



Number 1 of 2023

National Cultural Institutions (National Concert Hall) (Amendment) Act 2023



Number 1 of 2023

**NATIONAL CULTURAL INSTITUTIONS (NATIONAL CONCERT HALL)
(AMENDMENT) ACT 2023**

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, commencement and collective citations
2. Definitions
3. Expenses

PART 2

TRANSFER OF FUNCTIONS, STAFF AND PROPERTY TO NCH

4. Transfer of functions, administration and business
5. Transfer of staff
6. Transfer of property
7. Transfer of rights and liabilities
8. Preservation of existing contracts
9. Pending legal proceedings to which RTÉ is party
10. Confirmation of acts done

PART 3

AMENDMENT OF PRINCIPAL ACT

11. Amendment of section 7 of Principal Act
12. Amendment of section 10 of Principal Act
13. Amendment of section 13 of Principal Act

PART 4

AMENDMENT OF ACT OF 1997

14. Amendment of section 44 of Act of 1997

[No. 1.]

*National Cultural Institutions
(National Concert Hall) (Amendment) Act 2023.*

[2023.]

PART 5

AMENDMENT OF ACT OF 2009

15. Amendment of section 114 of Act of 2009

ACTS REFERRED TO

Adoptive Leave Acts 1995 and 2005
Broadcasting Act 2009 (No. 18)
Carer's Leave Act 2001 (No. 19)
Maternity Protection Acts 1994 and 2004
Minimum Notice and Terms of Employment Acts 1973 to 2005
National Cultural Institutions (National Concert Hall) Act 2015 (No. 44)
National Cultural Institutions Act 1997 (No. 11)
Organisation of Working Time Act 1997 (No. 20)
Parent's Leave and Benefit Act 2019 (No. 35)
Parental Leave Acts 1998 to 2019
Paternity Leave and Benefit Act 2016 (No. 11)
Protection of Employees (Fixed-Term Work) Act 2003 (No. 29)
Protection of Employees (Part-Time Work) Act 2001 (No. 45)
Redundancy Payments Acts 1967 to 2022
Terms of Employment (Information) Acts 1994 to 2014
Unfair Dismissals Acts 1977 to 2015



Number 1 of 2023

**NATIONAL CULTURAL INSTITUTIONS (NATIONAL CONCERT HALL)
(AMENDMENT) ACT 2023**

An Act to provide for the transfer of certain functions, staff, property, rights and liabilities of RTÉ to the National Concert Hall; to provide for the validity and effect of acts by RTÉ and the National Concert Hall in relation to that transfer; to extend the functions of the National Concert Hall and to make certain changes to its board and, for those purposes to amend the National Cultural Institutions (National Concert Hall) Act 2015; to increase the aggregate amount of liability in respect of undertakings given for cultural objects on loan from a person resident outside the State and, for that purpose to amend the National Cultural Institutions Act 1997; to make certain changes to the objects of RTÉ and, for that purpose to amend the Broadcasting Act 2009; and to provide for related matters. [6th February, 2023]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, commencement and collective citations

1. (1) This Act may be cited as the National Cultural Institutions (National Concert Hall) (Amendment) Act 2023.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) The Principal Act, *section 2* and *Part 2* may be cited together as the National Cultural Institutions (National Concert Hall) Acts 2015 to 2023.
- (4) The Act of 2009, *section 2* and *Part 2* may be cited together as the Broadcasting Acts 2009 to 2023.

Definitions

2. In this Act—

“Act of 1997” means the National Cultural Institutions Act 1997;

“Act of 2009” means the Broadcasting Act 2009;

“choirs” means the choirs known on the transfer day as the RTÉ Philharmonic Choir, RTÉ Cór na nÓg and RTÉ Cór Linn;

“Minister” means the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media;

“NCH” has the same meaning as it has in the Principal Act;

“orchestra” means the orchestra known on the transfer day as the RTÉ National Symphony Orchestra;

“Principal Act” means the National Cultural Institutions (National Concert Hall) Act 2015;

“RTÉ” has the same meaning as it has in the Act of 2009;

“transfer day” means 24 January 2022.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

TRANSFER OF FUNCTIONS, STAFF AND PROPERTY TO NCH

Transfer of functions, administration and business

4. (1) The functions of RTÉ, insofar as they relate to the orchestra and the choirs, shall be deemed to have transferred to the NCH on the transfer day.
- (2) The administration and business in connection with the performance of the functions transferred under *subsection (1)* shall be deemed to have transferred to the NCH on the transfer day.

Transfer of staff

5. (1) Each person who immediately before the transfer day was a member of staff of RTÉ and who stood assigned to perform duties relating to the orchestra or the choirs shall, with effect on and from the transfer day, be a member of staff of the NCH.
- (2) A person referred to in *subsection (1)* shall be subject to such terms and conditions of service including terms and conditions relating to remuneration, as are not less favourable than the terms and conditions of service, including terms and conditions relating to remuneration, to which the person was subject immediately before the transfer day.

- (3) In *subsection (2)*, a reference to terms and conditions relating to remuneration does not include conditions in relation to superannuation.
- (4) In relation to a person referred to in *subsection (1)*, previous service with RTÉ shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:
- (a) the Redundancy Payments Acts 1967 to 2022;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
 - (d) the Organisation of Working Time Act 1997;
 - (e) the Terms of Employment (Information) Acts 1994 to 2014;
 - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
 - (g) the Unfair Dismissals Acts 1977 to 2015;
 - (h) the Maternity Protection Acts 1994 and 2004;
 - (i) the Parental Leave Acts 1998 to 2019;
 - (j) the Adoptive Leave Acts 1995 and 2005;
 - (k) the Carer's Leave Act 2001;
 - (l) the Paternity Leave and Benefit Act 2016;
 - (m) the Parent's Leave and Benefit Act 2019.
- (5) A person who immediately before his or her transfer to the NCH under *subsection (1)* was a member of a relevant superannuation scheme shall, with effect on and from the transfer day, cease to be a member of that scheme and be a member of the Single Public Service Pension Scheme.
- (6) In this section, "relevant superannuation scheme" means the RTÉ Defined Contribution Scheme, the RTÉ Superannuation Pension Scheme or the RTÉ 50/50 Risk-Sharing Pension Scheme.

Transfer of property

6. (1) On the transfer day, such property (other than land), including choses-in-action, as may be agreed between RTÉ and the NCH and that immediately before the transfer day was vested in RTÉ, shall, with the consent of the Minister but without any further assignment, stand vested in the NCH in trust on behalf of the Minister.
- (2) Every chose-in-action vested in the NCH by virtue of *subsection (1)* may, on and after the transfer day, be sued upon, recovered or enforced by the NCH in its own name and it shall not be necessary for the NCH or RTÉ to give notice to the person bound by any such chose-in-action of the vesting effected by that subsection.

- (3) All moneys, stocks, shares and securities vested in the NCH by virtue of *subsection (1)* that, immediately before the transfer day, were standing in the name of RTÉ shall, upon the request of the NCH be transferred into its name.

Transfer of rights and liabilities

7. (1) All rights and liabilities of RTÉ relating to the orchestra or the choirs, arising by virtue of any contract, agreement, arrangement or commitment (express or implied) entered into by RTÉ before the transfer day shall, on that day, stand transferred to the NCH.
- (2) Every right and liability transferred by *subsection (1)* to the NCH may, on and after the transfer day, be sued on, recovered or enforced by or against the NCH in its own name and it shall not be necessary for the NCH to give notice to a person whose right or liability is transferred by that subsection of such transfer.

Preservation of existing contracts

8. (1) Every bond, guarantee or other security of a continuing nature made or given by RTÉ relating to the orchestra or the choirs to any person, or by any person to RTÉ relating to the orchestra or the choirs, that is in force immediately before the transfer day, and every contract, agreement or arrangement made by RTÉ relating to the orchestra or the choirs that is in force but is not fully executed and completed immediately before the transfer day, shall continue in force on and after that day and shall be construed and have effect as if the name of the NCH were substituted therein for that of RTÉ.
- (2) Every other document granted or made by RTÉ relating to the orchestra or the choirs that is in force immediately before the transfer day shall continue in force on and after that day as if it had been granted or made by the NCH and shall be construed and have effect accordingly.

Pending legal proceedings to which RTÉ is party

9. The name of the NCH shall be substituted for that of RTÉ in any legal proceedings relating to the orchestra or the choirs pending immediately before the transfer day to which RTÉ is a party and those proceedings shall not abate by reason of such substitution.

Confirmation of acts done

10. (1) Every act done, or purporting to have been done, prior to the commencement of this Part, by RTÉ or the NCH relating to the transfer of the orchestra or the choirs from RTÉ to the NCH shall be, and be deemed always to have been, valid and effectual for all purposes.
- (2) If *subsection (1)* would, but for this subsection, conflict with a constitutional right of any person, the operation of that subsection shall be subject to such limitation as is

necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

PART 3

AMENDMENT OF PRINCIPAL ACT

Amendment of section 7 of Principal Act

11. Section 7 of the Principal Act is amended—

- (a) in paragraph (c), by the substitution of “experiences,” for “experiences, and”,
- (b) in paragraph (d), by the substitution of “members, and” for “members.”, and
- (c) by the insertion of the following paragraph after paragraph (d):

“(e) to maintain and operate an orchestra and a choir.”.

Amendment of section 10 of Principal Act

12. Section 10 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “9 ordinary members” for “8 ordinary members”, and
- (b) in subsection (2)—
 - (i) by the insertion, in paragraph (a), of “the development of orchestras,” after “music,” and
 - (ii) by the insertion of the following paragraph after paragraph (a):

“(aa) Without prejudice to the generality of paragraph (a), at least one member of the Board shall have experience of, and expertise in, the development of orchestras.”.

Amendment of section 13 of Principal Act

13. Section 13 of the Principal Act is amended in subsection (6) by the substitution of “5” for “4”.

PART 4

AMENDMENT OF ACT OF 1997

Amendment of section 44 of Act of 1997

14. Section 44 of the Act of 1997 is amended in subsection (1) by the substitution of “€1,600,000,000” for “£150,000,000”.

PART 5

AMENDMENT OF ACT OF 2009

Amendment of section 114 of Act of 2009

- 15.** Section 114 of the Act of 2009 is amended in paragraph (c) of subsection (1) by the substitution of “a concert orchestra and other cultural performing groups” for “orchestras, choirs and other cultural performing groups”.