

Labour Market Notes

Irish Congress of Trade Unions, Issue 7, Spring 2017

Significant Rulings on Wages & Uber

SIPTU v Complete Highway Care

A ruling from the High Court - in a case dating back to 2009 - means that the Payment of Wages Act will now become a “valuable weapon in the fight against unlawful deduction of wages by employers.”

The case centered around 2009 and 2010 wage deductions imposed on employees by the company. It had been previously held that a reduction in a workers’ income was not a deduction from their wage and therefore a case could not be brought under the Payment of Wages Act. This erroneous view of the legislation had held sway since 2010 and meant the act was effectively nullified.

However, the recent judgement from the High Court reverses this position and, as Siptu’s Tom O’Driscoll points out “this has reinvigorated this important piece of legislation” in terms of the protection of workers’ wages.

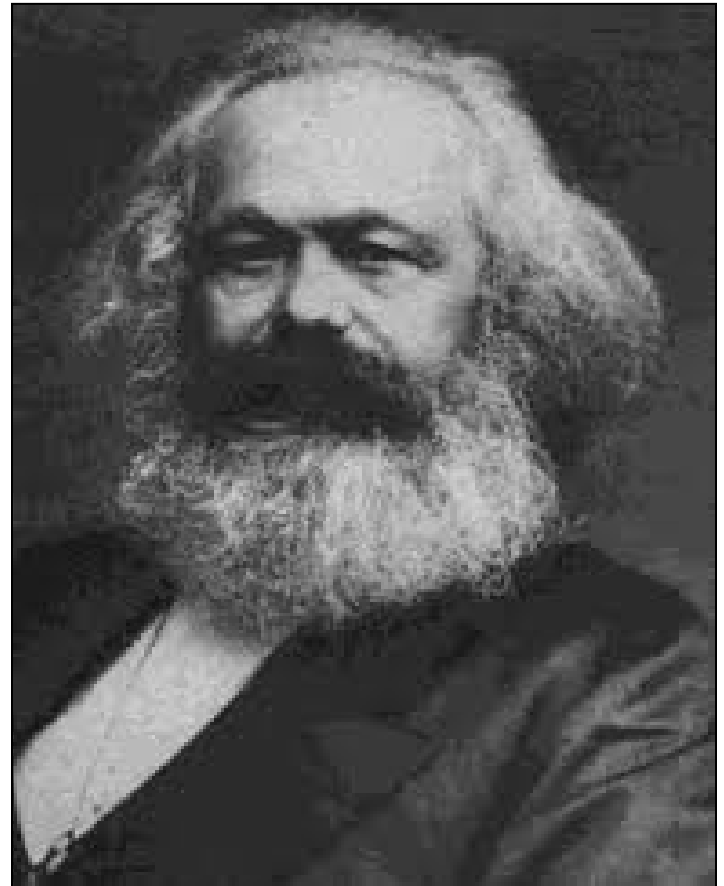
GMB v Uber

The recent ruling from the London Employment Tribunal in relation to the *Uber* platform is of major significance. The case was taken by the GMB trade union and involves drivers working for the *Uber* taxi platform. Initially the ruling will have a direct effect in England and Wales, with later effect in Northern Ireland and Scotland. Its effect in Irish law is as yet unclear, but the courts, the Labour Court and the EAT have noted precedent from other common law jurisdictions. Reacting to the ruling, the GMB’s legal team said:

“We are pleased that the Employment Tribunal has agreed with our arguments that drivers are entitled to the most basic workers’ rights, including to be paid the National Minimum Wage and to receive paid holiday, which were previously denied to them. This is a ground-breaking decision. It will impact not just on the thousands of Uber drivers working in this country, but on all workers in the so-called gig economy whose employers wrongly classify them as self-employed and deny them the rights to which they are entitled.”

This decision is similar to that made in June 2015 by the Labour Inspectorate of Catalonia, who ruled that *Uber*’s drivers were employees. The inspectorate gave several reasons for this, including:

- The company provided drivers with smartphones so that they could carry out their professional activity;
- An ‘incentives system’ offered by *Uber* was based on drivers’ productivity;
- It gave assurances to drivers that it would intervene if they experienced any issues with courts or police.



Karl Marx: Not a fan of *The Economist*, but may have agreed with its view on internships and lax regulation

The Problem with Internships

Karl Marx described *The Economist*, as the “European organ of the aristocracy of finance.” Here is what that publication had to say about internships in a recent edition:

“Access to good jobs is increasingly gained through internships, often unpaid and given out informally. The (British) government has shown limited interest in enforcing the minimum wage in this area.”

This underpins the approach of Congress to a proposed successor to Job Bridge. In a recent letter to the Department of Social Protection, Congress stated:

“The purpose of labour market activation measures is to offer a route back into the labour market. Schemes which offer direct access to the labour market should offer their participants the full protection of labour law.”

“The only exception to this should

be contracts of apprenticeship or traineeship. ...If activation measures are to retain any credibility, the absolute minimum standard applying to participants is work paid in full by the employer, a regular work contract with the full protection of normal labour law and the training and mentoring elements specified and regulated.

“The growing prevalence of unpaid or low paid internships as an entry route to the labour market in some sectors is a social evil and must be countered. The most immediate and practical way of doing that is by giving the Low Pay Commission a remit to enforce the minimum wage on all engagements which have the essential attributes of a contract of employment.”

Ireland's Performance in Perspective

Employment & Social Developments in Europe is a highly useful and insightful publication that issues quarterly from the European Commission. The report looks at countries across the EU28 and gauges their performance across a range of key criteria. In each case, therefore, Ireland's performance is measured by comparison with the EU28 average, the highest performing countries and the lowest performing. The following series of charts are highlights from the report and are instructive in terms of Ireland's performance in key areas, such as employment and unemployment rates, labour costs and job vacancies.

Employment Rate

Employment Rate 20-64 Age Group	
Highest: Sweden	81.2%
EU28 Average	71.2%
Ireland	70.5%
Lowest: Greece	56.5%

Unemployment Rate

Unemployment Rate Dec '16	
Highest: Greece	23.0%
EU28 Average	8.2%
Ireland	7.2%
Lowest: Czechia	3.5%

Labour Costs

Nominal Unit Labour Cost per Person, Q3 2016	
Highest: Estonia	5.1%
EU28 Average	-2%
Ireland	-1%
Lowest: EU 28	-2%

Job Vacancy

Job Vacancy Rates, Q3 2016	
Highest: Malta	3.3%
EU28 Average	1.8%
Ireland	1.0%
Lowest: Italy	0.6%

Mind the Gap

Once again we turn our attention to an area of European statistics where data from Ireland is absent. *European Social and Economic Development* for Quarter 3 of 2016 details financial distress in the 'lowest income quartile' or poorest 25% of households. Some 26 member states report back on this, but Ireland fails to do so, which means we are lacking on what would be a very worthwhile indicator of the changing level of poverty.

CSO Means Business

The CSO resource we tend to use most often are the figures on employment, unemployment and wages. Another useful resource is the [Business Demography Survey](#) which gives a breakdown of the number of active enterprises, classified by economic activity, employment size and legal form.

A detailed county level breakdown is also provided for active enterprises and employment numbers.

If we take the Accommodation & Food Services sector as an example we find that in 2014 there were 17,790 enterprises in the sector with a total of 149,157 employees, in other words an average of 8.4 employees per enterprise. In Accommodation there were 3,535 enterprises employing 49,965 people (average employment 14). In Food & Beverage services there were 14,255 enterprises employing 99,192 (average employment 7).

Narrowing the Gender Jobless Gap

This series is released by the CSO a few days before the monthly live register. One aspect of the figures released on 28 February highlights the narrowing gap between male and female unemployment rates.

Much of the unemployment associated with the economic collapse occurred in construction – an overwhelmingly male occupation.

As the table below shows, the difference between male and female unemployment rates fell in every month between February 2016 and 2017 and more than halved in that period. Men make up 59% of those unemployed compared to 65% a year earlier.

			Male	Female	Difference
2016	Feb		9.9	6.5	3.4
	Mar		9.8	6.6	3.2
	April		9.7	6.8	2.9
	May		9.6	6.9	2.7
	June		9.4	6.9	2.5
	July		9.3	6.6	2.7
	Aug		9.1	6.5	2.6
	Sept		8.6	6.3	2.3
	Oct		8.1	6.2	1.9
	Nov		7.8	6.2	1.6
	Dec		7.5	6.2	1.3
	2017	Jan		7.3	6
Feb			7.1	5.9	1.2

Measures of Unemployment

There are a number of indicators of unemployment which measure different things. The CSO release on a monthly basis the live register figures and the standardised unemployment rate.

The live register includes those signing with the Department of Social Protection, so it can include those signing for credits and those in part time or casual work.

The figures released in early March show the following picture, (both figures seasonally adjusted):

Live Register	276,000
Monthly Unemployed	145,100

Live Register: Part Time & Casual Workers

	Number	% of Live Register
February 2016	65,929	20.6%
February 2017	59,896	21.8%

Decline in Number of Unemployed, plus Casual/ Part Time (year to February 2017)

	Unemployed	Casual / Part Time
All	14%	9.2%,
Males	16.0%	10.8%
Females	10.8%	7.3%.

It is clear that the number of casual and part time workers is falling at a slower rate than the rate of unemployment in general. One might expect that in an improving labour market that employers would offer more hours or better contracts to their existing part time or casual staff. It would seem that there are aspects of the social protection system that favour casual or temporary as opposed to regular employment.

Income & Poverty Risk

According to recent CSO figures using a combination of Revenue and Department of Social Protection data

- 35.1% of all employees earned less than €400 per week in 2014
- 37.5% earned between €400 and €800
- 27.3% earned more than €800 per week and of that figure
- 4.7% earned more than €1,600 per week

The 2014 at risk of poverty threshold in 2014 was €11,173 per annum or €214 per week.

And Finally...

The average direct cost to the exchequer in 2016 of a single JA/ JB claimant was **€9800** per annum. The cost to the exchequer of a single investor in the Employment & Investment Incentive Scheme – a tax break for investors in small companies – is **€18,400** per annum. It's clear to see who shouts the loudest.