

# **Trade Union and Labour Relations (Amendment) Bill**

[AS INTRODUCED]

## LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Mr Gerry Carroll, had made the following statement under Standing Order 30:

*“In my view the Trade Union and Labour Relations (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”*



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## **BILL**

TO

Amend the law relating to trade union and labour relations; and for connected purposes.

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Industrial action etc.**

1. Article 102 of the 1995 Order (Secondary action) is repealed.

### **Notice of ballot for employers**

2. For Article 105 of the 1995 Order (Notice of ballot and sample voting paper for employers), substitute the following—

#### **“Notice of ballot for employers**

105.—(1) The trade union must take such steps as are reasonably necessary to ensure that not later than the second day before the opening of the ballot, the notice specified in paragraph (2), is received by every person who it is reasonable for the union to believe (at the latest time when steps could be taken to comply with this paragraph) will be the employer of persons who will be entitled to vote in the ballot.

(2) The notice referred to in paragraph (1) is a notice in writing—

- (a) stating that the union intends to hold the ballot,
  - 15 (b) specifying the date which the union reasonably believes will be the opening day of the ballot, and
  - (c) describing (so that he can readily ascertain them) the employees of the employer who it is reasonable for the union to believe (at the time when the steps to comply with that paragraph are taken) will be entitled to vote in the ballot.
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(3) In this Article references to the opening day of the ballot are references to the first day when a voting paper is provided to any person entitled to vote in the ballot.”.

**Conduct of ballot**

5     **3.**—(1) Article 111 of the 1995 Order (Conduct of ballot) is amended as follows.

(2) For paragraph (2) substitute—

“**(2)** So far as reasonably practicable, every person who is entitled to vote in the ballot must—

10         (a) be provided with a voting paper by one of the means set out in paragraph (2A); and

       (b) be given a convenient opportunity to vote by one of the means set out in paragraph (2B).”.

(3) After paragraph (2) insert—

15         “**(2A)** A voting paper may be provided to a person entitled to vote by any of the following means—

       (a) by post at his home address or any other address which he has requested the trade union in writing to treat as his postal address; or

       (b) at his workplace;

20         but where, for the purpose of personal safety, a member of a trade union requests the union in writing to send a voting paper to him by some means other than by post then, in relation to that member, sub-paragraph (a) shall have effect with the substitution for the reference to post of a reference to that other means.

25         **(2B)** A person entitled to vote may do so by any of the following means—

       (a) by post; or

       (b) at his workplace.”.

(4) At the end of sub-paragraph (6)(a), delete “and”.

30     (5) At the end of sub-paragraph (6)(b), insert “and”.

(6) Insert new sub-paragraph (6)(c)—

       “(c) no person may vote more than once in any ballot.”.

(7) After Article 111, insert—

**“Electronic voting**

35         **111A.**—(1) Subject to paragraph (2), a vote shall not be valid unless it is made in accordance with articles 110 and 111.

       (2) A vote shall be valid if it is cast electronically on a website voting facility using the form or method approved by the independent scrutineer.

40         (3) In approving the form or method to be used for casting an electronic vote on a website voting facility under paragraph (2) of this Article, the independent scrutineer must satisfy himself that a person voting

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electronically will be provided with the questions and information set out in paragraphs (2) to (5) of Article 110, so far as appropriate.

(4) The scrutineer may require such evidence as he thinks fit to satisfy himself that a vote cast electronically on a website voting facility is valid.”.

**Participation in official industrial action**

4.—(1) Article 144A of the 1996 Order (Participation in official industrial action) is amended as follows.

(2) For paragraph (2) substitute—

“(2) An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee took protected industrial action.”.

(3) Omit paragraphs (3) to (7D) and (10).

**Collective bargaining: recognition**

5.—(1) Schedule 1A to the 1995 Order (Collective bargaining: recognition) is amended as follows.

(2) In paragraphs 7(1)(a) and 7(1)(b), for “21” substitute “5”.

(3) In paragraphs 3(2), 35(2)(b), 44(2)(b), 54(3) and 94(6)(b) for “hours and holidays” substitute “terms and conditions of employment”.

**Consequential amendments**

6.—(1) In Article 106(1) of the 1995 Order, before sub-paragraph (a) insert—

“(aa) approving arrangements for electronic voting, if electronic voting is to be used in the ballot (see Article 111A);”.

(2) In Article 109(4) of the 1995 Order, for “In this Article and Article 109A” substitute “In this Article, Article 109A and Article 111”.

(3) Article 110 of the 1995 Order (Voting) is amended as follows.

(4) In paragraph (1), at the beginning, for “The” substitute “Subject to Article 111A, the”.

(5) In paragraph (5), at the end of the statement in quotation marks, delete “if it takes place fewer than 12 weeks after you started taking part in the action, and depending on the circumstances may be unfair if it takes place later”.

(6) In Article 114(1)(b) of the 1995 Order, after “voting papers used in the ballot”, insert “any website voting facility used for the ballot”.

(7) In Article 115 of the 1995 Order, for “Article 106 to 111” substitute “Article 106 to 111A”.

(8) In Article 115B of the 1995 Order, for “and Article 111(4)” substitute “, Article 111(4) and Article 111A(2)”.

(9) Article 127 of the 1995 Order (Meaning of “trade dispute” in Part VIII) is amended as follows.

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(10) In paragraph (1), for “their employer” substitute “employers”.

(11) In paragraph (5), substitute the following definition—

““worker”, in relation to a dispute with an employer, includes any worker or former worker even if not employed by that employer.”.

5 (12) In Article 137(7A) of the 1996 Order omit sub-paragraph (b).

(13) Article 144B (Conciliation and mediation: supplementary provisions) of the 1996 Order is repealed.

**Short title**

10 7. This Act may be cited as the Trade Union and Labour Relations (Amendment) Act (Northern Ireland) 2022.

**Interpretation**

8. In this Act—

“the 1995 Order” means the Trade Union and Labour Relations (Northern Ireland) Order 1995;

15 “the 1996 Order means the Employment Rights (Northern Ireland) Order 1996.





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[AS INTRODUCED]

A Bill to amend the law relating to trade union and labour relations; and for connected purposes.

Introduced by: Mr Gerry Carroll

On: 30 November 2021

Bill Type: Non-Executive Bill

## **ACCOMPANYING DOCUMENTS**

**An Explanatory and Financial Memorandum is printed separately as  
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