



National Women's
Council of Ireland
Comhairle Náisiúnta
na mBan in Éirinn

Review of Joint Labour Committees

LABOUR COURT

SUBMISSION BY
NATIONAL WOMEN'S COUNCIL OF IRELAND

The NWCI

Founded in 1973, the National Women's Council of Ireland (NWCI) has over 160 member organisations and is the representative organisation for women and women's groups in Ireland. The mission of the NWCI is to achieve equality for women. Economic independence is a key area of concern for the NWCI and is one of the main areas of work for the organisation.

In 2011, the NWCI made a submission to the Independent review of ERO and REA Wage Setting Mechanisms. The report of the Independent Review of Employment Regulation Orders and Registered Employment Agreement Wage Setting Mechanisms was published later in 2011. It concluded that the basic framework of the current JLC/REA regulatory system should be retained but requires radical overhaul so as to make it fairer and more responsive to changing economic circumstances and labour market conditions. The NWCI notes the conclusions of the Review of Employment Regulation Orders and Registered Employment Agreement Wage Setting Mechanisms, including *inter alia*, that:

- lowering the basic JLC rates to the level of the minimum wage rate is unlikely to have a substantial effect on employment;
- there is no evidence of substantial wage premiums or differentials between the JLC levels and the minimum wage;
- it is not accurate that the body of primary employment rights legislation currently in force adequately covers matters dealt with by the EROs and REAs
- the main justification for the JLC system lies in the absence of any other fair system of determining pay and conditions of employment, beyond statutory minima, within the sectors concerned.

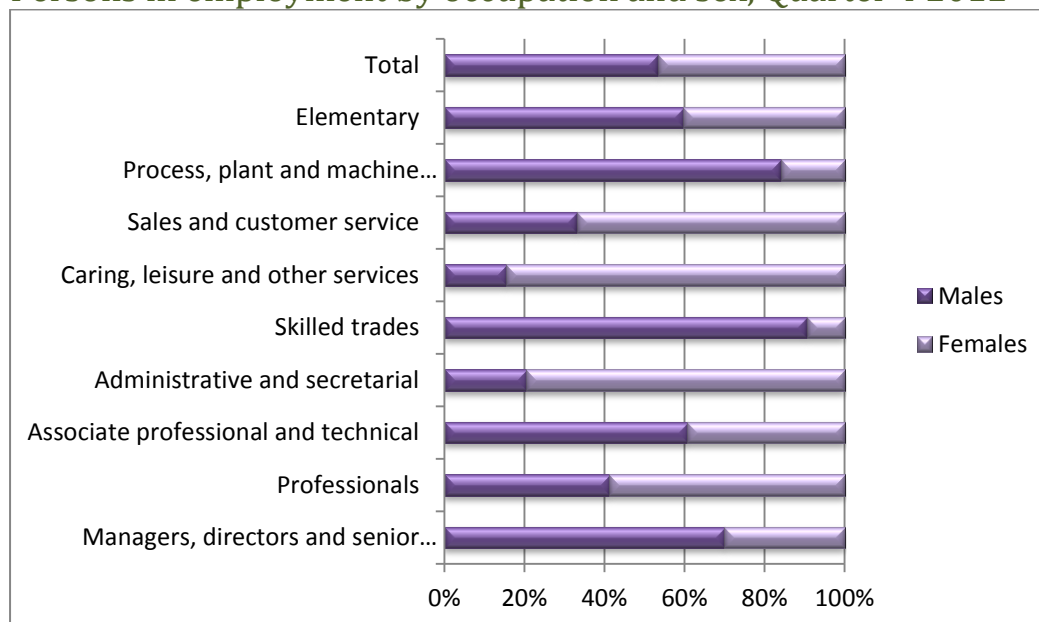
The NWCI welcomes the opportunity to make a submission to the 2013 Labour Court review of Joint Labour Committees.

Women and low paid employment

The JLCs regulate areas of work that are generally paid at rates marginally above the statutory minimum wage. As outlined above, they are acknowledged as being important in the absence of a fair system to determine wages at this level. The JLCs are a significant concern to the NWCI in the context of its work on Women and Economic Independence as a number of the sectors governed by JLCs are predominantly made up of women employees.

According to the latest figures available¹, for example, there are 511,600 people employed in the *Administrative and Secretarial*, the *Caring, Leisure and Other Services* and the *Sales and Customer Services* industries. These are some of the areas that are covered by the JLCs. Women comprise 77% of the workforce in these areas, and 46% of women in work are employed in these sectors. While not all of these employees are covered by the wage setting mechanisms under consideration in this Review (and indeed these mechanisms cover other occupations in addition to these) they represent a large proportion of those who are covered, and a significant proportion of female employees.

Persons in employment by occupation and sex, Quarter 4 2012



Source: CSO (2013) Quarterly National Household Survey Quarter 4 2012

The 2009 National Employment Survey showed that work in these areas are the lowest paid across occupations. The Survey also showed that there is a gender pay gap across all occupations, and the gap is particularly high in these occupations. In *Sales*, for example, men earned 22.7% on average more than women in 2009. This was in comparison to a gender pay gap of 21.3% in 2008, reflecting an increasingly difficult time for women in work. In the year to Quarter 4 2012, women lost jobs in these sector at a rate that was over four times that of male job losses.²

¹ CSO 2013, Quarterly National Household Survey, Quarter 4 2012

² 13,000 women lost jobs in these sectors compared to 3,000 men

Selected summary data from the QNHS Module on Working Conditions, Q1 2008

	All	Male	Female	Agriculture, forestry & fishing	Wholesale & retail	Hotels & restaurants	Personal & protective service	Sales
Pension/contribution	51%	54%	47%	31%	29%	11%	36%	24%
Medical plan	15%	19%	11%	3%	7%	5%	11%	7%
Paid sick leave	64%	65%	62%	54%	47%	24%	49%	43%
Flexible working	36%	30%	42%	24%	26%	19%	28%	27%
Paid training leave	44%	44%	44%	32%	26%	15%	32%	25%
No employer provided/paid training	74%	71%	76%	86%	84%	85%	77%	82%
Contract from employer	66%	64%	65%	-	61%	48%	55%	61%
Understood legal employment rights (a lot)	42%	44%	40%	26%	36%	29%	35%	31%

The Special Module on Working Conditions (QNHS, Q1 2008) shows that in relation to employer provided benefits such as pensions (or pension contributions) and medical plans, access to paid sick and training leave and to family friendly flexible working arrangements, women's entitlements are less than men, and that access to these benefits is considerably lower in the sectors and occupations relevant to the wage setting mechanisms under review. The same pattern holds in relation to access to training provided by or paid for by employers, and in relation to legal employment rights.

Women's employment is more likely to be part-time and lower paid than men's employment. The Mandate Trade Union report *Decent Work? The Impact of the Recession on Low Paid Workers* describes precarious work as "uncertain, unpredictable, and risky from the point of view of the worker" and states that women are over-represented in the 'precarariat', which has suffered an above average rate of job loss since the onset of the recession, with female employment being worst hit. The Behaviour and Attitudes survey carried out as part of the report reports on the fall in pay of approximately 40% of these workers over the last year and demonstrates what it describes the "extraordinary level of working time flexibility demanded by retail employers" (p. 4). The report cites Turner & O'Sullivan's (2012) paper on employees working for pay rates determined by Joint Labour Committees (JLCs), finding that they are twice as likely to be women as men.

Companies seeking cost saving measures are increasingly targeting supports for women, such as supports to statutory maternity payments. The Unite Trade Union has stated that it is dealing with abuse of women's rights in the workplace more than ever during these difficult economic times³. This is reflected in the fact that

In its Annual Report for 2011⁴ the Equality Authority stated that gender continued to be the most frequent ground for employment related queries and the third most frequent ground under the Equal Status Acts to its Information Centre. Gender (along with disability) continued to account for the largest share of case files under the Employment Equality Act. This will put continued pressure on women to leave the workforce, with serious personal and social consequences.

³ http://www.unitetheunion.org/regions/ireland/news_from_ireland/internation.asp

⁴ The Equality Authority (2012). *The Equality Authority Annual Report 2011*

It is clear, therefore, that occupations covered by these wage setting mechanisms not only employ a substantial proportion of women, but that they are also among the lowest paid in the economy, have hourly gender pay gaps significantly above average, and that women in these occupations have fewer paid working hours. Further, the terms and conditions under which such employees work are worse for women, and for the relevant sectors and occupations.

A recent study by the European Foundation for the Improvement of Living and Working Conditions⁵ found that Industrial relations and collective bargaining, as well as minimum wage levels and wages maintained at levels above the minimum wage were important factors in addressing the gender wage gap. This review therefore has the potential to have important impacts on gender equality in the labour market. Consequently it is crucial that the Review conducts a gender impact assessment and gender-proof its recommendations. The NWCI calls for the Review to consider the high gender pay gap in many of the occupations covered by the wage setting mechanisms, and to make recommendations to address this.

Labour Market Strategy

Latest figures⁶ indicate that the employment rate for women is 55.4%, significantly lower than the EU 2020 targets of between 69-71%⁷. Women's employment rates continue to decline. The EU Lisbon target rate for women in employment was 60%, a target that was met by Ireland in 2007 and 2008, but not in 2009, 2010 or 2011, when the rate had fallen to 56%⁸. Information from the Quarterly National Household Survey⁹ indicates that women's employment rate is currently 54.9%, a rate not seen since 2001. Without a comprehensive strategy for employment, particularly women's employment, Ireland is at risk of failing to reach this target.

An integrated labour market strategy that supports people into work, while also supporting those in work to maintain jobs, is crucial to ensuring Ireland exits the current recession. Maintaining rates of pay at levels that incentivises work is vital. The rate of consistent poverty amongst those in work has almost doubled since 2009. Given that a significant number of women work in low paid jobs, it is highly likely that a significant proportion of these people are women.

This highlights the importance of wage setting mechanisms that allow women working for low pay to engage constructively with employers, via their representatives, in relation to their terms and conditions of employment. Without such mechanisms (or where the Review results in weakening of these mechanisms) the marginally higher wages that many of the workers covered have secured will be driven down to the level of the reduced NMW, causing further hardship and poverty amongst women struggling to bring home a decent wage. Employees would be denied the opportunity to negotiate with employers to find the optimum balance with regard to both maintaining employment and reasonable levels of pay.

In the absence of a coherent and integrated strategy to make work pay, which does not rely on even greater reductions in social welfare payments for people of working age, the wage setting mechanisms under review constitute vital protection from poverty for many of Ireland's most vulnerable employees.

⁵ European Foundation for the Improvement of Living and Working Conditions (2010). *Addressing the gender pay gap: Government and social partner actions*

⁶ CSO 2013, Quarterly National Household Survey, Quarter 4 2012

⁷ The new employment target set by Europe 2020 is to raise the employment rate for men and women to 75%. Ireland has a reduced target as a result of being a Programme country of between 69-71%.

⁸ Women & Men in Ireland 2011

⁹ QNHS Q1 2012

Are the better terms and conditions provided under these mechanisms fair?

Firstly, the wage rates and conditions agreed under many of these mechanisms are only marginally better than the legal national minimum wage (NMW). Were these rates to fall to the level of the NMW, it would greatly increase the struggle many low paid women face in making ends meet. Undoubtedly, the level of consistent poverty would increase. It is also clear that incentives to work and/or to remain in work that is paid at this level would be affected with a consequent rise in social welfare dependency.

Secondly, it is clear from the QNHS data on working conditions that workers in the occupations covered by these mechanisms are least likely to benefit from better terms and conditions of employment, and access to training which might both enhance productivity and the earning potential for employees, than others. Indeed the QNHS data shows a clear relationship between low pay and less favourable working conditions and employment benefits.

Thirdly, very high levels of flexibility are already demanded of employees in many of the occupations covered by these mechanisms. For example, many employees in retail, hospitality, cleaning and personal services know neither a) how many hours' work they will be given in any week, nor b) when they are expected to work these hours. This level of flexibility places severe constraints on the abilities of employees to manage a reasonable balance between work and family responsibilities – a challenge that falls disproportionately on the shoulders of women. Indeed the level of flexibility already provided by such employees is often greater than that expected of those in high-level positions, where flexibility is generously remunerated.

Finally, the level of knowledge among relevant employees of their legal rights and entitlements is poor, leaving them vulnerable to unscrupulous employment practices. The wage setting mechanisms, and associated enforcement procedures, provide an important defence in this regard.

The employees covered by these mechanisms do work which in and of itself is often unrewarding in terms of job satisfaction, offers few opportunities for career progression and formal skills acquisition, and which demands levels of working hours flexibility which generally preclude the possibility of taking a second job to supplement income. The relevant consideration is not whether terms and conditions provided under wage setting mechanisms are “too stringent” compared with the legal minimum, but rather whether they are not stringent enough in comparison to the majority of employees who enjoy much wages and conditions of employment.

Supporting domestic demand

People living on low incomes have a high marginal propensity to consume – they spend their money, all of their money, in their local area, supporting local retailers and service providers and hence employment in Ireland. If we are to support domestic demand, mechanisms that allow these employees – who constitute a significant proportion of the Irish workforce – access to collective bargaining so as to secure a living wage is critically important.

Recommendations

- The wage setting mechanism must be maintained as an equality imperative and an economic necessity.
- From an equality perspective, the wage setting mechanisms must consider gender inequality in the labour market. The NWCI calls for the Review to consider the high gender pay gap in many of the occupations covered by the wage setting mechanisms, and to make recommendations to address this. The Review should conduct a gender impact assessment in relation to the wage setting mechanisms under consideration, and gender proof its recommendations.
- From an economic perspective, women workers in these sector must be supported to remain in employment. Unemployed women or women seeking to (re)enter the labour force must be encouraged to do so by maintaining rates of pay that incentivise work.
- Article 28 of the Charter Fundamental Rights of the EU guarantees “Workers and employers, or their respective organisations ... the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action”. In the absence of a legislative right to collective bargaining in Ireland, a system of wage setting mechanisms that allows workers and employers to negotiate appropriate conditions to both maintain jobs and provide decent terms and conditions of employment is an issue of fundamental rights and must be maintained.
- As the wage rates provided for under many of the current wage setting mechanisms are only marginally higher than the NMW, we do not believe that it is appropriate to allow derogations. Where an enterprise is facing financial difficulties, the mechanisms should allow, in a timely fashion, both parties to negotiate to achieve a mutually agreed resolution.
- CSO data shows that the extent of knowledge of employment rights is particularly low in relevant sectors and occupations. It is important that collective agreements are properly enforced, providing sufficient well-trained staff is crucial in this regard. Failure to ensure enforcement of such agreements would lead to unfair competition among employers, as well as exploitation of workers.