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WORKER PARTICIPATION (STATE ENTERPRISES) ACT, 1977

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| <u>Transport Act, 1950</u> | 1950, No. 12 |
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Number 6 of 1977

WORKER PARTICIPATION (STATE ENTERPRISES) ACT, 1977

AN ACT TO ENABLE THE EMPLOYEES OF CERTAIN STATE ENTERPRISES TO PARTICIPATE IN THE MAKING OF DECISIONS BY THE ENTERPRISE, FOR THOSE PURPOSES TO PROVIDE FOR THE APPOINTMENT OF EMPLOYEES OF SUCH ENTERPRISES AS MEMBERS OR DIRECTORS THEREOF, TO PROVIDE FOR THE ELECTION OF SUCH EMPLOYEES FOR SUCH APPOINTMENT, TO REPEAL CERTAIN ENACTMENTS RELATING TO CERTAIN OF THE SAID ENTERPRISES AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [4th April, 1977]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation. **1.**—In this Act—

“the Act of 1963” means the Companies Act, 1963 ;

“Aer Lingus”, except in the Schedule to this Act, means Aer Lingus Teoranta;

“Aerlinte” means Aerlinte Éireann Teoranta;

“appropriate number” has the meaning assigned to it by section 23 of this Act;

“collective bargaining negotiations” means negotiations between any employer, employers' organisation or other body of persons representative of employers on the one hand and any organisation or other body of persons representative of employees on the other hand, being negotiations which are concerned with the remuneration or other terms or conditions of employment, or the working conditions, of employees;

“company” means a company within the meaning of section 2 of the Act of 1963;

“designated body” means a body to which this Act applies (and which is specified in the Schedule to this Act);

“election” means an election pursuant to this Act;

“election year” means a year which by virtue of section 6 of this Act is an election year;

“elector” means, in relation to an election, a person who is entitled under this Act to vote at the election;

“employee” means, in relation to a designated body, a person employed in a whole-time capacity 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;

“list of electors” has the meaning assigned to it by section 9 (4) (w) of this Act;



“the Minister”, save where the context otherwise requires, means the Minister for Labour;
 “nomination day”, subject to sections 13 (6) and 14 (3) of this Act, means in relation to an election, the day fixed by the Minister pursuant to section 6 (2) of this Act as regards the election;

“ordinary director” means a person who is a director of a company which is a designated body and who is appointed or nominated to be such director otherwise than under this Act;

“ordinary member” means a person who is a member of any designated body specified in Part 1 of the Schedule to this Act and who is appointed to be such member otherwise than under this Act;

“polling day” has the meaning assigned to it by section 12 (1) of this Act;

“polling period” has the meaning assigned to it by section 12 (1) of this Act;

“prescribed” means prescribed by regulations made by the Minister under this Act;

“preliminary poll” has the meaning assigned to it by section 13 (1) of this Act;

“returning officer” means, in relation to a designated body, the person who as regards the body is for the time being by virtue of section 7 of this Act the returning officer for the purposes of this Act;

“specified day” has the meaning assigned to it by section 15 (2) of this Act;

“stated day” has the meaning assigned to it by section 8 of this Act;

“trade union” has the same meaning as in the Trade Union Acts, 1871 to 1975.

Appropriate
Minister.

2.—For the purposes of this Act the appropriate Minister shall be—

(a) in relation to the designated bodies,

(i) with regard to Bord na Móna, Córas Iompair Éireann and the Electricity Supply Board, the Taoiseach,

(ii) with regard to Comhlucht Siúicre Éireann Teoranta, the Minister for Finance,

(iii) with regard to Nitrigin Éireann Teoranta, the Minister for Industry and Commerce,

(iv) with regard to Aer Lingus and the British and Irish Steam Packet Company Limited, the Minister for Transport and Power, and

(b) in relation to an election, the Minister of State who, in relation to the designated body to which the election relates, is by virtue of the foregoing the appropriate Minister.

Appointed day.

3.—(1) The Minister may in relation to each designated body by order appoint a day to be the appointed day for the purposes of section 6 of this Act and the same day may be so appointed in relation to all or any two or more of the designated bodies.



(2) Section 4 (2) of this Act shall not apply to an order made by the Minister under this section.

Orders and regulations generally.

4.—(1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed.

(2) Subject to section 3 (2) of this Act, the Minister may by order amend or revoke an order made under this Act (including an order made under this subsection).

(3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(4) Where an order under this Act, other than an order under section 3, is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.

Bodies to which Act applies.

5.—This Act applies to each of the bodies specified in the Schedule to this Act.

Election year and nomination day.

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

(a) the year in which the day appointed by the Minister under section 3 of this Act in relation to the body falls, and

(b) each successive third year thereafter.

(2) Not later than the 15th day of September, the Minister shall in each year which in relation to a designated body is an election year by regulations fix in relation to the body a day to be, for the purposes of this Act, the nomination day in that election year, and in case the same year is as regards any two or more designated bodies an election year, the same day may be prescribed in relation to all or to any two or more of those designated bodies.

Returning officer.

7.—(1) As regards a designated body, the returning officer for the purposes of this Act shall be—

(a) 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

(b) 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 returning 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 designated body for the purposes of collective bargaining 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) A returning officer may perform any of his functions, being functions which are for the time being prescribed, through or by any other employee of the relevant designated body or through or by any other person who, in either case, is duly authorised by him in writing in that behalf.

(3) The returning officer at an election shall not be entitled to be nominated as, or to nominate, a candidate at the election.

Stated day, etc. **8.**—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.

Conduct of elections. **9.**—(1) Subject to the provisions of this Act, elections shall be held in accordance with regulations made by the Minister and regulations under this section may apply—

(a) generally to elections,

(b) to elections which relate to a particular designated body or particular such bodies specified in the regulations, or

(c) to a particular election or to particular elections so specified.

(2) Regulations under this section shall be made by the Minister only after consultation with,

(a) the Minister of State or every Minister of State, as may be appropriate, who as regards a designated body to which the regulations are to apply is the appropriate Minister, and

(b) the designated body or every designated body, as may be appropriate, to which the regulations are to apply.



(3) Where an election is contested, the poll shall be taken by secret ballot and according to the principle of proportional representation.

(4) Regulations under this section may, in particular and without prejudice to the generality of subsection (1) of this section, make provision for all or any of the following matters in relation to elections:

- (a) nominations,
- (b) withdrawal and death of candidates,
- (c) procedure when no candidate stands nominated,
- (d) the determination of the number of candidates which pursuant to section 11 of this Act may be nominated at elections by bodies which are qualified bodies for the purposes of that section,
- (e) the form of the ballot paper to be used,
- (f) the time for and manner of applying for the issue of nomination forms and the time for and manner of issuing such forms,
- (g) the particulars to be contained in ballot papers,
- (h) the manner of completing and subscribing nomination forms and ballot papers,
- (i) the procedure for,
 - (i) ascertaining the bodies entitled in any election year to nominate candidates under section 11 of this Act,
 - (ii) ascertaining the persons entitled to have their names entered on a list of electors, and
 - (iii) establishing the identity of persons proposing persons for nomination as candidates at elections, of persons voting in any preliminary or other poll under this Act and of persons so proposed,
- (j) the taking and receiving of statutory declarations in relation to the identity of—
 - (i) persons voting at the taking of preliminary or other polls under this Act, and
 - (ii) persons so proposed for nomination,
- (k) the period or periods during prescribed hours (which period or the aggregate of such periods shall not be less than twelve hours) during which preliminary or other polls at elections shall be held,
- (l) the time for and the manner of issuing ballot papers, whether by post or otherwise, to persons having votes,
- (m) the manner in which notice of the following is to be given, namely, the time or times and place or places at which—
 - (i) ballot papers will be issued,



- (ii) a poll will be taken,
- (iii) inspections pursuant to section 10 (5) of this Act may be made,
- (n) the persons by whom the nomination forms and ballot papers shall be issued,
- (o) the time for and manner of sending completed nomination forms and ballot papers (other than postal ballot papers) issued at an election to the returning officer,
- (p) the time for and manner of sending postal ballot papers issued at an election to the returning officer or to someone duly authorised to receive them on his behalf,
- (q) the maintenance of secrecy of voting,
- (r) the scrutiny of ballot papers by the returning officer,
- (s) the time within which and the manner in which a person authorised to receive postal ballot papers on behalf of the returning officer is to return the ballot papers to the returning officer,
- (t) the custody of ballot papers and the manner in which, after the election, they are to be disposed of,
- (u) the time for and manner of counting votes,
- (v) the rejection of ballot papers and the disallowance of votes by the returning officer,
- (w) as regards each designated body, the separate preparation and maintenance of a single list of the names of persons entitled to vote at elections relating to the body (which list is in this Act referred to as the "list of electors"), and the manner in which such list is to be available for inspection by employees of the body,
- (x) any other matter relating to the conduct of elections.

Right to vote,
etc.

10.—(1) Where an election is contested, every person whose name is on the relevant list of electors and who is, on the day fixed for the taking of the preliminary or other poll at the election, an employee of the designated body to which the election relates shall be entitled to one vote at the poll, and persons other than the foregoing shall not be entitled to vote at a preliminary or other poll under this Act.

(2) Subject to subsection (3) of this section, every person who on the stated day is an employee of the relevant designated body and who—

- (a) on that day is not less than eighteen years of age, and
- (b) has for a continuous period of not less than one year ending immediately before that day been such an employee,



shall be entitled to have his name entered on the list of electors prepared and maintained by the returning officer and on an application being made in that behalf the returning officer, on being satisfied that the person complies with the requirements of paragraphs (a) and (b) of this subsection, shall enter the name of the person on such list.

(3) Where an election is held, a person shall not be entitled to make an application pursuant to subsection (2) of this section to the returning officer at any time on the day which as regards the election is the nomination day, and in case the election is contested, the person in addition shall be so disentitled during the period beginning on the day following such nomination day and ending on,

(a) in case a preliminary poll is held pursuant to this Act and a majority of the votes at the preliminary poll is against continuing further with the election, the day on which the result of the preliminary poll is ascertained, and

(b) in any other case, the day on which, pursuant to section 12 (5) of this Act, the returning officer informs the appropriate Minister of the names of any candidates elected at the election.

(4) It is hereby declared that nothing in this section shall be construed as preventing a person from voting at an election or from having his name entered on a list of electors prepared and maintained under this Act by reason only of the fact that the person is employed by a designated body on secondment to another body or person.

(5) Any employee of a designated body may in accordance with regulations made by the Minister in that behalf under section 9 of this Act inspect the relevant list of electors.

Nomination and support of candidates.

11.—(1) At any time during the period or periods fixed by the returning officer pursuant to section 8 of this Act for the receiving of nominations at an election, any trade union or other body of persons which in relation to the election is a qualified body for the purposes of this section may, in accordance with subsection (2) of this section, propose for nomination as candidates at the election persons each of whom,

(a) is an employee of the designated body to which the election relates, and

(b) on the day which is as regards the election the stated day, is not less than eighteen or more than sixty-five years of age, and

(c) has on such day for a continuous period of not less than three years ending immediately before that day been an employee of the designated body to which the election relates.



(2) Subject to subsection (1) of this section, at an election a candidate may be proposed for nomination in accordance with regulations under section 9 (4) (d) of this Act by a qualified body or he may be jointly proposed for nomination in accordance with such regulations by two or more qualified bodies; provided that a qualified body shall not be entitled at the election both to nominate one or more candidates of its own accord and to nominate one or more candidates jointly with another qualified body or with other qualified bodies.

(3) A nomination at an election shall be made in writing and be in the prescribed form and be sent to the returning officer in the prescribed manner.

(4) When the period for receiving nominations at an election expires, the returning officer shall, as soon as may be, rule on the validity of each nomination received by him and if, but only if, he is satisfied that the person to whom the nomination relates is not qualified for nomination as a candidate at the election or that the nomination paper is not properly made out or subscribed, or that in relation to the person the proviso to subsection (2) of this section has been contravened by a qualified body, he shall rule that the nomination is invalid and his decision shall be final and shall not be appealable.

(5) (a) A qualified body, other than a qualified body by whom a candidate at an election is jointly or otherwise nominated, may, with the agreement of the qualified body or qualified bodies by whom the candidate is nominated, within the prescribed period and in the prescribed manner notify the returning officer that the body supports the candidate at the election.

(b) Where pursuant to this section the returning officer at an election is duly notified that a candidate is supported at the election by a qualified body, then, in case there is a poll at the election and subject to the candidate's having been duly nominated, the fact of such support shall be indicated in the prescribed manner on the relevant ballot papers.

(6) In relation to an election a trade union or any other body of persons shall be a qualified body for the purposes of this section if, but only if, the returning officer is satisfied that on the nomination day the trade union or other body is recognised for the purposes of collective bargaining negotiations by the designated body to which the election relates.

(7) Where at an election there is a dispute as to—

(a) whether or not a trade union or other body of persons is a qualified body in relation to the election,

(b) the number of candidates which under this section or regulations made under this Act a qualified body for the purposes of this section may propose at the election or which under this section or such regulations may be so proposed jointly by two or more qualified bodies,



the dispute shall be determined by the returning officer whose decision shall be final and shall not be appealable.

(8) Save where the context otherwise requires, in this section "qualified body" means a body of persons which is for the time being a qualified body for the purposes of this section.

Procedure after nomination. **12.**—(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 five 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".

(2) Where at the time referred to in subsection (1) of this section no candidate stands duly nominated at an election, the returning officer shall not proceed further with the election and he shall, as soon as may be, inform the appropriate Minister in writing that no candidate was duly nominated at the election and that the election is not being proceeded with.

(3) When an election is adjourned for the purpose of taking a poll, the following provisions shall apply, namely:

(a) in case a polling day is fixed pursuant to this section as regards the election, the poll shall be taken on that day and postal voting shall not be used, and

(b) in case a polling period is so fixed, the poll shall be taken during that period but votes, other than postal votes, may only be cast during the period on a particular day appointed for the purposes of this paragraph by the returning officer at the time he fixes the polling period.



(4) If an election is adjourned for the purpose of taking a poll the returning officer shall, as soon as practicable after the adjournment, give, in such manner as he considers appropriate, notice of—

- (a) the polling day or the polling period, as may be appropriate,
- (b) the place or places at which, the day or days on which and the hours during which votes, other than postal votes, may be cast,
- (c) in case a polling period is fixed in relation to the election, the place at which and the period during which and before the expiration of which postal ballot papers are to be received by or on behalf of the returning officer, and
- (d) the names and descriptions of the candidates as entered in their nomination forms, and of the proposers,

and it shall be the duty of the returning officer to provide such ballot boxes, ballot papers and other things and appoint such persons and do such other acts and things as may be necessary for effectively taking the poll in accordance with this Act.

(5) The returning officer at an election shall, as soon as may be, inform the appropriate Minister in writing as to whether or not an election has been adjourned for the taking of a poll and,

- (a) in case the election is not so adjourned, he shall at the same time so inform the appropriate Minister of the names of any candidates declared pursuant to subsection (1) of this section to have been elected, and
- (b) in case the election is so adjourned, he shall, as soon as may be after the taking of the poll, also so inform such Minister of the names of any candidates elected at the election.

Elections not to be proceeded with in certain circumstances.

13.—(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 five days, which shall be the earliest day or period of days, as the case may be, for the taking of the poll.

(2) A decision of a returning officer as to whether or not in a particular case a trade union or other body of persons is entitled to make an application under subsection (1) of this section shall be final and shall not be appealable.

(3) The following provisions shall apply in relation to a preliminary poll:

(a) section 9 (other than subsection (3)) and section 12 (3) of this Act shall apply to the poll in the manner in which they apply to the taking of a poll at an election,

(b) every person who is entitled to vote at an election regarding the relevant designated body shall be entitled to vote at the poll,

(c) 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),

(d) every ballot paper at the poll shall be in the prescribed form,

(e) any ballot paper—

(i) on which no vote is placed at all, or

(ii) on which the vote is not so placed as to indicate that the voter approves or does not approve of the holding of the relevant election, or

(iii) on which votes are given both for and against the holding of the relevant election, or

(iv) on which anything by which the voter can be identified is written or marked, shall be invalid and shall not be counted.

(4) As soon as may be after the taking of a preliminary poll, the returning officer shall count the votes recorded on the ballot papers and ascertain the number of votes thereby given in favour of holding the relevant election and the number of votes thereby given against holding that election and shall record the said numbers respectively.



(5) In case the majority of the votes at a preliminary poll is against proceeding further with the relevant election, the returning officer shall, notwithstanding any other provision of this Act, not proceed further with the election, and as soon as may be he shall inform the Minister and the appropriate Minister in writing that he is not proceeding further with the election.

(6) Where a preliminary poll is held and not less than half of the votes at the poll are in favour of proceeding further with the relevant election, the returning officer shall proceed with the election and may, if he thinks fit, in lieu of the nomination day already fixed in relation to the election, fix a new nomination day and in case a nomination day is fixed pursuant to this subsection, that day and not the day previously fixed under section 6 of this Act, shall, for the purposes both of the relevant election and this Act, in so far as it relates to that election, be the nomination day.


Proceedings in case nomination or poll is interrupted or cannot be proceeded with. **14.**—(1) If at an election a returning officer is satisfied that—

- (a) due to interruption the nomination of candidates or the taking of a preliminary or other poll cannot be proceeded with or completed, or
- (b) due to other circumstances outside his control such nomination or the taking of any such poll cannot be proceeded with or completed,

he shall adjourn, and if necessary further adjourn, such nomination or 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 nomination or poll.

(2) Where at an election the returning officer adjourns pursuant to this section a nomination of candidates or a preliminary or other poll, he shall, as soon as may be, inform in writing the Minister of the adjournment and he shall also so inform the Minister of State who, as regards the designated body to which the election relates, is the appropriate Minister.

(3) Where a nomination of candidates is adjourned under this section, the day on which the nomination is completed after the adjournment shall be deemed to be the nomination day for the purposes of both the relevant election and this Act, in so far as it applies to the election.

Appointment under Act of members and directors. **15.**—(1) Where a Minister of State is informed pursuant to section 12 (5) of this Act by a returning officer at an election of the names of candidates elected or declared to have been elected at the election, he shall, as soon as may be, make an appointment under this section in respect of each of those candidates and in relation to the designated body as regards which the election was held. 

(2) An appointment under this section shall be in writing and shall specify the designated body in relation to which it is made and the day on and from which and the period during which it is to have effect (which day is in this Act referred to as the “specified day”).

(3) An appointment under this section shall operate to appoint the person in respect of whom it is made,

- (a) in case the appointment is made in respect of any of the following designated bodies, namely, Bord na Móna, Córas Iompair Éireann, or the Electricity Supply Board, to membership of the designated body in respect of which it is made, and
- (b) in case the appointment is made in respect of a designated body which is a company, a director of the body.

Vacancy in **16.**—Where, between the making of a declaration under section 12 of this Act by the designated body returning officer or the ascertainment of the result of an election, as may be appropriate, to be deemed to and, occur in certain circumstances.

- (a) in case the relevant designated body is a company, the day on which the board of the body next meets after such declaration or ascertainment,
- (b) in any other case, the day on which the body so next meets, a candidate elected at an election either dies or otherwise ceases to be an employee of the designated body to which the election relates or, by virtue of this Act, becomes disqualified for appointment by the appropriate Minister pursuant to section 15 of this Act, then the following provisions shall apply:
- (c) in case since the making of such declaration or ascertainment of such result an appointment has not been made by such Minister pursuant to the said section 15 as regards the candidate, the said section 15 shall not apply in the particular case and accordingly such appointment shall not be made,
- (d) in case such an appointment has been made, the appointment shall cease to have effect and accordingly the candidate shall not take up office as a member or director of the relevant designated body on foot of the appointment, and
- (e) in either case a vacancy amongst the members or directors of the relevant designated body who may be appointed pursuant to the said section 15 shall be deemed to have occurred on the day next following the day mentioned in paragraph (a) or (b), as may be appropriate, of this section.

Terms of office of members or directors appointed under Act, etc. **17.**—(1) The term of office of a person to whom an appointment under section 15 of this Act relates as a member or director of a designated body shall commence on the day specified in the appointment as the specified day.



(2) The term of office of a member or director of a designated body who is appointed under this Act shall, unless he sooner dies, resigns or becomes disqualified, terminate on the expiration of the period during which the relevant appointment under section 15 of this Act has effect.

(3) A member or director of a designated body appointed under this Act shall, subject to the provisions of this Act, be eligible for nomination as a candidate and for election at an election.

Remuneration, or directors appointed under this Act, **18.**—(1) Where the remuneration or allowance for expenses payable to a member or director of a designated body is being determined by the body, the body shall not have regard to the fact that the member or director was, or was not, as the case may be, appointed under this Act.

Act.

(2) A person who is appointed pursuant to this Act to be a member or director of a designated body and whose duties as such member or director are not whole-time shall not suffer any reduction in the remuneration and allowances which, as an employee of the body, he would, if he were not such a member or director, normally expect to receive.

Resignation and removal from office of members or directors appointed under Act. **19.**—(1) A member or director of a designated body who is appointed under this Act may resign his office by letter addressed to the appropriate Minister and the resignation shall take effect as on and from the date of receipt of the letter by such Minister.

Act.

(2) Where a Minister of State has power to remove an ordinary member or an ordinary director of a designated body from office, he shall have like power to remove a member or director of the body appointed by him under this Act from office, and in case such power to remove is exercisable only with the consent or approval of another Minister of State, the power conferred on the Minister of State by this section shall be exercisable subject to such consent or approval.

Disclosure by directors of Aerlinte or by members or directors of designated bodies of certain interests. **20.**—(1) Where at a meeting of Aerlinte or a designated body any of the following matters arises, namely:

Act.

(a) an arrangement to which the company or body is a party or a proposed such arrangement, or



(b) a contract or other agreement with the company or body or a proposed such contract or other agreement,

then any member or director of the company or body present at the meeting who, otherwise than in his capacity as such a member or director or as the chief executive officer of the company or body (whether called the General Manager, the Manager or by any other name), is in any way, whether directly or indirectly, interested in the matter shall at the meeting disclose to the company or body the fact of such interest and the nature thereof and shall not vote on a decision relating to the matter, and where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and for so long as the matter to which the disclosure relates is being dealt with by the meeting the member or director by whom the disclosure is made shall not be counted in the quorum present at the meeting.

(2) Where at a meeting of Aerlinte or a designated body a question arises as to whether or not a course of conduct, if pursued by a member or director thereof would be a failure by him to comply with the requirements of subsection (1) of this section, the question may be determined by the chairman of the meeting whose decision shall be final and in case such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(3) Section 194 of the Act of 1963 shall not apply to a director of Aerlinte or a designated body.

Disqualifications. **21.**—(1) Subject to subsection (2) of this section, the disqualifications which, apart from this Act, for the time being operate either to prevent a person being, or to cause a person to cease to be, an ordinary member or an ordinary director of a designated body shall apply as regards the appointment of persons under section 15 or 22 of this Act and to persons who are so appointed to be members or directors of the body, and any person who is disqualified by any such disqualification shall, for so long as he is so disqualified,

(a) accordingly be disqualified for being appointed a member or director of the body under this Act, and

(b) in addition be disqualified for being nominated as a candidate at an election relating to that body.

(2) A designated body which is a company shall not alter its articles of association so as to provide, as between ordinary directors of the body and other directors of the body, for different disqualifications operating to cause a person who is a director of the body to cease to be such a director.



Casual
vacancies.

22.—(1) Where a vacancy (in this section referred to as a “casual vacancy”) occurs in the appropriate number of members or directors of a designated body by reason of the death or resignation, or the disqualification by virtue of section 21 of this Act, of such a member or director, or 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 body, or by reason of section 16 of this Act, the vacancy may be filled by a person appointed by the appropriate Minister.

(2) In appointing a person to fill a casual vacancy, the appropriate Minister shall, in case there was a poll at the last preceding election relating to the designated body concerned, before making the appointment, have regard to that poll.

(3) A person appointed to fill a casual vacancy shall, unless he sooner dies, resigns or becomes disqualified, hold office for the remainder of the period for which the member or director occasioning the vacancy, if he had continued to be a member or director, would have held office.

Number of
members or
directors of
designated body
may be altered
to provide that
the number of
such members
or directors
appointed under
Act shall
constitute not
less than one
third.

23.—(1) (a) Subject to subsection (2) of this section, the Minister may as regards any designated body, after consultation with the Minister for Finance and, in case a Minister of State other than that Minister is, as regards the body, the appropriate Minister, that other Minister of State, by order provide that on and from a day fixed by the order the number of members or directors, as may be appropriate, of the body, that is to say, the number comprising,

(i) the members or directors of the body who may be appointed under this Act,
and

(ii) the ordinary members or ordinary directors of the body,
shall be such number as is specified in the order.

(b) The number of members or directors specified in an order under this section shall be such as the Minister, having regard to the provisions of this Act and to the functions of the designated body to which the order relates, considers appropriate.



(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 fixed shall be,

- (a) in case 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
- (b) in case 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.

(3) Where an order under this section relates to a designated body to which an enactment mentioned in subsection (4) of this section applies, then for so long as the order is in force, the enactment shall be construed and shall have effect in accordance with the order.

(4) The enactments referred to in subsection (3) of this section are section 2 (3) of the Electricity (Supply) Act, 1927 , paragraph 3 of the Schedule to the Sugar Manufacture Act, 1933 (inserted by section 4 of the Sugar Manufacture (Amendment) Act, 1973), section 8 (1) of the Turf Development Act, 1946 , section 6 (1) (b) of the Transport Act, 1950 , section 8 (1) of the British and Irish Steam Packet Company Limited (Acquisition) Act, 1965 , and section 12 (1) of the Air Companies Act, 1966 .

Designated
bodies may be
required to give
notice to
employees of
certain
provisions.

24.—The Minister may make regulations requiring a designated body to which the regulations apply to bring to the notice, in a prescribed manner, of their employees either or both of the following, namely:

- (a) such provisions of this Act as are specified in the regulations,
- (b) such provisions of regulations made under this Act (apart from this section) as are so specified,

and regulations under this section may apply either to every designated body or to such designated body or bodies as are specified in the regulations.

Quorums of
designated
bodies.

25.—(1) Notwithstanding the enactments contained in subsection (2) of this section the appropriate Minister may, after consultation with the Minister, by order fix the quorum for —

- (a) a meeting of the board of a designated body which is a company,
- (b) a meeting of a designated body which is not a company,



and in case the appropriate Minister makes an order under this section as regards a designated body to which any such enactment applies, the enactment shall, for so long as the order is in force, be construed and have effect in accordance with the order.

(2) The enactments referred to in subsection (1) of this section are section 6 (2) of the Electricity (Supply) Act, 1927 , section 14 (3) of the Turf Development Act, 1946 , section 9 (3) of the Transport Act, 1950 , and section 8 (8) of the British and Irish Steam Packet Company Limited (Acquisition) Act, 1965 .

Alteration of memoranda and articles of association of certain designated bodies. **26.**—Each designated 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.

Cost of elections. **27.**—(1) The costs and expenses of an election (including the costs and expenses of the taking of a preliminary poll), other than expenses incurred by candidates on their own behalf, shall be borne by the designated body to which the election relates.

(2) The Minister may make regulations providing for all or any of the following matters:

(a) the way and period in or during which a returning officer shall present his accounts,

(b) the way and period in or during which persons having claims by virtue of this section shall present their claims,

(c) the adjudication of disputes.

Aerlinte. **28.**—(1) In case the Minister for Transport and Power makes an appointment under section 15 or 22 of this Act in relation to Aer Lingus he shall at the same time appoint the person concerned to be a director of Aerlinte.

(2) In case a person is appointed under this section to be a director of Aerlinte, his term of office as such director shall be co-terminous with his term of office as a director of Aer Lingus, and accordingly in case the person ceases to be a director of Aer Lingus he shall at the same time cease to be a director of Aerlinte.

(3) In case a person who is a director of Aerlinte appointed pursuant to this section ceases to be a director of that company, he shall at the same time cease to be a director of Aer Lingus.

(4) Subsection (4) of section 12 of the Air Companies Act, 1966 , shall not apply as regards a director of Aerlinte who is appointed pursuant to this section, and subsection (6) of the said section 12 shall be construed and shall have effect subject to the provisions of this section.



(5) Sections 18 and 19 of this Act shall apply to a person appointed under this section in like manner as they apply to persons otherwise appointed pursuant to this Act.

(6) Notwithstanding section 12 (2) of the Air Companies Act, 1966 , the Minister may, for the purpose of giving effect to subsection (1) of this section, by order provide that on and from a day fixed by the order the number of directors of Aerlinte shall be such number as is specified in the order, and in case the Minister makes an order under this section, then for so long as the order is in force the said section 12 (2) shall be construed and shall have effect in accordance with the order.

(7) Aerlinte 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 this section.

Expenses. **29.**—The expenses incurred by the Minister or by any other Minister of State in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Saver. **30.**—Where a person who is an employed contributor within the meaning of the Social Welfare Acts, 1952 to 1976, is appointed to be a member or director under section 15 , 22 or 28 of this Act, he shall not cease by reason only of the appointment to be such a contributor.

Repeals. **31.**—The following enactments are hereby repealed:

(a) section 10 of the Electricity (Supply) Act, 1927 ,

(b) section 12 of the Turf Development Act, 1946 , and

(c) section 7 (6) (c) of the Transport Act, 1950 .

Short title. **32.**—This Act may be cited as the Worker Participation (State Enterprises) Act, 1977.

SCHEDULE

Section 5.

DESIGNATED BODIES

PART I

Bord na Móna.

Córas Iompair Éireann.

Electricity Supply Board.

PART II

Aer Lingus Teoranta.

British and Irish Steam Packet Company Limited.

Comhlucht Siúicre Éireann Teoranta.

Nitrigin Éireann Teoranta.



