



**AN BILLE CAIDRIMH THIONSCAIL (LEASÚ) 2009
INDUSTRIAL RELATIONS (AMENDMENT) BILL 2009**

*Mar a tionscnaíodh
As initiated*

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ACTS REFERRED TO

Employment Permits Act 2006	2006, No. 16
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Industrial Relations Act 1946	1946, No. 26
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Organisation of Working Time Act 1997	1997, No. 20



AN BILLE CAIDRIMH THIONSCAIL (LEASÚ) 2009
INDUSTRIAL RELATIONS (AMENDMENT) BILL 2009

BILL

entitled

5 AN ACT TO MAKE FURTHER AND BETTER PROVISION
FOR PROMOTING HARMONIOUS RELATIONS
BETWEEN WORKERS AND EMPLOYERS, TO AMEND
AND EXTEND THE INDUSTRIAL RELATIONS ACTS
10 1946 TO 2004, TO AMEND THE EMPLOYMENT PERMITS
ACT 2006 AND THE ORGANISATION OF WORKING
TIME ACT 1997, AND TO PROVIDE FOR RELATED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

15 PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Industrial Relations (Amendment) Act 2009.

Short title,
collective citation,
construction and
commencement.

(2) The Industrial Relations Acts 1946 to 2004 and this Act (other than *section 13*) may be cited together as the Industrial Relations
20 Acts 1946 to 2009 and shall be construed together as one.

(3) The Employment Permits Acts 2003 and 2006 and *section 13(1)* may be cited together as the Employment Permits Acts 2003 to 2009 and shall be construed together as one.

(4) This Act shall come into operation on such day or days as the
25 Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or different provisions.

2.—In this Act—

Definitions.

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

30 “Act of 1990” means the Industrial Relations Act 1990.

PART 2

AMENDMENTS TO PART III OF INDUSTRIAL RELATIONS ACT 1946

Amendment of section 25 of Act of 1946.

3.—Section 25 of the Act of 1946 is amended—

- (a) by deleting the definition of “registered”, and
- (b) by substituting the following definition for the definition of “registered employment agreement”:

“the expression ‘registered employment agreement’ means—

- (a) in the case of an agreement registered before the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*, an employment agreement for the time being registered in the register, and
- (b) in the case of an agreement registered after the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*, an employment agreement for the time being registered in the register, the terms of which have been confirmed by order of the Minister under section 27 of this Act,

and the word ‘registered’ shall be construed accordingly.”.

Amendment of section 27 of Act of 1946.

4.—Section 27 of the Act of 1946 is amended by inserting the following subsection after subsection (5):

- “(5A) (a) Where, after the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*, the Court registers an employment agreement, the Court shall forward a copy of the agreement to the Minister.
- (b) As soon as practicable after receipt of a copy of the agreement, the Minister shall by order confirm the terms of the agreement, from such date (on or after the date of the order) as the Minister shall specify in the order.
- (c) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (d) Nothing in this subsection shall affect the validity of an employment agreement registered before the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*.”.

Amendment of section 28 of Act of 1946.

5.—Section 28 of the Act of 1946 is amended—

(a) by repealing subsection (2)(c), and

(b) by inserting the following subsection after subsection (2):

5 “(3) (a) Where, after the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*, the Court makes an order varying an agreement (in this subsection known as a ‘variation order’) the Court shall forward a copy of the variation order to the Minister.

10 (b) As soon as practicable after receipt of a copy of the variation order, the Minister shall by order confirm the terms of the variation order, from such date (on or after the date of the order) as the Minister shall specify in the order.

15 (c) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

20 (d) Nothing in this subsection shall affect the validity of an order varying a registered employment agreement made before the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*.”.

25 6.—Section 29 of the Act of 1946 is amended by inserting the following subsection after subsection (5):

Amendment of section 29 of Act of 1946.

30 “(6) (a) Where, after the commencement of *Part 2* of the *Industrial Relations (Amendment) Act 2009*, the Court cancels the registration of an agreement, the Court shall forward a copy of the cancellation to the Minister.

35 (b) As soon as practicable after receipt of a copy of the cancellation, the Minister shall by order confirm the terms of the cancellation, from such date (on or after the date of the order) as the Minister shall specify in the order.

40 (c) Every order under paragraph (b) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

PART 3

MISCELLANEOUS AMENDMENTS

Amendment of section 34 of Act of 1946.

7.—Section 34 of the Act of 1946 is amended by substituting the following definition for the definition of “employment regulation order”:

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“the expression ‘employment regulation order’ means—

- (a) in the case of an order made before the commencement of section 9 of the *Industrial Relations (Amendment) Act 2009*, an order made by the Court under section 48 of the Industrial Relations Act 1990, and 10
- (b) in the case of an order made after the commencement of section 9 of the *Industrial Relations (Amendment) Act 2009*, an order made by the Minister under section 43 of this Act;”. 15

Amendment of section 42 of Act of 1946.

8.—Section 42 of the Act of 1946 is amended—

(a) by inserting the following subsection after subsection (2):

“(2A) When formulating proposals to submit to the Court pursuant to subsection (1) or (2), a joint labour committee shall have regard to the following— 20

- (a) the legitimate interests of the workers,
- (b) the legitimate interests of the employers,
- (c) the prevailing economic circumstances,
- (d) the prevailing employment circumstances of the workers, 25
- (e) the prevailing commercial circumstances of the employers,
- (f) the terms of any national agreement relating to pay and conditions, for the time being in force.”, 30

and

(b) by inserting the following subsection after subsection (3):

“(4) Notwithstanding subsection (3), where an employment regulation order has been in force for less than 6 months, a joint labour committee may submit proposals for revoking or amending the order where it is satisfied that— 35

- (a) the order contains an error, or
- (b) exceptional circumstances exist which warrant the revocation or amendment.”. 40

9.—Section 43 of the Act of 1946 is amended—

Amendment of section 43 of Act of 1946.

(a) by substituting the following subsection for subsection (2):

“(2) Where, after the commencement of *section 9* of the *Industrial Relations (Amendment) Act 2009*, the Court adopts the proposals of a joint labour committee it shall forward a copy of the proposals to the Minister.”,

(b) by inserting the following subsection after subsection (2):

“(2A) (a) The Minister shall, as soon as practicable after receipt of a copy of the proposals from the Court, make an employment regulation order giving effect to such proposals and, on the making of such order, the Minister shall forward a copy of the order to the Court and the Court shall publish notice of the making of the order and the contents thereof in the prescribed manner.

(b) Nothing in this subsection shall affect the validity of an employment regulation order made before the commencement of *section 9* of the *Industrial Relations (Amendment) Act 2009*.”,

and

(c) by inserting the following subsection after subsection (5):

“(6) Every order under subsection (2A) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

10.—Section 23 of the Act of 1990 is amended—

Amendment of section 23 of Act of 1990.

(a) in subsection (1), by substituting the following paragraphs for paragraphs (c) to (f):

“(c) a teacher in a national school, or

(cc) a teacher employed by a vocational education committee.”,

and

(b) by repealing subsections (2), (5) and (6).

11.—Section 48 of the Act of 1990 is amended by substituting the following subsections for subsections (3), (4) and (5):

Amendment of section 48 of Act of 1990.

“(3) When proposals for an employment regulation order are submitted to the Court, the chairman of the committee shall submit—

- (a) a report to the Court on the circumstances surrounding their adoption,
 - (b) a copy of all written submissions considered by the committee when formulating the proposals,
 - (c) a copy of any other documentation considered by the committee when formulating the proposals. 5
- (4) (a) When considering whether to adopt the proposals of a joint labour committee, the Court shall consider any reports, submissions or other documentation submitted pursuant to subsection (3), and where it considers it appropriate to do so, hear all parties appearing to the Court to be interested and desiring to be heard. 10
- (b) The Court may, as it thinks proper, adopt the proposals of a joint labour committee. 15
- (5) (a) Where the Court is not satisfied that it should adopt the proposals of a joint labour committee, it may submit to the committee amended proposals which the Court is willing to adopt.
- (b) The committee may, if it thinks fit, re-submit the amended proposals, with or without modifications, to the Court. 20
- (c) The Court may, as it thinks proper, adopt the proposals as re-submitted under paragraph (b) or refuse to adopt the proposals.”. 25

Amendment of Fifth Schedule to Act of 1990.

12.—The Fifth Schedule to the Act of 1990 is amended by substituting the following subparagraph for subparagraph (4) of paragraph 2:

- “(4) (a) Subject to clauses (b) and (c), the independent member of a committee shall hold office for a period not exceeding 5 years. 30
- (b) The independent member of a committee shall cease to hold office on attaining the age of 65 years.
- (c) The independent member of a committee, who holds office on the commencement of *section 12* of the *Industrial Relations (Amendment) Act 2009*, shall hold office for a period not exceeding 3 years from the commencement of that section.”. 35

Consequential amendments.

13.—(1) Section 1 of the Employment Permits Act 2006 is amended by substituting the following definition for the definition of “employment regulation order”: 40

“ ‘employment regulation order’ means an employment regulation order within the meaning of the *Industrial Relations Acts 1946 to 2009*;”.

(2) Section 2 of the Organisation of Working Time Act 1997 is amended by substituting the following definition for the definition of “employment regulation order”: 45

“ ‘employment regulation order’ means an employment regulation order within the meaning of the *Industrial Relations Acts 1946 to 2009*;”.