



Select Committee on Budgetary Oversight

Department of Enterprise, Trade and Employment

Opening statement

A Cathaoirleach, thank you for the invite today to present to the Select Committee on Budgetary Oversight. I am Dermot Coates, Chief Economist in the Department of Enterprise, Trade and Employment. I am accompanied by my colleagues Áine Maher, Principal Officer for the Employment Right Policy Unit; Tara Coogan, Principal Officer, for Industrial Relations, Workplace Relations, and Construction Contracts Adjudication; Caroline Savage, Assistant Principal in the Intellectual Property Unity; and Pádraig O' Sullivan, Assistant Principal in our Economic and Tax Policy Unit.

Firstly, I would like to thank the committee for the invitation to attend today. I welcome the opportunity to comment on the Budgetary Oversight Committee's '**Report on Section 481- Film Tax Credit**' published in May 2023 and the recommendations contained therein. The report and its recommendations have been carefully assessed by the relevant policy experts within the Department.

While decisions pertaining to the design and operation of the tax credit fall outside the remit of this Department, a number of important areas are explored within the report including *employment rights*, *company law* and the use of copyright within the film industry. In this opening statement, I will strive to provide a high-level overview of these important areas.

Employment Legislation

I acknowledge **Recommendation Six** of the May 2023 Report (wherein the Committee has committed to writing to the EU Commission requesting an examination of ‘Fixed Term Contracts’ for film crew working across multiple productions, where such crew never acquire Contracts of Indefinite Duration or any acknowledgement of their service, and whether this amounts to a breach of EU Directives in terms of both the Fixed Term Workers Directive and EU directives relating to state aid for the Audio-visual sector).

As a starting point, Ireland has a comprehensive body of employment, equality and industrial relations legislation which offers the same protections to all employees legally employed under a contract of employment. All employers, regardless of sector, are responsible for ensuring that their employees receive all protections afforded them under employment legislation.

The Protection of Employees (Fixed-Term Work) Act 2003 transposes Council Directive 1999/70/EC concerning the Framework Agreement on fixed-term work. It provides for the improvement of the quality of fixed-term work by ensuring the application of the principle of non-discrimination (i.e. fixed-term workers may not be treated less favourably than comparable permanent workers). The Act also provides for the establishment of a framework to prevent abuse arising from the use of successive fixed-term employment contracts.

The Deputies will be aware that in December the Workplace Relations Commission (WRC) released decisions in respect of a sample group of complaints made by members of the film industry under this Act. There are

further related cases still being adjudicated. As such, I can simply confirm that the Department has noted these decisions.

Copyright legislation

Separately, the Department acknowledges the deputies' comments with regards to **Recommendation Eight** of the report, which recommends that compliance with the Copyright and Related Rights Act 2000, as well as the EU Copyright Directive should be a specified requirement in order to avail of the Section 481 credit.

I underline that Copyright legislation applies in this instance as the rights of creators (including actors and performers) are protected by the legislation when their rights are transferred to another party. These rights apply whether or not the party to whom the rights are transferred applies for tax relief under Section 481 of the Taxes Consolidation Act 1997 or not.

It should be recalled that the Department for Enterprise, Trade and Employment does not have a role in the enforcement of copyright. The copyright legislation outlines the ways in which right holders themselves enforce their rights, should they consider that they have been infringed, and that neither the Minister nor his department have a direct role in this process.

Workplace Relations Commission – Time Limits for claims

I note **Recommendation Two** in the Report on Section 481 to extend the six-month limit currently in place to submit a claim to the Workplace Relations Commission. While complaints to the WRC should in general be within six months of the date of the alleged breach, provision already exists to extend the

time limit by a further six months where, in the opinion of the Adjudication Officer, the complainant has demonstrated ‘reasonable cause’ for the delay.

Working Conditions Assessment

In line with a recommendation from the National Competitiveness and Productivity Council, in its report *Ireland’s Competitiveness Challenge 2022*, there is currently an assessment being undertaken by the Department of Enterprise, Trade and Employment, and the Department of Social Protection, examining the cumulative impact of changes to working conditions on employers, including: Pension Auto-Enrolment, Parent’s Leave and Benefit, Statutory Sick Pay, Additional Public Holiday, Living Wage, and Remote Working.

It is important to note that these measures are being introduced by Government on a staggered basis, over a number of years. The Department is aware that, while the introduction of these measures will deliver economic and societal benefits, improving working conditions and bringing Ireland in line with other advanced economies, they will also bring additional costs for some businesses. This impact must be understood in terms of the differences across sectors and by firm size. The report will set out this impact, supported by qualitative evidence received from both employer and trade union perspectives. This report will be finalised in the coming weeks.

Closing Remarks

In conclusion, whilst the Department of Enterprise, Trade and Employment has no direct decision in the design and operation of the tax credit, the Department does feed into the review process of the scheme, and other tax policy measures, on an ongoing basis. Furthermore, the Department plays an important function in addressing issues related to Section 481 relief, as discussed in these remarks and the Department remain committed to identifying and addressing issues of

relevance to this Department. I look forward to the discussion today and will seek to address any queries as they arise.