



**OBSERVATIONS & RECOMMENDATIONS  
ON  
NATIONAL MINIMUM WAGE  
(LOW PAY COMMISSION) BILL (2015)**

**IRISH CONGRESS TRADE UNIONS, MAY 2015**

## Introduction

The Irish Congress of Trade Unions (ICTU) is the representative body for workers and their unions on the island of Ireland. Congress is a federation of 47 trade unions operating across the island of Ireland with a total membership of 768,991 (of which 206,303 are in Northern Ireland).

Congress affiliates represent workers in all sectors of the economy - public and private - including low paid workers. Raising the hourly rate of the national minimum wage is critically important for workers and for the economy.

The General Secretary of Congress, Ms Patricia King, is a member of the Low Pay Commission, as is Mr Gerry Light (Mandate) who is also a member of the Congress Executive Council.

The Irish Congress Trade Unions welcomes the publication of the 'National Minimum Wage (Low Pay Commission)' Bill 2015. However we are very concerned about the approach put forward in the Bill. Our analysis is that the legislation sets up an unacceptable one sided calculation. This occurs as the Bill only requires the Commission to give due consideration to the potential draw backs of increasing the national minimum wage. The Bill does not require the Commission to give consideration to the potential benefits. It may be that the drafters of the Bill considered it obvious that the Commission would have regard to the benefits of increasing the national minimum wage but without explicitly requiring such a consideration the legislation may be fundamentally flawed. This deficit must be addressed if the Commission is to have support or working people and their unions.

Further concerns arise in the context of the failure of the legislation to provide that the national minimum wage would make progress towards achieving the level of the living wage. The need for minimum wages to progressively increase towards the level of the living wage is underscored by human rights obligations on states to secure 'a right to fair remuneration sufficient for a standard of living.'

Congress warns that that the failure to provide workers who give evidence to the Commission with any protection against employer reprisals will make it difficult for workers to have the confidence to come forward in future.

Finally the focus on the hourly rate of pay disguises many of the problems faced by low paid workers. Workers on low pay are more likely to be subject to a range of unfair employment practices, such as deductions from their wages and many are vulnerable to having their weekly hours reduced. Measures are needed to increase income security and allow workers earn a week's wage rather than broken hours of work. Likewise deductions should not bring a worker's wages below the national minimum wage rate.

Congress is calling for the following amendments to the Bill to address the identified deficits:

### 1. **Amendment to Section 4 - Duty of the Commission to include the living wage in their overall considerations**

Fair wages and conditions of employment are grounded in human rights guarantees and Ireland is committed to respect and promote including:

- *Universal Declaration of Human Rights guarantees the 'right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented if necessary by other means of social protection'.*

- *European Social Charter ‘a right to fair remuneration sufficient for a standard of living for themselves and their families’.*
- *International Covenant on Economic, Social and Cultural Rights (ICESCR) ‘right to gain a living through work and a right to full and productive employment’...’right to fair wages, and the right to a ‘decent living’ for the worker and their family.*

Congress is seeking an amendment to the duties of the Commission so that they are required to have regard for right to ***just and favourable remuneration that is sufficient for a decent standard of living including the ‘living wage’***. This can be achieved by amending the section as follows.

### **Duty of Commission**

4. The Principal Act is amended by the insertion of the following section after section 10A:

**“10B.** The Commission in the performance of the functions assigned to it by Section 10C shall make recommendations to the Minister regarding the national minimum hourly rate of pay that is:

***(a) just and favourable and sufficient for a decent standard of living having regard to the level of the living wage,***

(a) is designed to assist as many low paid workers as is reasonably practicable,

(b) is set at a rate that is both fair and sustainable,

(c) where adjustment is appropriate, is adjusted incrementally, and

(d) over time, is progressively increased,

without creating significant adverse consequences for employment or competitiveness.”

The purpose of the amendment is to make it clear that the Commission must include the living wage in their considerations and that the minimum wage progressively increases towards the level of the living wage.

## **2. Section 5 - Functions of the Commission**

Congress’ analysis is that this section of the legislation is deeply flawed. Our view is that it sets up a one sided analysis by omitting consideration of the positive benefits of increasing the level of the national minimum wage. This imbalance may ultimately undermine the credibility of the Commission in the eyes of workers and their trade unions. Congress is therefore proposing that the section be amended to require the Commission to also take the following considerations into account

1. ***changes in the consumer price index and in the harmonised index of consumer prices;***

2. *the likely effect that any proposed order will have on income inequality including income inequality between women and men;*
3. *the likely effect that any proposed order will have on aggregate demand in the economy;*
4. *the likely effect that any proposed order will have on the public finances.*

In addition it would be helpful if the legislation was clearer that comparing levels of national minimum wages cross border is not a simple straight forward comparison but that other factors and are affected by the level of social protection afforded, for example the cost of a doctors visit, medicine and sick pay are very different when compared ' *with Great Britain and Northern Ireland*'.

This suggests an amendment to (d)

*d) international comparisons, particularly with Great Britain and Northern Ireland, taking into account the standard of living, the general level of wages in the country concerned and the level of social protection afforded;*

It is also essential that the general level of wages in Ireland is taken into account, in particular the level of the median wage. It worth recalling that when the National Minimum Wage was first introduced it was recommended that the rate would be set at 2/3rds of median earnings. This can be achieved by amending the section to include "*the general level of wages in the country, including the median wage.*"

This would mean that Section 5 would be amended as follows:

#### **Functions of Commission**

5. The Principal Act is amended by the insertion of the following section after section 10B:

**"10C.**(1) Without prejudice to the generality of section 10B, the Commission shall once each year—

- (a) examine the national minimum hourly rate of pay, and
  - (b) make a recommendation to the Minister respecting the national minimum hourly rate of pay.
- (2) (a) A recommendation under this section shall be accompanied by a report on the matters considered when making the recommendation.
- (b) A recommendation and report under this section shall be furnished to the Minister on or before 15 July of the year to which the examination relates.
- (3) When making a recommendation under subsection (1)(b), the Commission shall have regard to—

***(a) the general level of wages in the country , including the median wage;***

- (a) changes in earnings during the relevant period,
- (b) changes in currency exchange rates during the relevant period,
- (c) changes in income distribution during the relevant period,

(d) whether during the relevant period—  
i) unemployment has been increasing or decreasing,  
ii) employment has been increasing or decreasing, and  
iii) productivity has been increasing or decreasing,  
both generally and in the sectors most affected by the making of an order under section 10D (inserted by *section 6* of the *Act of 2015*),  
(e) international comparisons, particularly with Great Britain and Northern Ireland, ***taking into account the standard of living, the general level of wages in the country concerned and the level of social protection afforded;***

(f) the need for job creation, and  
(g) the likely effect that any proposed order will have on—  
i) levels of employment and unemployment,  
ii) the cost of living, and  
iii) national competitiveness.  
(iv) **changes in the consumer price index and in the harmonised index of consumer prices;**  
(V) **the likely effect that any proposed order will have on income inequality including income inequality between women and men;**  
(vi) **the likely effect that any proposed order will have on aggregate demand in the economy;**  
(vii) **the likely effect that any proposed order will have on the public finances.**

....

### **3. Amendment to Schedule 2 Resignation & Termination of Office**

The schedule sets out reasons for termination of the Office of Commission. It would be unacceptable for an individual to be a Commissioner if they fail to pay their workers the National Minimum Wage. In this respect Congress is seeking an amended to allow the Minister to remove a Commissioner if they fail to comply with National Minimum Wage and Employment laws.

#### **New Section to Protect Workers who Give Evidence to the Low Pay Commission**

Finally Congress wishes to bring to the attention of the Committee the need for protection for workers who are invited to give statements to the Low Pay Commission. It is unacceptable that workers are under threat, for example of having their hours of work reduced, when they give evidence regarding their own situation. An amendment can be provided along the following lines and provision can be made in the schedule in the normal way for complaints and protection to be afforded under the Workplace Relations Service.

*An employer shall not penalise or threaten penalisation against a worker, or cause or permit any other person to penalise or threaten penalisation against a worker for having made a statement to the Low Pay Commission or for giving evidence on their own experience through their representative organisation.*

**Ends (May 18, 2015)**