



Mason Hayes+Curran
Incorporating Arthur O'Hagan

Mr. Eamonn Gallagher,
Department for Jobs, Enterprise and Innovation

Mr. Richard Bruton, T.D.
Minister for Jobs, Enterprise and Innovation

By email: employmentreform@djei.ie

16 September 2011

OUR REF: IOH/MC

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

Dear Mr. Gallagher, Mr. Bruton,

The Employment Law & Benefits Unit of Mason Hayes+Curran welcome the opportunity to respond to the Minister's Consultation Paper on the Reform of the State's Employment Rights and Industrial Relations Structures and Procedures. Indeed, we very much welcome the Minister's considered and well thought out proposals and commend him for his initiative in this regard.

We would make the following brief submissions for his consideration:

1. We understand and fully agree with the introduction of a simple and efficient institutional structure with a single entry point. We would, however, comment that whatever body is established as the first instance *adjudicative* body should not also have a role in the prosecution and/or enforcement of breaches of employment rights, which powers are currently within the remit of the National Employment Rights Authority (NERA).
2. We believe that the first instance adjudicative body should be a single member body and the individual should be legally trained.

Dublin: South Bank House, Barrow Street, Dublin 4, DX11 Dublin. Tel +353 1 614 5000. Fax +353 1 614 5001. www.mhc.ie. E-mail mail@mhc.ie

London: 60 Lombard Street, London EC3V 9EA, United Kingdom. Tel +44 20 3178 3366. Fax +44 20 3178 3367. E-mail mail@mhcldn.com

New York: 330 Madison Avenue, 6th Floor, New York, NY 10017, USA. Tel +1 212 786 7376. E-mail mail@mhcny.com

Partners: Emer Gilvarry (Managing), Catherine Allen, James Bardon, Declan Black, Daragh Bohan, Peter Bolger, Liam Brazil, Fionán Breathnach, Mark Browne, Susan Bryson, Lorcan Buckley, Anthony Burke, Vanessa Byrne, Niamh Callaghan, William Carmody, Gemma Coady, Tanya Colbert, Eimear Collins, Paul Convery, Melanie Crowley, Declan Curran, Paul J.G. Egan, Edward Gleeson, John Gleeson, Ailbhe Gilvarry, Michael Hanley, Jason Harte, Brian Horkan, Kevin Hoy, Rachel Kavanagh, Martin Kelleher, Jeanne Kelly, John Kettle, Rory Kिरrane, Nora Larkin, Rob McDonagh, Paul McDonald, Donagh McGowan, Justin McKenna, Niall Michel, John Minihane, Declan Moylan, Ronald Neville, Philip Nolan, Jennifer O'Brien, David O'Donnell, Christine O'Donovan, Gavin O'Flaherty, Ian O'Herlihy, Maurice Phelan, Jane Pilkington, Judith Riordan, Liam Riordan, Elizabeth Roche, Gerard Ryan, Richard A. Woulfe. Consultants: Cormac Brown, David Cox, Colman P. Curran, Paula Phelan.



an alliance
with Carson
McDowell in
Belfast



Mason Hayes+Curran

3. We believe that the introduction of a robust case management system is an essential factor in achieving a system that works for all stakeholders. This should, we would suggest, include the following:
 - (i) the timely exchange of submissions in advance of the hearing;
 - (ii) the ability to exchange submissions online and/or by email;
 - (iii) the creation of a set of standard pleadings to include a mechanism whereby parties can seek further and better particulars of the opposing side's claim/defence; and
 - (iv) the possibility of the parties indicating in advance to the adjudicative body the approximate duration of the hearing, thereby avoiding the current situation where cases are only part heard in the time allotted and then adjourned to a later date.
4. We further believe there should be a mechanism whereby preliminary issues (such as those which relate, for example, to the time limits for lodging claims and/or to the question of whether a particular individual is actually covered by a particular statute) are heard and ruled on in advance of the full hearing of the case.

We are available to discuss these or any of the Minister's proposals in relation to the Reform of the State's Employment Rights and Industrial Relations Structures and Procedures generally and would welcome the opportunity to engage further with you on this matter.

Yours faithfully,

Mason Hayes+Curran