

Submission from the Independent Workers Union.

Consultation on the Reform of the State's Employment Rights and Industrial Relations Structures and Procedures.

Two-Tier Structure.

We are in agreement with the Minister in his sentiment that we can have "a world-class workplace relations service and employment rights framework". In this regard, we also believe that his proposed two-tier structure consisting of a forum of first instance and an Appeal Body would be a welcome replacement for the present array of institutions and fora.

Local Dispute Resolution.

While welcoming a two-tier structure, we also subscribe to the view that there should be a greater emphasis on local dispute resolution, where management and workers, either individually or through their representative bodies, would attempt to thrash out differences on the "shop floor".

However, it is our experience that many workers, with a grievance are reluctant to make direct representation to their managements, for fear as being seen as a "trouble-maker". In these instances, workers prefer to have their issues raised by an "outside" person, e.g. Trade Union representative. However, many employers will "refuse to recognise" the union. Legislation to facilitate primary discussion at this basic level, where an employer would be obliged to engage with a Trade Union or Industrial Relations company, would be welcome.

Dismissal.

Time for Hearings and Remedies

If a worker is deemed to have been unfairly dismissed, there are three remedies available:

Re-instatement
Re-engagement
Compensation.

While, we are in agreement with the remedies, we wish to point out that the first option, reinstatement has been negated, due to the length of time, it takes to have a case for unfair dismissal heard.

A dismissed employee has to wait a minimum of five months in order to have a claim heard by the Rights Commissioner. The Rights Commissioner decision, if appealed to

the Employment Appeals Tribunal can add a further 12 months to the process. Thus after appeal, one and a half years will have passed, thus making the re-instatement option untenable.

We suggest that a claim for Unfair Dismissal has to be given priority status with a time frame of:

Hearing By the Rights Commissioner	-	within 1 weeks of claim being submitted
Decision of the Rights Commissioner	-	within 1 week of hearing
Appeals to be submitted	-	within 2 weeks of Rights Commissioner decision
Appeal decision	-	within 1 week of appeal hearing

With regard to the option of compensation --- the upper limit of two years loss of salary - should be extended to 5 years loss of salary.

Right to seek Redress in Unfair Dismissal.

The legislation, as it stands, requires a worker to have 12 months service, in order to be able to seek the protection of the unfair dismissals Acts. (There are exceptions - e.g. Trade Union Membership or Activity, Pregnancy).

Our view is that if a worker is entitled to notice after 13 weeks of service, then surely, a claim for unfair dismissal could be allowed after the same length of service.

Pay Issues.

Replacement for Joint Labour Committees.

Our Society awards ability. Therefore recognition for skills must be reflected in pay. The lowest rung of the skills ladder, will see the:

National Minimum wage being applied, however, the areas covered by the JLCs should reflect qualification in wages. E.G. Catering workers have to be trained, as do Security Workers, Hairdressers and Retail Grocery Employers. Some system, needs to be put in place, where rates of pay in the "former" JLC areas Are determined independently and which reflect qualification and skill.

Likewise a system, could be put in place, to give legislative status to agreed Trade and Industry rates of pay, in order to ensure that unfair advantage is not conferred on an employer who reneges in relation to Trade Rates and Conditions.

Maximum Wage.

In the current economic climate, Government is projecting the view that all must share the burden of the State. In this regard, it is our view that a maximum wage set at €100,000 per annum should be a benchmark. Recognising that this could cause difficulties in relation to existing contracts, we suggest that the Taxation code would be penal for income in excess of €100,000 per annum. I.E. 95%.

Premium Payments and the Working Week.

With the demise of the J.L.C.s the question of premium payments now only applies to Sundays and Public Holidays, unless a contractual arrangement allows for additional such payments.

Adding further confusion is that, the Organisation of Working Time Act, is not clear on the Sunday working premium.

Our Society like all other European Countries operates on the concept of a working week, Monday to Friday or Monday to Saturday, with Sunday being regarded as the focal day of the "weekend".

In our view, it would be wrong to suggest that all seven days of the week should be treated equally when it comes to employment matters. Therefore we suggest that double pay for Sunday work, the same as Public Holiday work, should be legislated for, as part of the Reform Programme.

Establishing the 39-hour working week on a legal basis is also necessary in this regard, and in establishing same, an overtime rate must be recognised. We suggest time + 50%.

Premium payments for unsocial hours (between 7:00 PM and Midnight and before 7:00AM), night work and shift should also be on a firm legislative basis. We suggest 25% as a minimum in this respect.

Premium Pay and Employment.

We wish to point out at this juncture, that premium payments are not a hindrance, but rather a help to employment.

When employees have completed 39 hours in a week, it makes more sense for an employer, to take on additional staff, rather than pay premium payments. Therefore premium payments, legislatively enshrined, would lead to more employment.

Contracts – Terms of Employment.

Many disputes would be resolved at local level, if the legislation which requires mandatory written contracts of employment, was implemented by all employers. The present maximum penalty for failure in this regard (compensation of 4 weeks pay) appears to be inadequate and should therefore be increased.

Equality Legislation.

Trade Union Membership

Our organisation notes that known Trade Union members, applying for employment, although amply qualified, have often failed to gain such employment and finding out afterwards, that a less qualified person has been awarded the position.

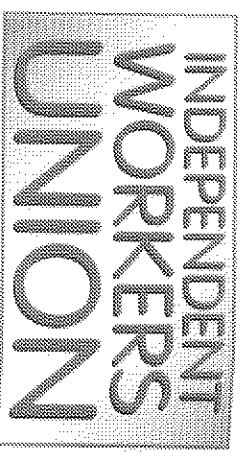
This brings our organisation to conclude that discrimination exists as regards Trade Union membership. We therefore suggest that the existing provision of the Unfair

Dismissals Acts vis-à-vis Trade Union membership is extended to the Equality Legislation. In this regard "Trade Union membership" should be added to the list of areas where discrimination is outlawed.

*Noel Murphy,
National Secretary,
Independent Workers Union,
55 North Main Street,
Cork.*

27th August 2011

A handwritten signature in dark ink, appearing to be 'Noel Murphy', written in a cursive style.



27th August 2011.

Mr Eamonn Gallagher,
Department of Jobs, Enterprise and Innovation,
Davitt House,
65a Adelaide Road,
Dublin 2.

Re: *Consultation on the Reform of the State's Employment Rights
and Industrial Relations Structures and Procedures.*

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See attached our submission as regards the above.

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Noel Murphy,
National Secretary.