressed in relation to a period of time,
- 35

the amount payable to the employee in respect of the debt or award—

(I) shall, in relation to a debt referred to in any of the following provisions of subsection (2)(a):

(A) subparagraph (i); 5

(B) subparagraph (ii);

(C) clause (II) or (III) of subparagraph (iii);

(D) subparagraph (iv),

be calculated in accordance with the following formula:

$C(A/B)$ 10

where—

‘A’ is the amount of the debt mentioned in subsection (2) or the amount of the award mentioned in subsection (3), as the case may be,

‘B’ is the normal weekly remuneration of the employee, and 15

‘C’ is the euro amount specified in paragraph (a),

(II) shall be calculated in accordance with the following formula where the remuneration of the employee is recorded in the written record: 20

$C(A/B)$

where—

‘A’ is the amount of the debt mentioned in subsection (2) or the amount of the award mentioned in subsection (3), as the case may be, 25

‘B’ is the remuneration per week so recorded or, where the remuneration so recorded relates to a period other than a week, an amount bearing the same proportion to the remuneration recorded as the period of time to which the remuneration recorded relates bears to a week, and 30

‘C’ is the euro amount specified in paragraph (a),

and

(III) shall be calculated in accordance with the following formula where the written record does not record the remuneration of the employee: 35

$C(A/B)$

where—

‘A’ is the amount of the debt mentioned in subsection (2)

or the amount of the award mentioned in subsection (3),
as the case may be,

‘B’ is the normal weekly remuneration of the employee,
and

‘C’ is the euro amount specified in paragraph (a). 5

(ab) In this section—

(i) a reference to the euro amount specified in paragraph (a) shall,
where such amount stands varied by regulation under
section 11(5), be read as a reference to the amount as so varied,
and 10

(ii) a reference to the written record shall be read, in relation to a
debt mentioned in subsection (2) or award mentioned in
subsection (3), as a reference to the written recommendation,
decision, determination, award or order, as the case may be,
relating to the debt or award.”, 15

and

(ii) in paragraph (b), by the substitution of the following for “the amount of his
normal weekly remuneration as regards the period.”:

“the lesser of—

(i) the amount of the employee’s normal weekly remuneration as 20
regards the period, or

(ii) the amount that would, but for this section, be payable to the
employee in accordance with paragraph (a) or (aa), as the case
may be.”,

and 25

(e) in subsection (9)—

(i) in the definition of “normal weekly remuneration”, by the substitution of “a
reference to the relevant date or, where the relevant date falls after the date
of termination of employment, the date of termination of employment” for “a
reference to the relevant date”, 30

(ii) in the definition of “the relevant date”, by the insertion of the following
paragraphs after paragraph (aa):

“(ab) in relation to an employer deemed insolvent under section 4E, the
date on which notice is served on the employer under section 4A,

(ac) in relation to an employer deemed insolvent under section 4F, the 35
date referred to in section 4F(4)(a)(ii),

(ad) in relation to an employer who has become insolvent in the
circumstances referred to in section 1(3)(i)—

- (i) the date on which the insolvency arrangement comes into effect or the date of termination of employment nominated in accordance with section 4(1)(k), as the case may be, or
- (ii) where no such nomination is made, the date on which the insolvency arrangement comes into effect.”, 5

and

- (iii) by the substitution of the following definition for the definition of “the relevant period”:

“ ‘the relevant period’ means, in relation to a debt to which this section applies— 10

- (a) in the case of an employer that is deemed to be insolvent under section 4F, the period of 30 months immediately preceding the relevant date, and
- (b) in any other case, the period of 18 months immediately preceding the relevant date.”. 15

Amendment of section 7 of Principal Act

8. Section 7 of the Principal Act is amended—

- (a) in subsection (1)—

- (i) by the substitution of “occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “occupational pension scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, 20
- (ii) in paragraph (c), by the substitution of “occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, and 25
- (iii) by the substitution of “assets of the occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “assets of the scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, 30

- (b) by the insertion of the following subsection after subsection (1):

“(1A) Where an application under subsection (1) relates to an employer who has become insolvent in the circumstances referred to in section 1(3)(i)—

- (a) the application shall be accompanied by a copy of— 35
 - (i) the insolvency arrangement, and
 - (ii) any court order relating to the insolvency arrangement, and
- (b) the Minister shall not make a payment under subsection (1)—

- (i) in respect of any amount paid, or to be paid, to the applicant under the insolvency arrangement, or
 - (ii) in respect of any unpaid pension contribution that is not specified in the insolvency arrangement.”,
- (c) in subsection (2), by the substitution of “occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “occupational pension scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, 5
- (d) in subsection (3)—
 - (i) by the substitution of “Subject to subsection (3A), the sum payable under this section in respect of unpaid contributions of an employer on his own account to an occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “The sum payable under this section in respect of unpaid contributions of an employer on his own account to an occupational pension scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, 10 15
 - (ii) in paragraph (a), by the substitution of “occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”, and 20
 - (iii) in paragraph (b), by the deletion of “(within the meaning of the Pensions Act 1990)”,
- (e) by the insertion of the following subsection after subsection (3):
 - “(3A) The sum payable under this section in respect of unpaid contributions— 25
 - (a) to an occupational pension scheme that is a defined benefit scheme (within the meaning of section 2 of the Pensions Act 1990), and
 - (b) that are contributions of an employer to that scheme on the employer’s own account, 30
 shall not exceed an amount calculated in accordance with the following formula:

$$(A(B/C)) - D$$
 where—
 - ‘A’ is the total remuneration paid by the employer to members of the scheme during the period of twelve months ending on the applicable day, 35
 - ‘B’ is the total of the contributions paid by an employer on the employer’s own account to the scheme during the reference year, 40

‘C’ is the total remuneration paid by the employer to members of the scheme during the reference year, and

‘D’ is the total contributions paid by an employer on the employer’s own account to the scheme during the period of twelve months ending on the applicable day.”, 5

(f) in subsection (4), by the substitution of “occupational pension scheme, Personal Retirement Savings Account or automatic enrolment retirement savings system” for “occupational pension scheme or Personal Retirement Savings Account (within the meaning of the Pensions Act, 1990)”,

(g) in subsection (7), by the substitution of “subsection (3) or (3A)” for “subsection (3)”, and 10

(h) by the insertion of the following subsection after subsection (8):

“(9) In this section—

‘applicable day’ means the day immediately preceding the date on which the employer became insolvent; 15

‘automatic enrolment retirement savings system’ means the retirement savings system established under the Automatic Enrolment Retirement Savings System Act 2024;

‘member’, in relation to an occupational pension scheme, has the meaning it has in paragraph (a) of the definition of ‘member’ in section 2 of the Pensions Act 1990; 20

‘Personal Retirement Savings Account’ has the meaning it has in section 91 of the Pensions Act 1990;

‘reference year’ means a period of twelve months that ends on the day that is twelve months before the applicable day.”. 25

Amendment of section 8 of Principal Act

9. Section 8 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Where an application is made to the Minister under section 6 or 7 of this Act” for “Where an application is made to the Minister under section 6 or 7 of this Act in respect of a debt owed or unpaid contributions to an occupational pensions scheme”, and 30

(b) in paragraph (a) of subsection (1), by the substitution of “that officer, or, where the application is made by or on behalf of an employee, that employee,” for “that officer.”.

Amendment of section 9 of Principal Act

10. Section 9 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (4F), a person who” for “A person who”, 35

(b) in subsection (3), by the substitution of “the Minister may, subject to subsection (4F), refer” for “he may refer”, and

(c) by the insertion of the following subsection after subsection (4E):

“(4F) Where an application for a payment in relation to a debt under section 6, or for a payment to be made under section 7, relates— 5

(a) to an employer who has become insolvent in the circumstances referred to in section 1(3)(i), or

(b) to an amount disputed under section 4D(3)(b),

a complaint shall not be presented to the Director General under subsection (1) in relation to such an application, and the Minister shall not refer a matter arising in connection with such an application to the Director General under subsection (3).” 10

Amendment of section 10 of Principal Act

11. Section 10(2A) of the Principal Act is amended by the substitution of “but for the limit set by section 6(4)(a) (as may be varied by regulations under section 11(5)), or by section 6(4)(aa), as the case may be,” for “but for the limit set by section 6(4)(a) (as may be varied by regulations under section 11(5)).” 15

Amendment of section 11 of Principal Act

12. Section 11 of the Principal Act is amended by the insertion of the following subsection after subsection (5): 20

“(5A) (a) The Minister may, from time to time, by order amend section 4B so as to substitute for the number of weeks specified in subsection (1)(a)(ii) of that section a different number of weeks, being not less than 4 weeks but not more than 12 weeks.

(b) An amendment made by order under this subsection shall have effect in relation to a notice under section 4A that is served on or after the day on which the order comes into operation.” 25

PART 3

AMENDMENT OF EMPLOYMENT EQUALITY ACT 1998

Amendment of Employment Equality Act 1998 30

13. Section 103(3) of the Employment Equality Act 1998 is amended by the insertion of the following paragraph after paragraph (b):

“(ba) an order of the Circuit Court on a reference under section 77(3), or”.

An Bille um Chosaint Fostaithe
(Dócmhainneacht Fostóirí) (Leasú), 2025

BILLE

(mar a leasaíodh sa Roghchoiste um Fhiontair,
Turasoíreacht agus Fostaíocht)

dá ngairtear

Acht do leasú an Achta um Chosaint Fostaithe (Dócmhainneacht Fostóirí), 1984; do thabhairt tuilleadh éifeachta do Threoir 2008/94/CE ó Pharlaimint na hEorpa agus ón gComhairle an 22 Deireadh Fómhair 2008 maidir le fostaithe a chosaint i gcás dhócmhainneacht a bhfostóra; do dhéanamh socrú chun go measfar fostóirí a bheith dócmhainneach in imthosca áirithe; do dhéanamh socrú breise maidir leis an gcaoi a ndéileálfar le fostaithe a ndéanfaidh a bhfostóir comhshocraíocht dócmhainneachta; do dhéanamh socrú breise maidir leis an modh ar a ríomhfar íocaíochtaí áirithe arna ndéanamh as an gCiste Árachais Shóisialaigh le fostaithe áirithe i leith fostóirí dócmhainneacha; do leasú an Achta um Chomhionannas Fostaíochta, 1998; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ordaíodh ag an Roghchoiste a chlóbhualadh,
3 Nollaig, 2025

Protection of Employees (Employers'
Insolvency) (Amendment) Bill 2025

BILL

(as amended in the Select Committee on Enterprise,
Tourism and Employment)

entitled

An Act to amend the Protection of Employees (Employers' Insolvency) Act 1984; to give further effect to Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer; to make provision for the deeming of employers to be insolvent in certain circumstances; to make further provision on the treatment of employees whose employer enters into an insolvency arrangement; to make further provision for the manner of calculation of certain payments made out of the Social Insurance Fund to certain employees in respect of insolvent employers; to amend the Employment Equality Act 1998; and to provide for related matters.

Ordered by the Select Committee to be printed,
3rd December, 2025

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BÓTHAR BHAILE UÍ BHEOLÁIN, CILL MHAIGHNEANN,
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