



Minister Regina Doherty welcomes passage of the Employment (Miscellaneous Provisions) Bill through the Dáil but expresses serious concern for implementation date of legislation

Friday, 13th July 2018: The Minister for Employment Affairs and Social Protection, Regina Doherty, T.D. has welcomed the passage of the Employment (Miscellaneous Provisions) Bill 2017 through Dáil Éireann. Following the conclusion of the report stage, the Bill will move next to Seanad Éireann.

The provisions of the Bill have raised comprehensive debate since it was introduced in the Dáil last February. In essence, it provides for the improvement of the security and predictability of working hours for employees on insecure contracts and those working variable hours. It follows the publication of a study on zero-hour contracts and low-hour contracts by the University of Limerick, as well as an extensive public consultation process and in-depth discussions with ICTU and Ibec over several months.

On the conclusion of the report stage of the Bill in the Dáil this week, Minister Doherty commented: **“This Bill has been through an extensive process of consultation and scrutiny prior to, and during, its consideration in the Oireachtas including a public consultation carried out following the University of Limerick study and detailed discussions with Ibec and ICTU over a period of six months or more, which helped focus the Bill on those most in need of stronger protections in this area, namely, low paid workers in less secure employment arrangements.”**

“The Bill has also gone through a regulatory impact analysis and was referred to the Joint Oireachtas Committee on Jobs, Enterprise and Innovation for pre-legislative scrutiny. All of this helped to ensure that the published Bill strikes a reasonable balance between improving employment protections while minimising the regulatory burden on employers.”

The Minister however, expressed her frustration with the delay in processing the Bill in the Dáil and also expressed serious concerns for its implementation date: **“The Bill is aimed at tackling exploitative employment arrangements and employers who do not respect even the most basic rights of their employees. While I am very pleased that we have succeeded in getting this piece of legislation through the Dáil, I am however, deeply disappointed that the opposition’s introduction of certain amendments at a very late stage in proceedings will result in delays in the Bill completing its passage through the Oireachtas. This is unfortunate, because this legislation, when enacted, will help people employed in precarious or less secure arrangements.**

“The opposition is looking to legislate for perceived problems faced by an entirely different cohort of workers in a manner that would be better addressed in an entirely different piece of legislation. This proposal impacts on a whole range of stakeholders who have had no opportunity

to provide input or advice. The amendment also has knock-on effects not just on other employment legislation but also social protection and revenue legislation, and competition and consumer legislation.

“I will reiterate the point I made in the Dáil last night that this proposal should be put forward in a separate, stand-alone Bill, which should then be subject to the full rigours of a regulatory impact analysis, followed by pre-legislative scrutiny before the relevant Joint Oireachtas Committee. If we, as members of the Oireachtas, are to be responsible legislators, we have to accept that there is considerable work required in drafting the general scheme of legislation in this area and consulting with stakeholders who this amendment will have a direct impact upon – it would be simply irresponsible to progress in the absence of any such consultation and preparation.

“The intended purpose of this Bill is to help people on insecure and low paid contracts move to a secure footing that they currently don’t have. This amendment adds months, at a minimum, to the enactment of the Bill and this unnecessary delay is a grave disservice to those vulnerable workers whom we are striving to support.”

Minister Doherty went on to explain that, as she had outlined at Committee Stage, her priority with this Bill is to work with all sides in both Houses of the Oireachtas to deliver a piece of legislation that is fair, balanced and that works in practice. That remains her position and she wants to see such legislation enacted at the earliest opportunity.

The Bill, when enacted, will apply to all employers across all sectors of the economy. It is important that it provides for a fair balance between the respective rights and obligations of employees and employers.

Minister Doherty concluded: **“The Government’s approach in this Bill is to try to ensure that where we are introducing new rights for employees or strengthening existing provisions in the law, the measures are fair, proportionate and balanced by reasonable defences for employers, recognising the challenges faced by employers in running their business or providing their service. The vast majority of employers are good employers who treat their employees well and who meet their responsibilities under employment law.”**

Note for Editors

There are five key issues that the Bill addresses, where employment law should be strengthened for the benefit of employees, without imposing unnecessarily onerous burdens on employers. The Bill will:

1. Ensure that employees are better informed about the nature of their employment arrangements and, in particular, their core terms at an early stage of their employment. A new offence is being created where employers fail to comply with the new information requirements.

2. Strengthen the provisions around minimum payments to low-paid vulnerable employees who may be called in to work for a period, but not provided with that work.
3. Prohibit zero hour contracts, except in specific limited circumstances.
4. Ensure that employees on low hour contracts who consistently work more hours each week than provided for in their contracts, are entitled to be placed in a band of hours that better reflects the reality of the hours they have worked on a consistent basis over an extended period.
5. Strengthen the anti-penalisation provisions for employees who invoke, or try to invoke, a right that is specified in legislation.

The opposition amendment which is the source of difficulty creates a new criminal offence where an employer is considered to hire workers under 'false' contracts of self-employment. Defining what is and isn't self-employment is already a difficult and complex question, creating a new sub-set of "false" self-employment and defining it in such a manner as to justify the imposition of criminal sanctions requires very detailed consideration and precise drafting of legislation. While this may be merited, if it is to proceed as an amendment to the current bill, the work involved will only have the consequence of delaying the enactment of the other measures set out in the Bill.