

Worker Participation (State Enterprises) Act, 1988



Number 13 of 1988

WORKER PARTICIPATION (STATE ENTERPRISES) ACT, 1988

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Acts Referred to

| | |
|---|--------------|
| <u>Air Companies Act, 1966</u> | 1966, No. 4 |
| <u>British & Irish Steam Packet Company Limited (Acquisition) Act, 1965</u> | 1965, No. 5 |
| <u>Electricity (Supply) Act, 1927</u> | 1927, No. 27 |
| <u>Postal and Telecommunications Services Act, 1983</u> | 1983, No. 24 |
| <u>Sugar Manufacture Act, 1933</u> | 1933, No. 31 |
| <u>Transport Act, 1950</u> | 1950, No. 12 |
| <u>Turf Development Act, 1946</u> | 1946, No. 10 |
| <u>Worker Participation (State Enterprises) Act, 1977</u> | 1977, No. 6 |

Worker Participation (State Enterprises) Acts, 1977 and 1988



WORKER PARTICIPATION (STATE ENTERPRISES) ACT, 1988

AN ACT TO AMEND AND EXTEND THE WORKER PARTICIPATION (STATE ENTERPRISES) ACT, 1977 . [12th June, 1988]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation. 1.—(1) In this Act—

“*agreement*” has the meaning specified in [section 6](#) of this Act;

“*appropriate day*” means a day appointed by an appropriate officer for the purposes of [section 4](#) of this Act;

“*appropriate officer*” has the meaning assigned to it by [section 2](#) of this Act;

“*enactment*” includes a statutory instrument;

“*the Principal Act*” means the Worker Participation (State Enterprises) Act, 1977 ;

“*representatives of employees*” has the meaning specified in [section 6](#) of this Act;

“*specified body*” means a body specified in the *First Schedule* (as amended by this Act) to the Principal Act.

(2) (a) In [sections 3](#) (b) and [4](#) (1) of this Act, references to “*employees of the body*” shall, in case the specified body is Aer Lingus, be construed as a reference to “*the employees of Aer Lingus and Aerlinte*”.

(b) In [section 6](#) of this Act, references to “*the specified body*” shall, in case the specified body is Aer Lingus, be construed as a reference to “*Aer Lingus and Aerlinte*” and references in that section to “*representatives of the specified body*”, to “*representatives of the employees of the specified body*” and to “*employees of the specified body*” shall be construed accordingly.

Appropriate officer.

2.—(1) As regards a specified body, the appropriate officer for the purposes of [sections 3](#) , [4](#) and [5](#) of this Act shall be—

(a) in case the specified body is a designated body, the returning officer within the meaning of section 7 of the Principal Act, or

(b) in any other case—

(i) the secretary of the body, or in case there is no such secretary, the officer of the body who performs the functions of secretary of the body, or

(ii) in lieu of such secretary or officer, any other person who, in the opinion of such secretary or officer, is both competent to perform the functions of appropriate officer and acceptable to—

(I) a trade union or other body of persons which the secretary or officer is satisfied is both recognised by the specified body for the purposes of collective bargaining negotiations and representative of a majority of the employees of the body, or

(II) two or more trade unions or other bodies of persons which the secretary or officer is satisfied between them collectively represent a majority of such employees and as regards each of which the secretary or officer is satisfied that the body is so recognised.

(2) An appropriate officer may perform any of his functions through or by any other employee of the relevant specified body or through or by any other person who, in either case, is duly authorised by him in writing in that behalf.

Requests to establish consultative arrangements.

3.— Where—

(a) the appropriate officer of a specified body receives from—

(i) a trade union or other body of persons which the appropriate officer is satisfied,

(I) in case the specified body is Aer Lingus, is recognised for the purposes of collective bargaining negotiations either by that company or by Aerlinte and represents a majority of the employees of those companies when the numbers of employees employed by them are added together,

(II) in the case of any other specified body, is both recognised for such purposes by that specified body and represents a majority of the employees of that body, or

(ii) each of two or more trade unions or other bodies of persons which the appropriate officer is satisfied between them collectively represent a majority of such employees and as regards each of which the appropriate officer is satisfied that the body is so recognised,

an application in writing to establish and thenceforth maintain arrangements pursuant to [section 6](#) of this Act, or

(b) such appropriate officer receives an application in writing which he is satisfied is signed by a majority of the persons who, on the date of the application, were employees of the body, requiring the body to establish and maintain such arrangements,

the specified body shall, as soon as may be, make arrangements pursuant to [section 6](#) of this Act.

Polls as regards consultative arrangements referred to in

4.—(1) Where—

[section 6](#) .

(a) the appropriate officer of a specified body receives an application in writing requesting the body to establish and thenceforth maintain arrangements referred to in [section 6](#) of this Act, and

(b) such officer is satisfied that such application is signed by at least fifteen per cent. of the persons who, on the date of the application, were employees of the body,

he shall arrange for the taking of a poll under this section for the purpose of ascertaining whether or not a majority of the employees of the body is in favour of the establishment and maintenance by the body of such arrangements, and in particular—

(c) appoint, in accordance with *subsection (2)* of this section, either a day on which, or a period of not more than thirty days during which, the poll shall be taken,

(d) appoint a day, which shall be a day within the period of seven days beginning on the day on which the application was received by such officer, to be the appropriate day for the purposes of this section,

and every person who is, on the appropriate day, an employee of the body concerned shall be entitled to vote at the poll.

(2) The day, or the first day of a period of days, appointed under *subsection (1) (c)* of this section shall be a day within the period of ninety days after the receipt by an appropriate officer of the application referred to in *subsection (1)* of this section.

(3) Where, pursuant to this section, an appropriate officer has appointed, as the case may be, either a day or period of days on or during which a poll shall be taken, he shall, as soon as practicable after the appointment, give, in such manner as he considers appropriate, notice of—

(a) the day or, as the case may be, the period, when, or during which, the poll will be held,

(b) the place or places at which, the day on which, and the hours during which, votes other than postal votes may be cast, and

(c) in case a polling period is fixed, the place at which, and the period during which, and the hour before the expiration of which, postal ballot papers are to be received by or on behalf of the appropriate officer.

(4) The ballot paper to be used at a poll under this section shall contain a question requiring the voter to indicate whether he accepts or rejects a proposal for the establishing of arrangements pursuant to [section 6](#) of the *Worker Participation (State Enterprises) Act, 1988*, and any such question shall be clear and unambiguous.

(5) The following provisions shall apply in relation to a poll under this section:

(a) the votes at the poll shall be given by secret ballot and the ballot of each voter shall consist of a paper (in this section referred to as a “*ballot paper*”);

- (b) each voter shall cast his vote by answering “YES” or “NO” to the question on the ballot paper;
- (c) in case a particular day is fixed pursuant to *subsection (1) (c)* of this section as regards the poll, the poll shall be taken on that day and postal voting shall not be used;
- (d) in case a period of days is so fixed pursuant to that subsection, the poll shall be taken during that period but votes, other than postal votes, may only be cast during the hours so specified on a particular day appointed for the purposes of this paragraph by the appropriate officer at the time he fixes the period during which the poll will be held;
- (e) any ballot paper on which—
- (i) no vote is placed at all, or
 - (ii) the vote is not so placed as to indicate that the voter accepts or rejects the proposal to which the ballot paper relates, or
 - (iii) votes indicating that the voter both accepts and rejects the proposal to which the ballot paper relates, or
 - (iv) anything is written or marked on the ballot paper by the voter by which he can be recognised,
- shall be invalid and shall not be counted.

(6) If, at an election, the appropriate officer is satisfied that, due to interruption or any other circumstance outside his control, the taking of a poll cannot be proceeded with or completed, he shall adjourn, and if necessary further adjourn, the poll for such period as he considers appropriate to enable him, on its expiration, to proceed with or complete, as may be appropriate, the poll.

(7) As soon as may be after the taking of a poll under this section, the appropriate officer shall count the votes recorded on the ballot papers and shall ascertain the number of votes thereby given accepting, and the number of votes thereby given rejecting, the proposal to which the ballot paper relates.

(8) In case the majority of votes is in favour of accepting the proposal to which the ballot paper relates, the specified body concerned shall, as soon as may be, make arrangements pursuant to [section 6](#) of this Act.

(9) Where a poll is held under this section and fifty per cent. or less of the votes are in favour of accepting the proposal to which the poll relates, no poll shall be held under this section in relation to the specified body concerned until the expiration of the period of four years beginning on the day on which the result of the poll has been ascertained pursuant to *subsection (7)* of this section.

(10) A poll shall not be held under this section in relation to a specified body at any time while arrangements made pursuant to [section 6](#) of this Act are in force.

Certain decisions to be final, etc. **5.—**Where a dispute arises concerning a decision by an appropriate officer of a specified body as to whether or not—

- (a) a trade union or other body of persons or a person, is, on the date of its receipt, entitled to make or sign an application under [section 3](#) of this Act, or
- (b) a person is, on the date of its receipt, entitled to sign an application referred to in [section 4](#) of this Act, or
- (c) a person is entitled to vote at a particular poll held under [section 4](#) of this Act, or
- (d) the question on the ballot paper is clear and unambiguous,

the decision of the appropriate officer on such dispute shall be final and shall not be appealable.

Provisions regarding arrangements referred to in [section 3](#) or [4](#).

6.—(1) Subject to *subsection (3)* of this section, the arrangements referred to in [section 3](#) or [4](#) of this Act shall be such as may be agreed on between representatives of the specified body concerned and representatives of employees of such body and the terms of any such agreement (in this Act referred to as “*the agreement*”) shall be contained in a document which shall be signed by each of the parties to the agreement.

(2) Notwithstanding *subsection (1)* of this section, the arrangements referred to in [section 3](#) or [4](#) of this Act shall be such as to provide for—

- (a) the exchange of views and clear and reliable information on a regular basis between the specified body and such persons as the agreement may provide concerning such affairs of the specified body as may be provided in the agreement;
- (b) the giving by the specified body of relevant information in good time to such persons as the agreement may provide concerning such decisions of the specified body as may be so provided and which are liable to have a significant effect on the interests of employees of the specified body; and
- (c) the dissemination of the information and views referred to in *paragraphs (a)* and *(b)* of this subsection to the employees of the specified body, except in the circumstances, if any, provided for in the agreement,

and the arrangements shall contain such other provisions as may be agreed by the parties thereto.

(3) An agreement shall include provisions—

- (a) providing for the review at such intervals or in such circumstances as shall be specified therein of the arrangements which are the subject of the agreement,
- (b) providing that such arrangements shall be terminated in circumstances so specified.

(4) An agreement may be amended or replaced by a further agreement between representatives of the specified body concerned and representatives of employees of such body: Provided that the terms of any such further agreement shall be contained in a document signed by the parties to the further agreement and provided also that the further agreement makes provision for the matters specified in *subsections (2)* and *(3)* of this section.

(5) In this Act “*representatives of employees*” means such persons as may be nominated by a trade

union or other body of persons which the appropriate officer is satisfied is recognised for the purposes of collective bargaining negotiations by the specified body concerned.

Annual report of specified body.

7.—(1) The annual report of a specified body shall contain a statement describing—

- (a) the action, if any, that has been taken during the year to which the report relates to introduce, maintain or develop arrangements in accordance with [section 6](#) of this Act, or any similar arrangements, and
- (b) the agreement relating to such arrangements, where such an agreement has come into effect for the first time, or has been materially altered, during that year.

(2) This section shall come into operation on the 1st day of January, 1989.

Expenses of specified body in relation to arrangements under [section 6](#).

8.—All expenses incurred by a specified body in relation to the establishing and maintaining of arrangements pursuant to [section 6](#) of this Act shall be borne by the specified body concerned.

Power to extend Worker Participation (State Enterprises) Acts, 1977 and 1988 to certain subsidiaries.

9.—(1) In this section “*a subsidiary to which this section applies*” means—

- (a) in relation to a designated body in *Part I* of the *First Schedule* (as amended by this Act) to the Principal Act, a company which would be a subsidiary of that body within the meaning of the Act of 1963, if the body were a company within the meaning of that Act, and
- (b) any company in relation to which by virtue of section 155 (4) of the Act of 1963, a designated body in *Part II* of the *First Schedule* (as amended by this Act) to the Principal Act is to be deemed to be, for the purposes of the Act of 1963, that company's holding company.

(2) Subject to *subsection (3)* of this section, the Minister may as regards a particular subsidiary to which this section applies, by order provide that any employee of the subsidiary shall, for the purpose of the *Worker Participation (State Enterprises) Acts, 1977 and 1988*, be regarded as an employee of the designated body (which shall be named in the order).

(3) An order under *subsection (2)* of this section shall not be made by the Minister unless—

- (a) a request in writing has been made to the appropriate Minister jointly by the designated body concerned and by representatives of employees of such body, and a copy of such request has been sent by the designated body concerned to the Minister, and
- (b) the Minister has consulted with the Minister for Finance and the appropriate Minister.

(4) (a) Where an order under this section is for the time being in force—

(i) the *Worker Participation (State Enterprises) Acts, 1977 and 1988* (other than [sections 2](#) to [8](#) of this Act) shall be construed and have effect in accordance with the order,

(ii) without prejudice to the generality of *subparagraph (i)* of this paragraph, the reference to the designated body in section 11 (6) of the Principal Act shall be construed as including a reference to the subsidiary specified in the order.

(b) Where a designated body is specified in an order under *subsection (2)* of this section, then for so long as the order remains in force—

(i) in case the designated body is Aer Lingus, section 13 (1) (a) (i) of the Principal Act shall be construed and have effect as if after “*that company*” there were inserted a reference to the subsidiary so specified or, in case for the time being more than one such subsidiary stands so specified, a reference to either, or, as may be appropriate, any of those subsidiaries,

(ii) in any other case, section 13 (1) of the Principal Act shall not apply as regards the case and in lieu thereof the following provisions shall apply, namely, if at an election relating to such designated body the returning officer receives during the period of seven days beginning on the stated day from—

(I) a trade union or other body of persons which the returning officer is satisfied is both recognised for the purposes of collective bargaining negotiations either by such designated body or the subsidiary so specified, or, either or any as may be appropriate, of the subsidiaries so specified, and represents not less than fifteen per cent. of the employees of such designated body and subsidiary or subsidiaries, being employees entitled to vote at the election, when the numbers of employees employed by them and being so entitled are each added together, or

(II) each of two or more trade unions or other bodies of persons which the returning officer is satisfied between them collectively represent not less than fifteen per cent. of such employees and as regards each of which the returning officer is satisfied that the body is so recognised,

an application in writing requesting him not to proceed with the election, for the purposes of ascertaining whether or not a majority of those entitled to vote at the election is in favour of proceeding further with the election he shall arrange forthwith for the taking of a poll (which poll is in this Act referred to as a “*preliminary poll*”) and appoint either a day, or a period of more than one but not more than thirty days, which shall be the earliest day or period of days, as the case may be, for the taking of the preliminary poll.

(5) The Minister may by order amend or revoke an order made under this section (including an order under this subsection).

Election year and nomination day. **10.**—The Principal Act is hereby amended by the substitution for section 6 of the following section:

“6.—(1) As regards a designated body, the election years for the purposes of this Act shall be—

- (a) (i) as regards Siúicre Éireann cuideachta phoiblí theoranta, An Post and Bord Telecom Éireann, 1988, and each successive fourth year thereafter,
- (ii) as regards Córas Iompair Éireann, 1989, and each successive fourth year thereafter,
- (iii) as regards the B & I Line public limited company, the Electricity Supply Board, Bord na Móna, Nítrigin Éireann Teoranta and Aer Lingus, 1990, and each successive fourth year thereafter,

and

- (b) as regards a designated body other than a body referred to in *paragraph (a)* of this subsection, the year in which the day appointed by the Minister under [section 3](#) of this Act in relation to the body falls and each successive fourth year thereafter.

(2) During each period of twelve months ending on the 15th day of September in each year which, in relation to a designated body, is an election year, the returning officer shall fix in relation to the body a day to be, for the purposes of this Act, the nomination day in that election year.

- (3) (a) If, during the period of twelve months ending on the 15th day of September in each year which, in relation to a designated body, is an election year, a returning officer has not fixed a nomination day, any employee of the designated body may request the Minister in writing to arrange for the fixing in relation to the body a day to be, for the purposes of this Act, the nomination day in that election year.

(b) The Minister, if he is satisfied that a nomination day has not been fixed, may—

- (i) direct the returning officer, in writing, forthwith to fix a day, being a day not later than three months after the date of the direction, to be, for the purposes of this Act, the nomination day in that election year, and
- (ii) require the returning officer to furnish an explanation in writing as to why he had failed to fix the nomination day.

- (c) If, within fourteen days after the date of the direction of the Minister, the returning officer has not fixed a day to be the nomination day, the Minister may, by regulation, fix in relation to the designated body concerned a day to be, for the purposes of this Act, the nomination day in that election year.”.

Orders under section 23 or 25 of Principal Act: supplementary provisions.

11.—(1) Where the Minister makes an order under section 23 (as amended by this Act) of the Principal Act in respect of a body which, by virtue of an order under [section 24](#) of this Act is a designated body, the order under the said section 23 (as so amended) may provide that, for so long as that order is in force, any enactment specified in the order, being an enactment which relates to the body and which is analagous to the enactments specified in section 23 (4) (as amended by this Act) of the Principal Act, shall be construed and have effect in accordance with the order.

(2) Where the appropriate Minister makes an order under section 25 of the Principal Act in respect

of a body which, by virtue of an order under [section 24](#) of this Act is a designated body, the order under section 25 of the Principal Act, may provide that, for so long as the order is in force, any enactment specified in the order, being an enactment which relates to the body and which is analogous to the enactments specified in section 25 (2) (as amended by this Act) of the Principal Act, shall be construed and have effect in accordance with the order.

Disqualification from being member or director on ceasing to be employee. **12.**—(1) A person, who has been appointed pursuant to section 15 of the Principal Act to be, as the case may be, a member or a director of a designated body, shall cease to be such member or director if, for any reason, he ceases to be an employee of that body.

(2) Whenever a person ceases to be, as the case may be, a member or director of a designated body pursuant to *subsection (1)* of this section, a vacancy amongst the members or directors of the designated body concerned shall be deemed to have occurred on the day following the day on which such person ceases to be an employee of that body and the provisions of the Principal Act relating to casual vacancies shall apply accordingly.

Amendment of section 1 of Principal Act. **13.**—Section 1 of the Principal Act is hereby amended by—

(a) the substitution for the definition of “*Aer Lingus*” contained in that section of the following definition:

“‘*Aer Lingus*’ except in the *First* or *Second Schedule* (inserted by the *Worker Participation (State Enterprises) Act, 1988*) to this Act, means Aer Lingus public limited company;”,

(b) the substitution for the definition of “*Aerlinte*” contained in that section of the following definition:

“‘*Aerlinte*’ means Aerlinte Éireann public limited company;”,

(c) the substitution for the definition of “*designated body*” contained in that section of the following definition:

“‘*designated body*’ means a body to which this Act applies and which is designated in *Part I* or *Part II* of the *First Schedule* (inserted by the *Worker Participation (State Enterprises) Act, 1988*) to this Act;”,

(d) the substitution for the definition of “*employee*” contained in that section of the following definition:

“‘*employee*’ means, in relation to a specified body, a person employed for not less than eighteen hours per week by the body under a contract of service or apprenticeship and for the purposes of [sections 9](#) (4) (w) and [10](#) of this Act, a person employed in such a capacity by Aerlinte under such a contract shall be regarded as being an employee of Aer Lingus;”,

(e) the substitution for the definition of “*nomination day*” contained in that section of the following definition:

“*nomination day*”, subject to [sections 13](#) (6) and [14](#) (3) of this Act, means in relation to an election, the day fixed pursuant to [section 6](#) (inserted by the *Worker Participation (State Enterprises) Act, 1988*) of this Act to be, for the purposes of this Act, a nomination day in an election year;”,

(f) the insertion after the definition of “*nomination day*” (as amended by this section) of the following definition:

“*nomination period*” has the meaning specified in [section 8](#) (as amended by the *Worker Participation (State Enterprises) Act, 1988*) of this Act;”,

and

(g) the substitution for the definition of “*ordinary member*” contained in that section of the following definition:

“*ordinary member*” means a person who is a member of any designated body specified in *Part I* of the *First Schedule* (inserted by the *Worker Participation (State Enterprises) Act, 1988*) to this Act and who is appointed to be such member otherwise than under this Act;”.

Amendment of section 2 of Principal Act. **14.**—Section 2 of the Principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) in relation to the designated bodies,

- (i) with regard to Aer Lingus, Aer Rianta cuideachta phoiblí theoranta, B & I Line public limited company and Córas Iompair Éireann, the Minister for Tourism and Transport;
- (ii) with regard to Bord na Móna and the Electricity Supply Board, the Minister for Energy;
- (iii) with regard to the National Rehabilitation Board, the Minister for Health;
- (iv) with regard to Nítrigin Éireann Teoranta, the Minister for Industry and Commerce;
- (v) with regard to Siúicre Éireann cuideachta phoiblí theoranta, the Minister for Agriculture and Food;
- (vi) with regard to An Post and Bord Telecom Éireann, the Minister for Communications;
- (vii) with regard to a body to which an order made in exercise of the powers conferred on the Minister by [section 24](#) of the *Worker Participation (State Enterprises) Act, 1988*, in the manner specified in *subsection (2) (a) (i)* or *(2) (a) (iii)* of that section, relates, the Minister of the Government specified in that regard in the order, and”.

Amendment of section 5 of Principal Act. **15.**—The Principal Act is hereby amended by the substitution for section 5 of the following section:

“5.—This Act applies to each of the bodies specified in *Part I* and *Part II* of the *First Schedule* (inserted by the *Worker Participation (State Enterprises) Act, 1988*) to this Act.”.

Amendment of section 8 of Principal Act. **16.**—The Principal Act is hereby amended by the substitution for section 8 of the following section:

“8.—(1) The returning officer at an election shall, not later than the day which is seventy days before the nomination day, as regards the election, fix —

(a) for the purposes of [section 10](#) (2) of this Act a day, which is in this Act referred to as the ‘*stated day*’, being a day which is neither earlier than the fifty-sixth nor later than the forty-second day before the day which as regards the election is the nomination day, and

(b) the period or periods during which, on such nomination day, nominations at the election will be received:

Provided that the period, or the aggregate of the periods so fixed, shall not be less than three hours.

(2) Notwithstanding the provisions of *subsection (1)* of this section, the returning officer at an election may, if he considers it necessary or desirable so to do, in lieu of fixing a period or periods during which, on the nomination day, nominations will be received, declare that nominations will be received during such period (in this Act referred to as the ‘*nomination period*’) of days, being a period of not more than seven days ending on the nomination day, as such returning officer may specify: Provided always that the period of hours, or the aggregate of the period of hours, on each day during the nomination period during which nominations will be received, shall not be less than three hours.”.

Amendment of section 12 of Principal Act. **17.**—Section 12 of the Principal Act is hereby amended by —

(a) the substitution in subsection (1) for “five” of “thirty”, and

(b) the deletion in subsection (4) (b) of “or days”,

and the said subsections, as so amended, are set out in the Table to this section.

TABLE

(1) If at an election immediately after,

(a) in case the returning officer fixes pursuant to [section 8](#) of this Act a period during which nominations will be received, the expiration of the period, or

- (b) in case the returning officer so fixes two or more such periods, the expiration of the later or latest, as may be appropriate, of those periods,

the number of candidates standing duly nominated does not exceed the number which as regards the designated body concerned is appropriate, the returning officer shall forthwith declare each of such candidates, or in case there is only one such candidate that candidate, to be elected for appointment under [section 15](#) of this Act by the Minister of State who in relation to such designated body is the appropriate Minister; but if at that time the number of candidates standing so nominated exceeds such appropriate number the returning officer shall adjourn the election for the taking of a poll pursuant to this Act either on a day, being a day which is not earlier than the seventh day after the nomination day and which is in this Act referred to as the “*polling day*”, fixed by him at the time of the adjournment, or during a period of more than one but not more than thirty days the first of which is so fixed and is not earlier than the said seventh day, which period is in this Act referred to as the “*polling period*”.

- (4) (b) the place or places at which, the day on which and the hours during which votes, other than postal votes, may be cast,

Amendment of section 13 of Principal Act. **18.**—Section 13 of the Principal Act is hereby amended by the substitution in subsection (1) for “five days” of “thirty days”, and the said subsection, as so amended, is set out in the Table to this section.

TABLE

(1) If at an election the returning officer receives during the period of seven days beginning on the stated day from—

(a) a trade union or other body of persons which the returning officer is satisfied,

(i) in case the election relates to Aer Lingus, is both recognised for the purposes of collective bargaining either by that company or by Aerlinte and represents not less than fifteen per cent. of the employees of those companies, being employees entitled to vote at the election, when the numbers of employees employed by them and being so entitled are each added together,

(ii) in case the election relates to any other designated body, is both recognised for such purposes by that designated body and represents not less than fifteen per cent. of the employees of that body who are entitled to vote at the election, or

(b) each of two or more trade unions or other bodies of persons which the returning officer is satisfied between them collectively represent not less than fifteen per cent. of such employees and as regards each of which the returning officer is satisfied that the body is so recognised,

an application in writing requesting him not to proceed with the election, for the purposes of ascertaining whether or not a majority of those entitled to vote at the election is in favour of proceeding further with the election he shall arrange forthwith for the taking of a poll under this section (which poll is in this Act referred to as a “*preliminary poll*”) and appoint either a day, or a period of more than one but not more than thirty days, which shall be the earliest day or period of days, as the case may be, for the taking of the poll.

Amendment of section 15 of Principal Act. **19.**—Section 15 (3) of the Principal Act is hereby amended by the substitution in paragraph (a) for “following designated bodies, namely, Bord na Móna, Córas Iompair Éireann or the Electricity Supply Board” of “designated bodies specified in *Part I* of the *First Schedule* to this Act” and the said paragraph (a), as so amended, is set out in the Table to this section.

TABLE

(a) in case the appointment is made in respect of any of the designated bodies specified in *Part I* of the *First Schedule* to this Act, to membership of the designated body in respect of which it is made, and

Amendment of **20.**—Section 22 of the Principal Act is hereby amended by the substitution for subsection (3) of

section 22 of the following subsection:
Principal Act.

“(3) A person appointed to fill a casual vacancy shall, unless he sooner dies, resigns or becomes disqualified, hold office—

- (a) in case the vacancy occurs by reason of no candidate, or of less candidates than there were places to be filled, having been nominated at the last election relating to the designated body concerned, for the period for which the person would have held office had he been elected at that election, or, in case the vacancy is filled after the commencement of that period, for the remainder of that period, or
- (b) in case a member or director of such designated body occasions the vacancy, for the remainder of the period during which such member or director, had he continued to be such a member or director, would have held office.”.

Amendment of section 23 of Principal Act.

21.—Section 23 of the Principal Act is hereby amended by—

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

“(2) An order under this section shall fix the number (in this Act referred to as the ‘*appropriate number*’) of members or directors, as may be appropriate, of the designated body to which the order relates who may for the time being stand appointed under this Act and the number so appointed shall be—

(a) in case the designated body is a body specified in *Part I* of the *Second Schedule* to this Act—

- (i) if the number specified by the Minister in the order pursuant to subsection (1) of this section is a multiple of three, one third of the number so specified, and
- (ii) if the number so specified is not such a multiple, the number of members or directors, as may be appropriate, which is next above the number which is one third of the number so specified,

or

(b) in case the designated body is a body specified in *Part II* of the *Second Schedule* to this Act, not less than two such members or directors, as may be appropriate, nor more than—

- (i) if the number specified by the Minister in the order pursuant to subsection (1) of this section is a multiple of three, one third of the number so specified, and
- (ii) if the number so specified is not such a multiple, the number of members or directors, as may be appropriate, which is next above the number which is one third of the number so specified.”.

and

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

“(4) The enactments referred to in subsection (3) of this section are—

- (a) [sections 12](#) (1) and [12](#) (3) of the [Air Companies Act, 1966](#) ;
- (b) [section 8](#) (1) of the [British and Irish Steam Packet Company Limited \(Acquisition\) Act, 1965](#) ;
- (c) [section 2](#) (3) of the [Electricity \(Supply\) Act, 1927](#) ;
- (d) paragraph (3) of the Schedule to the [Sugar Manufacture Act, 1933](#) (inserted by section 4 of the Sugar Manufacture (Amendment) Act, 1973);
- (e) [section 6](#) (1) (b) of the [Transport Act, 1950](#) ;
- (f) [section 8](#) (1) of the [Turf Development Act, 1946](#) ;
- (g) [section 16](#) (2) (a) of the [Postal and Telecommunications Services Act, 1983](#) ;
- (h) Article 5 of the National Rehabilitation Board (Establishment) Order, 1967 (S.I. No. 300 of 1967).

(5) In this section ‘*enactment*’ includes a statutory instrument.”.

Amendment of
section 25 of
Principal Act.

22.—Section 25 of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsections:

“(2) The enactments referred to in subsection (1) of this section are—

- (a) [section 8](#) (8) of the [British and Irish Steam Packet Company Limited \(Acquisition\) Act, 1965](#) ;
- (b) [section 6](#) (2) of the [Electricity \(Supply\) Act, 1927](#) ;
- (c) [section 9](#) (3) of the [Transport Act, 1950](#) ;
- (d) section 14 (3) of the Turf (Development) Act, 1946;
- (e) Article 9 of the National Rehabilitation Board (Establishment) Order, 1967.

(3) In this section ‘*enactment*’ includes a statutory instrument.”.

Amendment of
section 26 of
Principal Act.

23.—Section 26 of the Principal Act is hereby amended by the substitution for “designated body” of “specified body”, and the said section, as so amended, is set out in the Table to this section.

26.—Each specified body which is a company shall take such steps as may be necessary under the Act of 1963 to alter its memorandum and articles of association to make them consistent with this Act or any order under [section 23](#) or [25](#) of this Act which applies to the body.

Amendment of Schedule to Principal Act. **24.**—(1) The Principal Act is hereby amended by the substitution for the Schedule thereto of the following Schedules:

“FIRST SCHEDULE

Specified Bodies

Part I

Bord na Móna

Córas Iompair Éireann

Electricity Supply Board

National Rehabilitation Board

Part II

Aer Lingus public limited company

Aer Rianta cuideachta phoiblí theoranta

An Post

B & I Line public limited company

Bord Telecom Éireann

Siúicre Éireann cuideachta phoiblí theoranta

Nítrigin Éireann Teoranta.

Part III

An Chomhairle Oiliúna Talmhaíochta

An Foras Talúntais

An Foras Áiseanna Saothair

Blood Transfusion Services Board

Board for the Employment of the Blind

Bord Fáilte Éireann

Bord Gáis Éireann

Bord Iascaigh Mhara

Bus Éireann

Bus Átha Cliath

Central Fisheries Board

CERT Limited

Córas Tráchtála

Dublin District Milk Board

Eolas—The Irish Science and Technology Agency

General Medical Services (Payments) Board

Great Southern Hotels Limited

Hospitals Joint Services Board

Iarnród Éireann

Industrial Development Authority

Irish National Stud Company Limited

Irish Steel Limited

Kilkenny Design Workshops Limited

Racing Board

Radio Telefís Éireann

Shannon Free Airport Development Company Limited

Údarás na Gaeltachta

Voluntary Health Insurance Board

Worker Directors or Members (Appropriate numbers)

Part I

Bodies to which section 23 (2) (a) applies:

Aer Lingus public limited company

Aer Rianta cuideachta phoiblí teoranta

An Post

B & I Line public limited company

Bord na Móna

Bord Telecom Éireann

Córas Iompair Éireann

Electricity Supply Board

Siúicre Éireann cuideachta phoiblí teoranta

Nítrigin Éireann Teoranta.

Part II

Bodies to which section 23 (2) (b) applies:

National Rehabilitation Board.”.

(2) Subject to *subsection (3)* of this section, the Minister may by order amend—

(a) the *First Schedule* (as amended by *subsection (1)* of this section) to the Principal Act by—

- (i) adding or deleting one or more bodies to or from, as the case may be, the list of bodies contained in *Part I* or *Part II* thereof, or
- (ii) adding or deleting one or more bodies to or from, as the case may be, the list of bodies contained in *Part III* thereof, or
- (iii) deleting one or more bodies from the list of bodies contained in the said *Part III* and adding it, or, as may be appropriate, any or all of them to the list of bodies contained in the said *Part I* or the list of bodies contained in the said *Part II*, as may be appropriate,

(b) the *Second Schedule* (inserted by *subsection (1)* of this section) to the Principal Act by adding or deleting one or more bodies to or from, as the case may be, the list of bodies contained

in *Part I* or *Part II* thereof,

and in case an order under this section is for the time being in force, the Principal Act and this Act shall be construed and have effect in accordance with the terms of the order.

(3) (a) Where an order under *subsection (2)* of this section is proposed to be made, the Minister shall, before making the order, consult the Minister for Finance and any other Minister of the Government to whom are assigned functions regarding the body.

(b) The Minister shall not by the same order exercise the powers conferred on him by this section both in the manner specified in *subsection (2) (a) (ii)* of this section and in any of the following manners, namely, the manner specified in *subsection (2) (a) (i)* of this section, the manner specified in *subsection (2) (a) (iii)* of this section, or the manner specified in the said *subsection (2) (a) (i)* and the manner specified in the said *subsection (2) (a) (iii)*.

(4) Where the Minister makes an order under *subsection (2) (a) (i)* or *(2) (a) (iii)* of this section, the order may provide that for so long as the order is in force any enactment which is an enactment relating to the body named in the order and which is analogous to the provisions of section 20 of the Principal Act shall be construed and have effect in accordance with the said section 20.

Orders under [sections 9](#) and [24 \(2\) \(a\) \(ii\)](#).

25.— Whenever the Minister makes an order in exercise of the powers conferred on him by [section 9](#) or [section 24 \(2\) \(a\) \(ii\)](#) of this Act, section 4 (3) of the Principal Act shall apply to such an order as it applies to a regulation made under the Principal Act and accordingly—

(a) each of the references in the said subsection (3) to a regulation shall be construed as including a reference to an order under [section 9](#) or [section 24 \(2\) \(a\) \(ii\)](#), as the case may be, of this Act, and

(b) section 4 (4) of the Principal Act shall not be construed as applying to any such order.

Repeals.

26.— [Sections 34](#) and [35](#) of, and Part I of the First Schedule to, the [Postal and Telecommunications Services Act, 1983](#), are hereby repealed.

Short title, construction and collective citation.

27.—(1) This Act may be cited as the Worker Participation (State Enterprises) Act, 1988.

(2) The [Worker Participation \(State Enterprises\) Act, 1977](#), and this Act shall be construed together and may be cited together as the Worker Participation (State Enterprises) Acts, 1977 and 1988.

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