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**FAIR EMPLOYMENT (MISCELLANEOUS PROVISIONS) BILL 2022**

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ACTS REFERRED TO

Trade Union Act 1941

Industrial Relations Act 1990

Safety, Health and Welfare at Work Act 2005

Industrial Relations (Amendment) Act 2015



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 **FAIR EMPLOYMENT (MISCELLANEOUS PROVISIONS) BILL 2022**

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**Bill**

 *entitled*

An act to restore the cost of living and civil society remits of trade unions, to legislate for a trade union right to access to members and workers in the workplace, to legislate for a trade union right to be heard in negotiations on behalf of members where collective bargaining is recognised, and related matters.

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

**Definition**

1. In this Act—

“Act of 1941” means the Trade Union Act 1941

“Act of 1990” means the Industrial Relations Act 1990

“Act of 2005” means the Safety, Health and Welfare at Work Act 2005

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

“trade union movement” means the aims and policies of the Irish Congress of Trade Unions

**Amendment of Section 2 of Act of 1941**

1. Section 2 of the Act of 1941 is amended—
2. by the insertion of the following definitions:

“ “authorised trade union” means a trade union in possession of a negotiation licence issued by the Minister under section 5 of this Act;

“collective bargaining” extends to all negotiations which take place between an employer, a group of employers, or one or more employers’ organisations, on the one hand, and one or more authorised trade unions or excepted bodies to which this act applies on the other, for determining wages, working conditions, and terms of employment; and/or regulating relations between employers and workers; and/or regulating relations between employers or their organisations and one or more authorised trade unions or excepted bodies;”.

**Amendment of Section 5(1) of Act of 1941**

1. Section 5(1) of the Act of 1941 is amended by the deletion of “for the fixing of wages or other conditions of employment” and substitution of “for the purposes of collective bargaining”.

**Original text;**

**5.**— (1) In this Part of this Act the expression “negotiation licence” means a licence issued by the Minister under this Part of this Act and authorising its holder to carry on negotiations **for the fixing of wages or other conditions of employment.**

**Amendment of Section 10 of Act of 1941**

1. Section 10 of the Act of 1941 is amended by the insertion of the following after “such licence.”:

“(2) The right of an authorised union to represent its members for the purposes of collective bargaining, including grievance and disciplinary issues, shall be recognised by an employer, and/or group of employers and/or one or more employers’ organisations.”.

“3). An employer that does not engage in collective bargaining shall engage in collective bargaining with an authorised trade union where at least 20 percent of the workplace are members of the authorised trade union.

**Original text;**

**10.**—Where application is duly made for a negotiation licence and the applicant is shown to the satisfaction of the Minister to be an authorised trade union, the Minister shall grant **such licence**

**Amendment of section 8 of Act of 1990**

1. Section 8 of the Act of 1990 is amended –
2. in the definition of “trade dispute” by the insertion of “, or any of the social and environmental and economic conditions, or any of the human rights, of any person or community” after “employment”, and

**Original text;**

“Trade dispute” means any dispute between employers and workers which is connected with the employment or non-employment, or the terms or conditions of or affecting the **employment**, of any person;

1. in the definition of “industrial action” by the insertion of “, or furtherance of the aims and policies of the trade union or the trade union movement, or the protection or advancement of any of the social and environmental and economic conditions, or any of the human rights, of any worker, group of workers or their families or their communities” after “employment”, and

**Original text;**

industrial action” means any action which affects, or is likely to affect, the terms or conditions, whether express or implied, of a contract and which is taken by any number or body of workers acting in combination or under a common understanding as a means of compelling their employer, or to aid other workers in compelling their employer, to accept or not to accept terms or conditions of or affecting **employment;**

1. in the definition of “strike” by the insertion of “, or furtherance of the aims and policies of the trade union or the trade union movement, or the protection or advancement of any of the social and environmental and economic conditions, or any of the human rights, of any worker, group of workers or their families or their communities” after “employment”.

**Original text;**

“strike” means a cessation of work by any number or body of workers acting in combination or a concerted refusal or a refusal under a common understanding of any number of workers to continue to work for their employer done as a means of compelling their employer, or to aid other workers in compelling their employer, to accept or not to accept terms or conditions of or affecting **employment**.

**Amendment to Section 9 0f Act 1990**

**Original text;**

2) Where in relation to the employment or non-employment or the terms or conditions of or affecting the employment of one individual worker, there are agreed procedures availed of by custom or in practice in the employment concerned, or provided for in a collective agreement, for the resolution of individual grievances, including dismissals, [*sections 10*](https://www.irishstatutebook.ie/1990/en/act/pub/0019/print.html#sec10), [*11*](https://www.irishstatutebook.ie/1990/en/act/pub/0019/print.html#sec11)and [*12*](https://www.irishstatutebook.ie/1990/en/act/pub/0019/print.html#sec12)**shall apply** only where those procedures have been resorted to and exhausted.

After **shall apply** amended to

 if a majority of the "one individual workers" union colleagues decide by secret ballot to avail of “those procedures”

**Amendments of Section 14 of Act 1990**

**14.**(1) Replaced with

 These amendments will come into operation after the passing of this act.

**Original text;**

**14.**— (1) This section shall come into operation two years after the passing of this Act (“the operative date”).

(2) (*a*) Replaced with

Prior to industrial action by the union, it shall hold a secret ballot of all members whom it is reasonable at the time of the ballot for the union concerned to believe will be called upon to engage in the strike or other industrial action;

**Original text;**

(*a*) the union shall not organise, participate in, sanction or support a strike or other industrial action without a secret ballot, entitlement to vote in which shall be accorded equally to all members whom it is reasonable at the time of the ballot for the union concerned to believe will be called upon to engage in the strike or other industrial action;

(*b*) Replaced with

The union shall take reasonable steps to ensure that every member entitled to vote in the ballot is given a fair opportunity to vote.

**Original text;**

(*b*) the union shall take reasonable steps to ensure that every member entitled to vote in the ballot votes without interference from, or constraint imposed by, the union or any of its members, officials or employees and, so far as is reasonably possible, that such members shall be given a fair opportunity of voting;

**Amendment of Section 19 of Act of 1990**

1. Section 19 of the Act of 1990 is amended -
2. in subsection (1) by the deletion of “of not less than one week” after “gives notice”.

**Original text;**

**19.**— (1) Where a secret ballot has been held in accordance with the rules of a trade union as provided for in [*section 14*](https://www.irishstatutebook.ie/1990/en/act/pub/0019/sec0014.html#sec14), the outcome of which or, in the case of an aggregation of ballots, the outcome of the aggregated ballots, favours a strike or other industrial action and the trade union before engaging in the strike or other industrial action gives notice **of not less than one week** to the employer concerned of its intention to do so, that employer shall not be entitled to apply to any court for an injunction restraining the strike or other industrial action unless notice of the application has been given to the trade union and its members who are party to the trade dispute.

1. in subsection (2) by the deletion of “of not less than one week” after “gives notice”.

**Original text;**

(2) Where a secret ballot has been held in accordance with the rules of a trade union as provided for in [*section 14*](https://www.irishstatutebook.ie/1990/en/act/pub/0019/sec0014.html#sec14), the outcome of which or, in the case of an aggregation of ballots, the outcome of the aggregated ballots, favours a strike or other industrial action and the trade union before engaging in the strike or other industrial action gives notice **of not less than one week** to the employer concerned of its intention to do so, a court shall not grant an injunction restraining the strike or other industrial action where the respondent establishes a fair case that he was acting in contemplation or furtherance of a trade dispute

**Amendment of Section 8 of Act of 2005**

1. Section 8 of the Principal Act is amended by inserting the following paragraph after paragraph 8(2)(l):

**Original text;**

**8.**—(1) Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.

**Followed now by;**

“(m) by allowing a representative or representatives of a trade union to enter a workplace where sufficient notice has been given to the employer to deal with the following:

(i) matters concerning the health and safety of their members;

(ii) to monitor compliance with the operation of a collective agreement;

(iii) to consult with their members on any matters of concern;

(v) to inform and advise workers of their right to join a trade union and the benefits of membership and other related matters.

**Amendment of Section 27 of Act of 2015**

1. Section 27 of the Act of 2015 is amended by the substitution of the following for section 1A:

“1A. For the purposes of this Act, ‘collective bargaining’ has the meaning assigned to it by section 2 of the Trade Union Act 1941.”.

**Original text;**

**27.** The Principal Act is amended by the insertion of the following sections after section 1:

Collective Bargaining

**1A.** For the purposes of this Act, ‘collective bargaining’ comprises voluntary engagements or negotiations between any employer or employers’ organisation on the one hand and a trade union of workers or excepted body to which this Act applies on the other, with the object of reaching agreement regarding working conditions or terms of employment, or non-employment, of workers.

**Short title, citation and construction**

1. This Act may be cited as the Fair Employment Act 2022