



Joint Committee on Jobs, Enterprise and Innovation

14th February 2017

- Presentation from the Irish Hotels Federation -

Chair, Deputies and Senators. Thank you for inviting the Irish Hotels Federation (IHF) to address the Joint Committee on Jobs, Enterprise and Innovation.

The Irish Hotels Federation, founded in 1937, is the national representative organisation of the hotel and guesthouse sector in Ireland. As a key stakeholder in Irish tourism, we work with our industry partners to ensure the right conditions are in place for tourism to grow and prosper, thereby contributing to recovery and job creation in the economy.

Tourism is one of Ireland's largest indigenous industries and is essential for the country's economic well-being. Having supported the creation of over 50,000 new jobs during the last five years, tourism now employs more than 220,000 people throughout the country, accounting for 11% of total employment. With almost 60,000 people directly employed by hotels and guesthouses across every town and village, the hotels sector is playing a critical role in contributing to recovery in the tourism industry and the wider economy.

The IHF welcomes the opportunity to contribute to the work of the Committee in relation to its scrutiny of the proposed Banded Hours Contract Bill 2016. It is the view of the IHF that the Bill does not appear to be informed by a credible, evidence-based analysis and that it would have a significant negative impact on employment potential by limiting flexibility, increasing costs and imposing unnecessary additional administrative complexity and legislative burden on businesses.

In particular, the IHF has serious concerns that the Bill would impose disproportionate and excessive restrictions on businesses within the tourism and hospitality sector which require a level of flexibility in order to respond effectively to varying levels of customer demand. By significantly restricting the ability of employers to manage the flow of work within their businesses, the Bill would cause substantial difficulties for the tourism sector.

Business such as hotels and guesthouses experience significant seasonal variations in demand. By their nature, these businesses are required on to respond to fluctuations in staffing requirements on an ongoing basis. For example, when a premises is asked to cater for a large event on short notice. When this arises, hotels examine their staffing requirements, looking first at their full-time and part-time employees and seasonal staff, including students, and perhaps a small pool of additional staff that would be available to be called upon on a voluntary basis. This approach is mutually beneficial for both the employer and employee and provides a degree of flexibility that is required in the sector.

The IHF is supportive of employment regulation that is balanced and proportional and that takes into account the requirements of both employers and employees in an equitable manner. As such, we cannot support the proposed Bill which would have negative effects for both employers and employees. There are over 50 statutes to protect employees working in Ireland and any proposals to add further to the legislation burden must be based on a real need and credible evidence.

We note that the University of Limerick study showed little evidence of the use of zero hour contracts in Ireland within the meaning of the Organisation of Working Time Act 1997 (OWTA). In relation to variable hour contracts, the IHF notes that 2.6% of employees in Ireland were reported to be working variable hours on a part-time basis – a figure which relates to all people working variable part-time hours including employees who are satisfied with this arrangement.

Areas of substantive weakness within the Bill:

- Section 3 effectively eliminates the ability of businesses to determine whether they can provide a minimum number of hours to an employee or whether there are justifiable reasons as to why an employee cannot be moved to an increased level of hours.
- Setting a mean as the new minimum number of hours as provided for in Section 3(1) would result in an ever-increasing minimum number of hours for a given employee. This would result in the employer being required to provide more hours than are necessary at certain periods.
- The IHF views the six month reference period as excessively short and potentially detrimental to tourism-related businesses given the seasonal variations within the industry. In addition, the Bill does not allow for situations where the number of hours worked in a particular six month period is irregular or exceptional.
- Section 3(4) provides that an employer can only refuse an employee's request for additional hours if the business is experiencing severe financial difficulties. This is excessively restrictive and entirely unsuitable for businesses that require flexible working arrangements in order to meet varying customer demand.

Specific matters identified for consideration

Our comments in relation to the five specific matters identified for consideration by the Committee are set out below:

- (1) *The problems caused by the increased casualisation of work that prevents workers in low hour and zero hour type contract arrangements from being able to save or have any job security (and, in this context, it should be noted that the resolution made reference to the Study on the Prevalence of Zero Hours Contracts among Irish Employers and their Impact on Employees carried out by the University of Limerick);*

IHF Response:

The IHF is strongly of the view that any legislative response in relation to employment law must be proportional and informed by a credible evidence-based analysis. Based on the evidence available, there is no justification for the proposed Bill. Indeed, the University of Limerick study showed little evidence of the use of zero hour contracts in Ireland within the meaning of the Organisation of Working Time Act 1997. In relation to variable hour contracts, the IHF notes that 2.6% of employees in Ireland were reported to be working variable hours on a part-time basis. This figure is very low and relates to all people working variable part-time hours, including employees who are satisfied with this arrangement and employees who are on higher rates of pay.

- (2) *Whether zero hour contracts should be banned;*

IHF Response:

The IHF's position is that any legislative response banning zero hour contracts would be excessive and disproportionate. While zero hour contracts are not prevalent in Ireland, under certain circumstances there may be a desire on the part of both employees and employers that it should remain in place where such arrangements are mutually beneficial. Any legislative change should therefore only be implemented based on credible evidence demonstrating a clear need. It should be noted that section 18 of the Organisation of Working Time Act 1997 entitles employees on zero hour contracts to minimum payments whether they are called into work or not.

- (3) *Whether the Bill has sufficient flexibility in its application for small businesses and provides a simple approach in this regard, while lessening the administrative burden;*

IHF Response:

Businesses in the hospitality sector, including hotels and guesthouses, need to be in a position to respond to varying levels of customer demand. Examples include: i) when events catered for by a premises arise at short notice and ii) the seasonality of tourism levels during the year. This requires a level of flexibility that would be seriously adversely affected by the proposed Bill. In particular, the Bill does not provide any provision for employers to move employees back to a lower band of hours where necessary, for example in response to changing demand. The impact on small seasonal hospitality enterprises – the backbone of Irish tourism – would be even more

pronounced and would be detrimental to their ability to effectively manage their businesses. It is therefore very concerning that the Bill lacks flexibility in its application for small businesses and an approach for lessening the administrative burden.

- (4) *Whether workers on low and zero hour contracts should be allowed a minimum set of hours and the right to request more hours (section 18 of the Organisation of Working Time Act 1997);*

IHF Response:

Any proposals for legislative change must take account of the requirement for businesses to have the flexibility to manage staffing levels in their organisation in line with business demands and customer needs. The IHF's view is that it would be detrimental to businesses for employees to have the right to vary the terms of their contracts of employment without adequate regard for demand levels within the business. Any legislative response must be proportional and informed by a credible evidence-based analysis. This should include an examination of the existing enforcement mechanisms in relation to the Organisation of Working Time Act 1997 and a full assessment of the additional legislative burden that would result from any changes. It should be noted that section 18 of the Act affords significant protections, entitling employees to minimum payments whether or not they are requested to work.

- (5) *Whether the remit of the Low Pay Commission should be changed to permit or require it to review proposals on banded hour contracts for those on low pay.*

IHF Response:

It is the view of the IHF that it would not be appropriate to change the remit of the Low Pay Commission or require it to review proposals on banded hour contracts for those on low pay. The priority should be to seek to understand any areas where available enforcement measures do not address the problem at hand as opposed to responding by introducing additional legislation that would have substantial unintended consequences. It is the IHF's view that the issue would be better addressed through monitoring, compliance and effective use of the current industrial relations channels, such as Workplace Relations Commission.

In carrying out scrutiny of the Bill, we urge the Committee to take into account the realities employers face when managing flows of work within their businesses. In particular, we would urge that consideration be given to the disproportionate adverse impact the proposed restrictions would have by limiting flexibility, increasing costs and imposing unnecessary additional legislative burden on businesses.

Finally, Chair thank you for the opportunity to address this Joint Oireachtas Committee and we look forward to addressing any matters that the members may wish to raise.