

Congress
Job Creation
&
Protection Plan

*Maximising the numbers at work and
upskilling for future opportunities*

Irish Congress of Trade Unions,
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PROTECTING JOBS

Protecting existing jobs and creating new work opportunities is the top priority for Congress. Delivering this will require a genuine commitment from government and employers to involve trade unions at all levels, not only in developing the scheme at national level but most importantly at the level of the workplace.

In order to maximise the numbers at work and create new jobs Congress is calling for a budget allocation of €1bn. We propose an oversight group to drive new initiatives and the removal of disincentives, or barriers in the system. Ultimately, this will mean introducing changes to redundancy and employment law, tax law and the social welfare code.

All codes and schemes must be made more responsive, supportive and coherent, with the overriding goal of:

- (i) protecting existing jobs
- (ii) creating new employment and the provision of training
- (iii) protecting peoples incomes.

As part of this programme it will be necessary to put in place measures to assist workers and employers, at local enterprise level and ensure that all options to redundancy are explored and examined. Redundancy must be the last option on anyone's list.

To this end, employers should discuss alternatives to redundancy with workers and their unions and where workers agree to options such as short time working then the social welfare system should support this move by providing payment to compensate for the 'off time'. In turn, workers would agree to engage in

training during any such 'off time'. Where there is a cost associated with the training, financial support will be available to cover this.

Effective Oversight of Schemes

Congress believes that the best way to ensure that programmes do not impact adversely on existing employment or become subject to abuse is to ensure that effective governance is put in place at a national and local level to oversee implementation of programmes.

Congress envisages a governance structure that would involve an Oversight Group for Schemes coordinated by the Department of Taoiseach, involving Congress and IBEC in the approval process for any schemes to be introduced.

The Group would have the task of drafting the criteria for schemes, ensuring that the criteria are met and monitoring implementation and effect. The Oversight Group would be responsible to the partnership process. It would be expected that key government departments would contribute as necessary.

REFORMING SOCIAL WELFARE

It is self-evident that a key component of any new initiative will require major change in the rules governing our social welfare system. The principle underlying any such change must be to ensure that the system fully supports alternatives to redundancy. To this end, we must:

- End the requirement that workers be 'fully unemployed' as this removes any possibility of training;
- Base the social welfare payment on lost earnings, not on the number of days lost;

- Where workers have been in receipt of FIS allow them to retain this much needed payment when their hours fall below 19;
- Modify mortgage interest supplement and other secondary benefit rules so that they support alternatives to redundancy.

Redundancy & Tax

It is also clear that redundancy rules need reform to ensure that workers do not jeopardise eventual redundancy payments by agreeing, for example, to engage in short-term working for a lengthy period of time, as redundancy is calculated by reference to final wages. In addition, redundancy payments must be based on all earnings, including shift payments, bonuses etc.

Congress believes that tax should not be applied to severance payments that support alternatives to redundancy arrangements and where a severance payment or alternative to redundancy payment is made, to allow the worker to take up education, this should be exempt from tax. The existing rules allow this only where the educational course finishes within six months.

Guarding Against Excessive Flexibility Requirements

Congress is concerned that employers are demanding excessive flexibility, with people often being required to be available for work on any day and for any hours, on very short notice. This can be addressed by, for example, requiring employers to give a long period of notice for work rotas and by giving more control to workers over the hours they work.

Provide a Training Guarantee for Workers

The focus needs to be on maintaining a person's employability and much more needs to be done to improve 'employability' in Ireland. Yet in this area more than any other, there is a mismatch between rhetoric and practice. With a handful of exceptions, employers have consistently failed to provide training for workers. This cannot continue.

Ensuring Genuine Partnership

Most other EU countries recognise that employers do not voluntarily provide their employees with training and so have introduced laws requiring employers to support employees learning through paid leave, or to spend a percentage of annual payroll on training.

Employers should be legally required to provide continuing training for their workers and this should be backed up by state supports. Employment Law should set out an obligation on employers to provide support and access to personal skill enhancement training and guidance. This training guarantee would:

- a) support workers learning and
- b) provide access to training and
- c) provide minimum training rights such as a guaranteed number of paid hours for up/re skilling and vocational training (linked to their smart economy training plan).

The Role of the State

These rights and obligations can be facilitated and partially supported by government particularly where the worker is in a vulnerable job or has low skills. To get the most value from this, workers would benefit from specific information and guidance on what training or upskilling they need to 'future proof' their employability in the smart economy. The State also needs to:

- o guarantee the right to re-training for the unemployed and guarantee apprentices that they can finish their apprenticeship;

- provide workers (in and out of work) with at least one session with a career coach to develop their own training plan so as to identify what they need to 'future proof' their employability in the smart economy;
- social welfare rules need to be modified to allow those who lose their job to immediately take up training options. Workers who have lost their jobs should have a guarantee of upskilling within four months of becoming unemployed.
- training scheme rules that bar people from availing of upskilling or training options (often on the basis of past achievement with no regard to the intervening years) should be removed.

Alternatives to Redundancy

Alternatives to redundancy comprise a wide range of arrangements such as short time, part-time working, job sharing, e-working, career break/leave schemes particularly when combined with job rotation schemes.

Measures initiated in other European countries have demonstrated that targeted supports can help companies through difficult operational periods, whilst at the same time maintaining full-time employment and improving skills. In particular the Dutch exceptional short-time working scheme is a model that should be further investigated.

The Dutch scheme provides support to private sector employers experiencing a sharp downturn in revenues to help maintain full employment. The scheme allows employers, in consultation with unions, to place workers on temporary, short-time working without having to lay them off.

The scheme is intended to help employers to temporarily reduce their labour overheads whilst maintaining workers on the payroll and protecting salaries.

The employers implementing the scheme receive a subsidy from the national unemployment fund, which is conditional on employees participating in skills development or education during the 'down' period.

Specific criteria exist for the scheme, including the developmental requirement for the affected workers, a strict qualifying measurement based on reduced turnover.

A similar scheme could be introduced in Ireland to help protect jobs in viable employments which are facing short-term economic difficulties. Such supports should be made available for a limited term and defined period (up to 2011), in organisations that have a realistic prospect of continued trading. Equally important is the necessity to ensure that training and educational establishments are geared-up to give access to workers to participate in appropriate training opportunities.

Making the Education System more Responsive

A vital component of any response to the current crisis is to ensure that the education system is flexible enough to meet the needs of society and the economy. Central to this is the availability of flexible learning - at both second and third level - in order to ensure the widest possible access and take up. In addition, we must put in place a system whereby those with high skills can avail of 'conversion courses' whereby they can augment their existing skills, or fine tune them to avail of new opportunities. People should be able to avail of such courses at no cost to themselves.

Social Innovation Fund

Congress is also proposing the establishment of a Social Innovation Fund under which a wide range of creative new measures would be established and funded. This would allow unemployed workers put their skills to use in work that helps meet serious social needs. These include:

- *Developing Social Infrastructure through a social employment programme* An innovative social employment scheme should be developed to ensure that new graduates or people who become unemployed have opportunities to access meaningful work and augment their skills and competencies. Of equal importance is that such a programme would be used to develop and deliver essential services in areas where there is a significant deficit such as childcare and early childhood development, services for the elderly, community development and local facilities etc. A social employment programme should become part of a coordinated effort to build Ireland's social infrastructure and help meet citizens' needs for effective public services. This should be done in a way which enhances existing employment and does not displace or undermine the position of workers in these sectors.

In the area of childcare, selected schools could be designated as local centres for the provision of pre and post school care facilities for children up to age 14 during term time and for the provision of camp/care facilities during holiday periods. Core posts could be supplemented by a graduate placement scheme and/or unemployed people with suitable skills and experience. This scheme could be coordinated by FAS with the collaboration of the National Childhood Investment Programme, the Department of Education and local authorities. Service co-ordination would be the responsibility of the County Childcare Committees who could match needs with services, supervise standards and ensure adequate provision in their local districts.

Any schemes introduced would be subject to the same employment safeguards that currently exist with community employment schemes which require that they gain prior trade union approval before commencement.

- *Using job rotation to provide work whilst enhancing skills of people at work*

Rotation of people who are out of work with those in work would provide work opportunities for the unemployed whilst enabling those at work to benefit from accredited training. This programme could be run along similar lines to the FAS Paid Learning Leave Pilot (which subsidised employers with an amount equivalent to the minimum wage for the training hours of participating employees). A supplementary payment in the case of job rotation would be paid towards the salary of the 'replacement' worker. The scheme should be aligned with the National Skills' Strategy and the sectors, occupation groups and skills' levels identified as priorities to meet current and future labour market requirements. The merit of this approach is that it would impact positively on productivity, performance and competitiveness, reduce the vulnerability of those in employment and enhance the employability of the unemployed.

Many different sectors could benefit from job rotation schemes. One example is childcare where justifiable criticism has been made of poor standards in relation to the development aspect of much of the provision. A barrier to the implementation of the National Childcare Training Strategy is the inability of many providers to release staff to participate in training. A rotation scheme could be used to aid participation in the accredited training programme by rotating graduates in appropriate disciplines and/ or suitably experienced unemployed people with existing childcare workers.

Job rotation could also be applied to employments where workers are granted special leave arrangements or time-out to pursue life interests. Any schemes introduced would be subject to a requirement of prior approval by the appropriate trade unions.

- *Managing employment in construction to safeguard jobs and guarantee skills for the future of the sector*

Total employment in the construction sector was estimated to have reached over 250,000 at the height of the boom and is forecast to decline to 180,000 by the end of 2009. The forecast level of employment is contingent upon NDP infrastructural projects proceeding in civil engineering and construction works through the development of public transport, school buildings and better health facilities. Any curtailment of the NDP infrastructural projects will lead to worsening employment levels in the sector and even greater numbers of unemployed construction workers.

- *Training apprentices to guarantee future skills supply and maintain essential education infrastructure*

The severe downturn in construction is impacting on the recruitment and training of apprentices and will threaten the future availability of skilled workers in the sector unless changes are introduced. The system of allowing employers to determine the commencement numbers of first year apprentices has to change if skills shortages are to be avoided when the economy improves.

If the current system is allowed to continue it is likely that no new apprentices will enter the system for several years to come. Ireland and the construction industry has benefited from a first-class training infrastructure, built up over many years and at great expense to taxpayers. The failure of employers to hold on to their apprentices or to recruit new ones must not be used as an excuse to destroy the apprenticeship system. The training and education infrastructure that exists in FAS and the VECs should be harnessed as a means out of the recession.

Specific recommendations are included in this document in relation to public procurement, the NDP and the employment of apprentices. Congress also believes that further initiatives should be introduced to ensure a future supply of construction skills. Specifically, FAS should introduce a competitive scheme for school leavers and unskilled/low skilled workers who have become unemployed, for a defined intake across each of the construction trades.

FAS should take on the role of securing both public and private sector employers to sponsor the apprentices and to facilitate the completion of their training. Where this is not immediately possible, the apprentices should be taken into training centres and VEC classes to begin their training and allowed continue their education until on-the-job opportunities become available.

- *A trade union initiative to support workplace learning and give access to those facing unemployment*

The Union Skills Network is ideally placed to address the task of upskilling those in employment, those in danger of being made redundant or already out of work. The Union Skills Network is an initiative set-up under the national partnership agreement *Towards 2016*, section 7.8, to provide trade union learning representation in the workplace as part of a learning activation process. The programme is supporting the recruitment of a national network of 500 work based Union Learning Representatives (ULRs). The ULRs are volunteers with an interest in up-skilling and ongoing adult learning who have undergone accredited training for their role. Their main focus within the workplace is on the provision of advice and guidance to their peers on learning and up-skilling opportunities that are appropriate to them with a particular emphasis on those who have left school without a Leaving Certificate.

The response on the ground to the project has been significant. The infrastructure established under the project, including eight regional coordinators, has linked into the Congress Centre's Network (formerly the Congress Centres for the Unemployed) as well as regional and national educational institutions, to give access for working people to training and learning opportunities. The programme should now be developed to continue assisting those in employment as well as working with those at risk of losing work and the unemployed to retain their social links and ensure continuity of skills development irrespective of the individual's employment situation. For example, the USN could be used as a point of reference for people being put on short-time working or being made redundant to ensure that they are encouraged to continue to participate in learning opportunities.

The Union Skills Network can provide a three tiered support structure for workers: while in work by providing advice and guidance on upskilling opportunities, if on short time working by facilitating and delivering training on down days and if unemployed by directing workers to the advice and training service available through the Congress Centres Network. The Centres have experienced and knowledgeable staff that already provide advice and services to people facing unemployment or in need of other welfare related advice. The Centres are also FETAC accredited and can provide targeted training programmes as well. The Centres could be further resourced to assist the Department of Social & Family Affairs to meet the needs of the newly unemployed.

NEW STANDARDS OF EMPLOYMENT

Labour & Social Clauses

Labour and social clauses in public contracts would mean that public authorities, in contracting for the execution of construction works, or for the

supply of goods and services, would be required to concern themselves with maximizing employment and the working conditions under which the operations in question are carried out. This type of approach is actually advocated by the International Labour Organisation, ILO, Convention 94 (Labour Clauses in Public Contracts Convention) stipulates that all tenders apply the best conditions of employment in force at the local level.

Labour clauses are emerging across the EU as a way of linking spending on capital projects and services with public policy objectives such as reducing unemployment and combating social exclusion. They work by specifying certain labour requirements in the tender/contract such as respect for collective agreements and labour law and targeted recruitment and training. They have a clear legal basis and ensure equality for those submitting tenders. They also have the benefit of maximizing 'value for money' from public spending, along with acting as an automatic stabiliser and ensuring against a race to the bottom in wages and conditions.

Labour and Social Clauses Permitted under EU Rules

The EU Procurement Directives applies to all public sector contracts above a certain level and allow for the inclusion labour provisions, EU case law requires their benefits to be verifiable from a public policy perspective, it does not prohibit their use. Public policy objectives of combating growing unemployment, promoting decent work and protecting against a race to the bottom in wages and conditions are permitted. Congress is calling for

1. End the exclusive application of the 'lowest price' principle as the adjudication criteria for public contracts
2. Introduce labour and social criteria as award criteria (article 53 of Directive 2004/18/CE), importantly those related to job stability, decent working conditions and specifically require respect for collective

- agreements, rates of pay and conditions in the sector, along with respect for labour law;
3. Explicitly exclude from public procurements those undertakings which have serious breaches of certain employment legislation (article 45.1, Directive 2004/18/CE); provide a role for NERA in this regard;
 4. Specifying that an agreed number of employment opportunities, training opportunities and/or work placements are provided by the contractor in connection with the project;
 5. Specify a number of apprentices generally and a number of unemployed apprentices to be employed specifically by a ratio of contract value;
 6. Requiring any vacancies in connection with the project to be notified to FAS and the Local Employment Service;
 7. Aiming employment opportunities specifically at a target group, e.g. people who are on the live register, targeted age groups etc.

With careful planning and preparation, the inclusion of labour clauses in public procurement can make an important long-term contribution to social inclusion and regeneration and is therefore an important tool to include in the legal framework of this Finance Bill framework.

Focus on Labour & Social Clauses in the National Development Plan

The National Development Plan should be an investment programme for the future and should invest in those areas which create or preserve jobs, generate the best return and make the strongest contribution to social solidarity. Spending should focus on upskilling, infrastructure, essential public services and social inclusion measures. There is major scope for the reemployment of

construction workers in the infrastructural projects envisaged under the National Development Plan. It is important that investment is focused on facilitating and improving essential public services, such as schools, hospitals, clinics, community facilities etc. While they are social infrastructure, new modern buildings can reduce costs and facilitate the provision of more efficient public services. Contractors tendering under the NDP should be excluded, no matter how 'cheap' the tender where they cannot demonstrate:

- respect for collective agreements, the agreed rates of pay and conditions in the sector, along with proper respect for collective bargaining and labour law
- that they will provide an agreed number of employment opportunities including a specified number of apprentices and unemployed apprentices.

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