

DÁIL ÉIREANN

Dé Céadaoin, 22 Iúil, 2020
Wednesday, 22nd July, 2020

An Lárionad Coinbhinsiúin, Baile Átha Cliath
Convention Centre Dublin

9.30 a.m.

GNÓ COMHALTAÍ PRÍOBHÁIDEACHA PRIVATE MEMBERS' BUSINESS

Fógra i dtaobh Leasú ar Thairiscint : Notice of Amendment to Motion

14. “That Dáil Éireann:

notes that:

- over 1,400 workers in Debenhams Ireland faced mass layoffs when the United Kingdom (UK) parent company announced it would no longer support the Irish subsidiary in April of this year;
- the company have not negotiated with the workers’ representatives since and that liquidators have been appointed;
- the workers have a collective agreement with Debenhams that guarantees an enhanced redundancy payment package of two weeks statutory plus two weeks;
- initially workers were informed that the company had liabilities of around €19 million, but this estimate has since been revised upwards to around €225 million;
- Debenhams Ireland had entered an arrangement as co-guarantor of a major debt facility of around £200 million utilised by the UK parent company in 2019;
- the Bank of Ireland is part of the consortium that includes Barclays bank and two United States based hedge funds that triggered this process and this consortium are now effectively the owners of Debenhams UK; and
- workers are fearful that the insolvency of their company has all the hallmarks of a tactical insolvency which will leave them as creditors with nothing other than statutory entitlements;

further notes that:

- five years ago, Clerys’ department store closed and its workers were made redundant with no notification by their company;
- the Oireachtas responded by commissioning a report into the causes of the closure, and the manner in which workers were abandoned;

- the subsequent ‘Expert Examination and Review of Laws on the Protection of Employee Interests when assets are separated from the operating entity (Duffy-Cahill Report)’ made several suggestions for legislative reform to ensure workers would not be abandoned in any subsequent closure or liquidation process; and
- to date the Oireachtas has failed to legislate for any of the areas examined by the Duffy-Cahill Report;

condemns:

- the failure of past Governments to legislate to protect workers in these situations; and
- the actions of the consortium now in control of Debenhams and specifically the role of the Bank of Ireland who were bailed out by the Irish State in 2008;

sends a message of support to the Debenhams’ workers for the stance they have taken to protect their livelihoods;

recognises:

- the plight of the Debenhams’ workers and the decades of service many have rendered to their company;
- the threat of mass redundancies facing many other workers in many sectors and industries in the coming period; and
- in the case of Debenhams, the State is the first creditor that the liquidators seek to settle with on amounts due for various taxes and rates owed;

calls on the Government to:

- legislate as a priority to strengthen the rights of workers facing redundancies and layoffs, and specifically to legislate to:
 - reorder the priority afforded to workers as creditors in any liquidation process by amending section 621 of the Companies Act 2014;
 - amend the Protection of Employment Act 1977 to increase the compensation for workers from four weeks to two years in cases where their employer has contravened sections 9 and 10 of the Act; and
 - amend all appropriate legislation such as the ‘Protection of Employment Acts’ as called for in the Duffy-Cahill Report to ensure that where agreements for enhanced redundancies have been negotiated with workers, these are honoured as preferential creditors in any subsequent liquidation process; and

in recognition of the failure of the State to act in this area and to protect workers like those in Debenhams, calls on the Minister for Finance, Minister for Employment Affairs and Social Protection and the Taoiseach to:

- notify the liquidators in Debenhams that the State will forego its priority as a creditor and instruct the liquidator to use funds realised instead to pay the enhanced redundancy payments agreed between the Debenhams’ workers and the company; and
- immediately initiate negotiations with representatives of the Bank of Ireland to ensure the workers receive the full collective redundancy package previously agreed with the Debenhams’ company.” — *Richard Boyd Barrett, Bríd Smith, Gino Kenny, Paul Murphy, Mick Barry.*

Leasú:

Amendment:

1. To delete all words after “Dáil Éireann” and substitute the following:

“extends its sympathy to the employees of Debenhams Ireland who have lost their jobs given the liquidation of the company;

acknowledges the distress and worry that this is causing for employees of Debenhams Ireland, and the added difficulty at the present time when mobility remains restricted;

notes that:

- Debenhams Ireland is undergoing a court-supervised liquidation, and that the case remains before the High Court and accordingly is *sub judice*;
- a company cannot merely assert that it is insolvent, it must apply for an official court liquidation and as such the liquidation will be under the supervision of the Irish courts system;
- the Companies Act 2014 already provides for a court power to order the return of assets improperly transferred in appropriate cases;
- the Workplace Relations Commission continues to be fully operational and available to any interested parties who may require it;
- the Government’s job loss protocol has been activated for employees of Debenhams Ireland putting in place all available supports and information for workers, including on welfare entitlements, job-search assistance and upskilling needs and opportunities;
- the Protection of Employment Act 1977 imposes a number of obligations on employers who are proposing collective redundancies;
- in respect of redundancy entitlements, it is the responsibility of the employer in the first instance to pay statutory redundancy and other wage related entitlements to eligible employees;
- the Social Insurance Fund provides an important safety net for employees in situations where the employer cannot pay statutory redundancy due to financial difficulties or insolvency; and
- the State will guarantee statutory employment rights to the workers of Debenhams;

recalls that in response to concerns in earlier cases, the then Government, in 2016, commissioned two reports in parallel: the ‘Expert Examination and Review of Laws on the Protection of Employee Interests when assets are separated from the operating entity (Duffy-Cahill Report)’ in March 2016, and the report of the Company Law Review Group (CLRG) on ‘Protection of Employees and Unsecured Creditors’ in June 2017;

recognises the need for the Government to have a strong focus on job creation, training and re-skilling in the July Stimulus announcement and forthcoming National Economic Plan, given the number of people whose employment has been threatened or lost as a result of the Covid-19 public health emergency;

further notes that the Tánaiste and Minister for Business, Enterprise and Innovation will meet with Debenhams worker representatives; and

endorses the intention to immediately commence the Programme for Government’s commitments regarding employee protections by:

- reviewing whether the current legal provisions surrounding collective redundancies and the liquidation of companies effectively protect the rights of workers;
- reviewing the Companies Act 2014, with a view to addressing the practice of trading entities splitting their operations between trading and property, with the result being the trading business (including the jobs) goes into insolvency and the assets are taken out of the original business; and

— examining the legal provision that pertains to any sale to a connected party following the insolvency of a company including who can object and the allowable grounds of an objection.” — *An Tánaiste agus Aire Gnó, Fiontar agus Nuálaíochta.*