

Deputy Mary Butler, TD
Leinster House
Kildare Street
Dublin 2

Dear Mary,

Waterford Chamber would like draw your attention to the concern for businesses stemming from the Employment (Miscellaneous Provisions) Bill 2017 as originally drafted, and highlight that the amendments which have now been made at Committee Stage have only served to make the Bill more unworkable for employers.

We understand that some of the amendments passed at Committee Stage are scheduled to be brought before the Dáil and voted on next Tuesday 26th June, with the Government aiming to have some removed. We are appealing to you to support the removal of these amendments.

In particular we ask you to consider the following amendments:-

Amendment 15) In the event of hours becoming available an employer shall be required to offer any surplus hours to existing part-time employees first.

The introduction of this measure would prohibit employers from seeking to hire new talent with potentially different skillsets and backgrounds to their existing staff, unless they have exhausted their existing staff as an option. This would in turn have implications for a business' competitiveness and directly impact upon the choices available to owners and managers in seeking to grow their business and increase employment in their area.

Many businesses will already operate in this manner where feasible and where suited to their requirements, however this Bill removes flexibility for managers to respond to specific personnel or skills requirements. The removal of flexibility to assign hours according to ability, expertise and experience and in a timely manner under this amendment would result in many good employers being forced into further administrative complexities, potential HR disputes and legal issues, and ultimately loss of productivity and competitiveness.

This amendment is disproportionate and amounts to an unjustified interference in the day-to-day operations and ability of businesses to grow and remain competitive, across all sectors, and in businesses of all sizes and in all regions of the country.

Amendment 16) Narrowing the Bands of Weekly Working Hours

The banded hours provision of the Bill, taking into account the amendments from committee stage, would mean that where the average number of hours an employee works per week (during the 12 month reference period) is more than the contracted hours the employee is entitled upon request to be moved to a higher band of hours.

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Chambers Ireland takes the view that the narrowing of the bands at Committee Stage stands to negatively impact both businesses and employees. In addition, the reduction in the reference period from 18 months to 12 further erodes the flexibility of businesses. The new bands presented in Committee Stage are too narrow for businesses, particularly SMEs, to manage and may incentivise an overall reduction in hours offered to employees and business' operating hours.

These bands will mean that businesses become reluctant in offering additional hours to employees in the interest of avoiding a dispute over bands and potentially facing legal action. This will have the effect of employers prioritising risk mitigation over growth as they attempt to comply with unreasonable employment legislation. In particular for seasonal businesses, 12 months is an entirely insufficient and unreasonable reference period.

The Bill does not take into account the flexibility which is often of benefit to employees as well. For example an employer may alternate extra hours available between two or more staff so that each of them receives a similar increase on top of their contracted hours. Under this Bill, the first employee to request an increase in their banded hours might receive a disproportionate number of extra hours available. The Bill leaves no room for the use of judgement by employers on how to manage their business and assumes that employers are unfairly withholding hours from staff, when in most cases the nature of the business is the reason for irregular working hours.

Waterford Chamber asks that the bands be restored to the previous hours outlined in the original version prior to Committee Stage and that the reference period for banded hours be restored to 18 months at a minimum. In addition we recommend that the legislation be revised to include an exemption or defence for employers who must reduce working hours in order to reflect business circumstances.

Earlier this year representatives of Chambers Ireland met with the Minister for Employment Affairs and Social Protection Regina Doherty specifically on the Bill and they have lobbied the Committee on Employment Affairs and Social Protection, as well as the relevant opposition spokespeople to raise the many issues with this Bill and the detrimental impacts it stands to have on Irish businesses.

The initial Bill drafted by the Department of Employment Affairs and Social Protection contains a provision which seeks to criminalise employers for a minor administrative matter, and following Committee Stage the amendments put forward by the Committee have served to make this Bill even less manageable for business, in particular for SMEs.

If you wish to discuss this further with me, please don't hesitate to contact me on 051 872639.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Gerald Hurley', written in dark ink.

Gerald Hurley