



**An Bille Fostaíochta (Comhiomarcaíochtaí agus Forálacha Ilghnéitheacha) agus
Cuideachtaí (Leasú), 2023**

**Employment (Collective Redundancies and Miscellaneous Provisions) and
Companies (Amendment) Bill 2023**

Mar a tionscnaíodh

As initiated



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ILGHNÉITHEACHA) AGUS CUIDEACHTAÍ (LEASÚ), 2023
EMPLOYMENT (COLLECTIVE REDUNDANCIES AND MISCELLANEOUS
PROVISIONS) AND COMPANIES (AMENDMENT) BILL 2023**

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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and commencement
2. Definition

PART 2

AMENDMENTS TO PROTECTION OF EMPLOYMENT ACT 1977

3. Definition (Part 2)
4. Amendment of section 2 of Act of 1977
5. Amendment of section 9 of Act of 1977
6. Amendment of section 10 of Act of 1977
7. Amendment of section 11 of Act of 1977
8. Amendment of section 11A of Act of 1977
9. Amendment of section 12 of Act of 1977
10. Amendment of section 13 of Act of 1977
11. Amendment of section 14 of Act of 1977
12. Amendment of section 20 of Act of 1977

PART 3

ESTABLISHMENT OF EMPLOYMENT LAW REVIEW GROUP

13. Establishment of Employment Law Review Group
14. Functions of Review Group
15. Membership of Review Group
16. Work programme and Review Group meetings

17. Annual report and provision of information to Minister
18. Expenses (Part 3)

PART 4

AMENDMENTS TO COMPANIES ACT 2014

19. Definition (Part 4)
20. Amendment of section 571 of Act of 2014
21. Amendment of section 572 of Act of 2014
22. Amendment of section 573 of Act of 2014
23. Amendment of section 594 of Act of 2014
24. Amendment of section 599 of Act of 2014
25. Amendment of section 604 of Act of 2014
26. Amendment of section 608 of Act of 2014
27. Amendment of section 610 of Act of 2014

ACTS REFERRED TO

Companies Act 2014 (No. 38)

Protection of Employment Act 1977 (No. 7)

Protection of Employment Acts 1977 to 2014

Workplace Relations Act 2015 (No. 16)



**AN BILLE FOSTAÍOCHTA (COMHIOMARCAÍOCHTAÍ AGUS FORÁLACHA
ILGHNÉITHEACHA) AGUS CUIDEACHTAÍ (LEASÚ), 2023
EMPLOYMENT (COLLECTIVE REDUNDANCIES AND MISCELLANEOUS
PROVISIONS) AND COMPANIES (AMENDMENT) BILL 2023**

Bill

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entitled

An Act to amend certain provisions of the Protection of Employment Act 1977; to provide for the establishment of an employment law review group to monitor, review and advise the Minister on matters relating to employment law; to amend certain provisions of the Companies Act 2014; and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation and commencement

1. (1) This Act may be cited as the Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2023. 15
- (2) The Protection of Employment Acts 1977 to 2014 and *Part 2* may be cited together as the Protection of Employment Acts 1977 to 2023 and shall be construed together as one.
- (3) This Act shall come into operation on such day or days as the Minister 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. 20

Definition

2. In this Act, “Minister” means the Minister for Enterprise, Trade and Employment. 25

PART 2

AMENDMENTS TO PROTECTION OF EMPLOYMENT ACT 1977

Definition (*Part 2*)

3. In this Part, “Act of 1977” means the Protection of Employment Act 1977.

Amendment of section 2 of Act of 1977

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4. Section 2 of the Act of 1977 is amended by the insertion of the following definition:

“ ‘responsible person’, in the case of an employer whose business is being terminated following the commencement of bankruptcy or winding up proceedings or for any other reason as a result of a decision of a court of competent jurisdiction, means—

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(a) the liquidator,

(b) the provisional liquidator (within the meaning of Part 11 of the Companies Act 2014),

(c) the receiver who has assumed full responsibility for the management of the business concerned, or

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(d) any other person appointed by the court where that person has assumed full responsibility for the management of the business concerned.”.

Amendment of section 9 of Act of 1977

5. Section 9 of the Act of 1977 is amended—

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(a) by the substitution of the following subsection for subsection (1):

“(1) Where an employer or a responsible person proposes to create collective redundancies, he or she shall, with a view to reaching an agreement, initiate consultations with employees’ representatives.”,

and

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(b) by the insertion of the following subsection after subsection (3):

“(4) Where an employer has initiated consultations with employees’ representatives under this section, a responsible person may continue any consultation so initiated.”.

Amendment of section 10 of Act of 1977

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6. Section 10 of the Act of 1977 is amended—

(a) in subsection (1), by the substitution of “the employer or responsible person concerned” for “the employer concerned”, and

(b) in subsection (3), by the substitution of “An employer or a responsible person” for “An employer”.

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Amendment of section 11 of Act of 1977

7. Section 11 of the Act of 1977 is amended—

(a) by the designation of the section as subsection (1), and

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

“(2) Subject to subsection (3), a responsible person who fails to initiate consultations under section 9 or fails to comply with section 10 shall be guilty of an offence and shall be liable on summary conviction to a class A fine. 5

(3) In proceedings for an offence under subsection (2), it shall be a defence for a person against whom such proceedings are brought to show that, having exercised all reasonable professional care and skill, he or she had reasonable grounds for believing that the employer had complied with the obligations imposed on an employer under section 9 or 10.”. 10

Amendment of section 11A of Act of 1977

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8. Section 11A of the Act of 1977 is amended—

(a) by the substitution of “section 9, 10 or 14(1)” for “section 9 or 10”, and

(b) in paragraph (b), by the deletion of “of the Act of 1977”.

Amendment of section 12 of Act of 1977

9. Section 12 of the Act of 1977 is amended—

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(a) by the substitution of the following subsection for subsection (2):

“(2) The Minister may prescribe the particulars to be specified in a notification under this section and, without prejudice to the generality of the foregoing, regulations under this section shall make provision for the following: 25

(a) particulars of the employer;

(b) particulars of the proposed collective redundancies;

(c) particulars of the consultations with the employees’ representatives;

(d) such other particulars in relation to the employer’s proposal as the Minister considers appropriate.”, 30

and

(b) by the substitution of the following subsection for subsection (4):

“(4) In the case of collective redundancies arising from the employer’s business being terminated following the commencement of bankruptcy or winding up proceedings or for any other reason as a result of a decision of a court of competent jurisdiction, the responsible person shall comply with the obligations of an employer under this section.”. 35

Amendment of section 13 of Act of 1977

10. Section 13 of the Act of 1977 is amended—

(a) by the designation of the section as subsection (1), and

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

“(2) Subject to subsection (3), a responsible person who contravenes section 12(4) shall be guilty of an offence and shall be liable on summary conviction to a class A fine. 5

(3) In proceedings for an offence under subsection (2), it shall be a defence for a person against whom such proceedings are brought to show that, having exercised all reasonable professional care and skill, he or she had reasonable grounds for believing that the employer had complied with the obligations imposed on an employer under section 12.”. 10

Amendment of section 14 of Act of 1977

11. Section 14 of the Act of 1977 is amended—

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(a) by the substitution of the following subsection for subsection (1):

“(1) An employer or a responsible person shall not effect collective redundancies before the expiry of the period of 30 days beginning on the date of the relevant notification under section 12.”,

and

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(b) by the deletion of subsection (3).

Amendment of section 20 of Act of 1977

12. Section 20 of the Act of 1977 is amended by the substitution of “shall be sent by electronic means or by registered post” for “shall be sent by registered post”.

PART 3

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ESTABLISHMENT OF EMPLOYMENT LAW REVIEW GROUP

Establishment of Employment Law Review Group

13. There is hereby established a group to be known as the Employment Law Review Group, referred to in this Part as the “Review Group”.

Functions of Review Group

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14. (1) The Review Group shall monitor, review and advise the Minister in accordance with the programme of work determined by the Minister under *section 16(1)* on matters concerning—

(a) the implementation, amendment and consolidation of employment enactments,

- (b) legislative proposals and the introduction of new legislation relating to the employment of persons and redundancy practices in the State,
 - (c) the Rules of the Superior Courts and judgments of courts which relate to the operation of employment enactments,
 - (d) the State’s membership of the European Union in so far as it is relevant to the operation of employment enactments, 5
 - (e) international developments in employment and redundancy law in so far as they represent best practice and may provide a model for developments in the State,
 - (f) emerging trends in the workplace or changes to the way employment and redundancy matters operate, and 10
 - (g) other related matters.
- (2) In advising the Minister, the Review Group shall promote the modernisation and efficacy of legislation relating to the employment of persons and redundancy practices.
- (3) In this section, “employment enactment” has the same meaning as it has in section 2 of the Workplace Relations Act 2015. 15

Membership of Review Group

15. (1) The Review Group shall consist of such and so many persons as the Minister from time to time appoints to be members of the group.
- (2) The Minister shall appoint a member of the Review Group to be its chairperson. 20
- (3) A member of the Review Group may at any time resign his or her membership by letter addressed to the Minister.
- (4) The Minister may at any time, for stated reasons, terminate a person’s membership of the Review Group.
- (5) Members of the Review Group shall be paid such remuneration and allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determines. 25

Work programme and Review Group meetings

16. (1) The Minister shall, at least once in every 2 years, after consultation with the Review Group, determine the work programme to be undertaken by the Review Group over the ensuing period which shall be specified by the Minister. 30
- (2) Notwithstanding *subsection (1)*, the Minister may, from time to time, amend the Review Group’s work programme, including the period to which it relates.
- (3) The Review Group shall hold such and so many meetings as may be necessary for the performance of its functions and the achievement of its work programme and may make such arrangements for the procedure of those meetings (including by the establishment of sub-committees and the fixing of a quorum) as it considers appropriate. 35

- (4) The members of the Review Group shall elect one of themselves as chairperson for any meeting from which the chairperson of the Review Group is absent.
- (5) A member of the Review Group, other than the chairperson, who is not able to attend a meeting of the Review Group, may nominate a deputy to attend the meeting in his or her place.

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Annual report and provision of information to Minister

- 17. (1) Not later than 3 months after the end of each calendar year, the Review Group shall make a report to the Minister on its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas within 2 months from the date of receipt of the report.
- (2) A report under *subsection (1)* shall include information in such form and regarding such matters as the Minister directs.
- (3) The Review Group shall, if so requested by the Minister, provide a report to the Minister on any matter—
 - (a) concerning the functions or activities of the Review Group, or
 - (b) referred by the Minister to the Review Group for its advice.

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Expenses (Part 3)

- 18. The expenses incurred by the Minister in the administration of this Part shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas.

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PART 4

AMENDMENTS TO COMPANIES ACT 2014

Definition (Part 4)

- 19. In this Part, “Act of 2014” means the Companies Act 2014.

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Amendment of section 571 of Act of 2014

- 20. Section 571 of the Act of 2014 is amended—

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

“(1A) Where a winding up petition is presented by the company under subsection (1), the directors of the company concerned shall notify each relevant person of the petition at the time that petition is presented or as soon as reasonably practicable after such presentation.”,

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and

(b) by the insertion of the following subsection after subsection (5):

“(6) In this section, ‘relevant person’ means, in relation to a company—

(a) an employee of the company, and

(b) where applicable, an employees’ representative.”.

Amendment of section 572 of Act of 2014

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21. Section 572 of the Act of 2014 is amended by the insertion of the following subsection after subsection (2):

“(2A) In deciding whether it is just and equitable to make an order under this section the court shall have regard to whether the requirements of section 571(1A) have been met.”.

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Amendment of section 573 of Act of 2014

22. Section 573 of the Act of 2014 is amended—

(a) by the designation of the section as subsection (1), and

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

“(2) Where a provisional liquidator is appointed under subsection (1), the court shall direct that, as soon as reasonably practicable and in any case within such period as may be specified by the court, the provisional liquidator shall inform each relevant person—

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(a) of his or her appointment as provisional liquidator and the date of his or her appointment,

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(b) of the process under this Part in so far as it relates to the employees,

(c) that a relevant person may provide the provisional liquidator with information about matters they consider to be relevant, and

(d) of any other matter the provisional liquidator considers relevant.

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(3) In this section, ‘relevant person’ means, in relation to a company—

(a) an employee of the company, and

(b) where applicable, an employees’ representative.”.

Amendment of section 594 of Act of 2014

23. Section 594 of the Act of 2014 is amended—

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(a) by the insertion of the following subsections after subsection (2):

“(2A) Notwithstanding the generality of subsection (9), where a copy of the statement is served on the liquidator (or the provisional liquidator, as the case may be) of the company in accordance with subsection (2), the liquidator (or the provisional liquidator, as the case may be) shall not later than the expiry of 7 days after the date the copy is served on

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the liquidator (or the provisional liquidator, as the case may be), notify each relevant person that he or she has been served with a copy of the statement.

(2B) Notice under subsection (2A) shall be given—

(a) where the liquidator (or the provisional liquidator, as the case may be) is aware of a relevant person’s email address, by electronic means to that email address, or 5

(b) where the liquidator (or the provisional liquidator, as the case may be)—

(i) gives notice by electronic means to an email address and receives in response a failed delivery notification, or 10

(ii) is not aware of a relevant person’s email address,

by ordinary post where the liquidator (or the provisional liquidator, as the case may be) is aware of the relevant person’s postal address.

(2C) A relevant person may request the liquidator (or the provisional liquidator, as the case may be) in writing to deliver a copy of the statement by electronic means to him or her, and the liquidator (or the provisional liquidator, as the case may be) shall comply with any such request not later than the expiry of 7 days after the date of such request.”, 15 20

and

(b) by the insertion of the following subsection after subsection (10):

“(11) In this section, ‘relevant person’ means, in relation to a company—

(a) an employee of the company, and

(b) where applicable, an employees’ representative.”. 25

Amendment of section 599 of Act of 2014

24. Section 599 of the Act of 2014 is amended—

(a) in subsection (4)—

(i) in paragraph (c), by the substitution of “company concerned;” for “company concerned.”, and 30

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

“(d) the extent to which the circumstances that gave rise to the winding up of the company are attributable to the acts or omissions of the related company;

(e) such other matters as the court considers appropriate.”, 35

and

(b) by the deletion of subsection (5).

Amendment of section 604 of Act of 2014

25. Section 604 of the Act of 2014 is amended—

- (a) in subsection (2)(a), by the insertion of “(or such longer period as the court considers just and equitable having regard to the circumstances of the act concerned)” after “6 months”, and 5
- (b) in subsection (4), by the insertion of “(or such longer period as the court considers just and equitable having regard to the circumstances of the act concerned)” after “2 years”.

Amendment of section 608 of Act of 2014

26. Section 608 of the Act of 2014 is amended, in subsection (3), by the substitution of “payment made in the ordinary course of business” for “payment”. 10

Amendment of section 610 of Act of 2014

27. Section 610 of the Act of 2014 is amended—

- (a) in subsection (1)(a) by the deletion of “knowingly”,
- (b) in subsection (3)— 15
 - (i) by the substitution of “may be found to have been a party” for “shall be deemed to have been knowingly a party”, and
 - (ii) in paragraph (a) by the substitution of “would be likely to cause loss” for “would cause loss”,
- and 20
- (c) by the substitution of the following subsection for subsection (8):
 - “(8) (a) Where it appears to the court that any person in respect of whom a declaration has been sought on the grounds set out in subsection (1) (a) took, from the relevant time, such steps as were reasonably practicable with a view to minimising such loss as he or she ought 25 to have taken, the court may, having regard to all the circumstances of the case, relieve him or her either wholly or in part, from personal liability on such terms as it may think fit.
 - (b) In this subsection, ‘relevant time’ means, in relation to a person referred to in paragraph (a), the time from which he or she knew or 30 ought to have known that his or her actions or those of the company would be likely to cause loss to the creditors of the company.”.

An Bille Fostaíochta (Comhiomarcaíochtaí agus Forálacha Ilghnéitheacha) agus Cuideachtaí (Leasú), 2023

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú forálacha áirithe den Acht um Chaomhnú Fostaíochta, 1977; do dhéanamh socrú maidir le grúpa athbhreithnithe dlí fostaíochta a bhunú chun faireachán agus athbhreithniú a dhéanamh ar nithe a bhaineann leis an dlí fostaíochta agus comhairle a thabhairt don Aire ina dtaobh; do leasú forálacha áirithe d'Acht na gCuideachtaí, 2014; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Fiontar, Trádála agus Fostaíochta a thíolaic,

27 Deireadh Fómhair, 2023

Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Bill 2023

BILL

(as initiated)

entitled

An Act to amend certain provisions of the Protection of Employment Act 1977; to provide for the establishment of an employment law review group to monitor, review and advise the Minister on matters relating to employment law; to amend certain provisions of the Companies Act 2014; and to provide for related matters.

Presented by the Minister for Enterprise, Trade and Employment,

27th October, 2023

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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