



Opening Statement to The Joint Committee on Enterprise, Trade and Employment.

**Pre-Legislative Scrutiny - General Scheme of the
Employment Permits Consolidation and Amendment Bill.**

March 2021.

1. Chairperson and Members of the Committee.

2. Congress welcomes the opportunity to provide the Committee with its views on the General Scheme of the Employment Permits (Consolidation and Amendment) Bill. The proposed legislation was considered by this Committee in 2019 and as part of that process Congress made a written submission. While much has changed since 2019 the concerns raised in that submission form the basis of my remarks today.
3. Before commenting specifically on the proposed legislation, we would question whether this is the appropriate time to be making the proposed changes. When this legislation was first proposed in 2019, there were very low levels of unemployment. However, because of the pandemic and the associated public health restrictions there are currently in and around half a million people in receipt of the Pandemic Unemployment Payment. This is on top of those who are receiving job seekers benefit and job seekers allowance. While it is likely that a substantial number of these workers will return to employment following the pandemic, nobody can predict with any certainty how many jobs will be permanently lost. In our view it would be prudent not to proceed with this legislation until the end of the pandemic when a clearer picture has emerged on the numbers of workers who are unemployed.
4. Turning to the proposed legislation. It is important to note that migrant workers have and continue to play a key role in the Irish economy. The key issue for Congress and our affiliate unions is what rights migrants have when they come to work in Ireland and how these rights can be vindicated. We have reviewed the proposed legislation from this perspective and we are concerned that some of the proposed changes will further undermine the position of migrant workers in Ireland.
5. The legislation proposes to introduce a seasonal work permit. We regard this as been particularly problematic. The problem that arises is ensuring that workers employed on such permits have the appropriate terms and conditions of employment. However, because the work permit will be issued for a short period of time the difficulties of enforcement multiply and the difficulties for workers to secure redress increases exponentially. It is argued that Ireland is an 'outlier' in the European Union by not having seasonal work permits. If alignment with other European Countries is to take place it must be a genuine alignment. This involves aligning all labour standards including the right to collective bargaining.
6. It is proposed to restructure the labour market needs test so that it is easier for employers to demonstrate that they have sought to fill vacancies within the EU and EEA. It is a fundamental plank of our labour market policy that where employment vacancies arise, they should be advertised domestically in the first instance and then in the EU and EEA. It is only when vacancies cannot be filled from these sources can a work permit be sought. The changes proposed have the potential to severely undermine this important labour market regulation. It is also proposed that the rules would be no longer prescribed in

primary legislation but in regulations. Providing that primary legislation be replaced by regulations has the potential to undermine the role of the Oireachtas and in turn potentially frustrates public scrutiny.

7. The introduction of a Special Circumstances Work Permit is also proposed. We understand that this new type of work permit would be available in circumstances where a specific niche need has been identified and the normal conditions attaching to the granting of a work permit cannot be fulfilled. It is proposed that the rules for the granting of such work permits would be provided for in regulations. We would suggest that further scrutiny is required to determine the extent to which there is a need for this type of work permit. If it has been established that there is a need for this the rules applying to the operation of the scheme should be prescribed in primary legislation.
8. In conclusion Chairperson and members of the Committee, Congress recognises the valuable role that migrant workers play in our country. They play a crucial role in providing many important public services. We are concerned that the proposed legislation seems to addressing the needs of employers only and aimed at making it easier for employers to obtain work permits. There are no proposals in the draft legislation to enhance and protect migrant workers themselves or to ensure that they are guaranteed their employment rights while working here.
9. Leaving aside the shortcomings in the proposed bill and what balancing measures might be put in place, we would question if it is appropriate to be making such fundamental changes to the work permits regime when there is huge uncertainty about the state of the labour market and rates of unemployment that we will face when the pandemic is over.

ENDS.