

Stakeholder Consultation to Department of Jobs, Enterprise and Innovation on the University of Limerick Report on Zero-Hour Contracts.

Convenience Stores and Newsagents Association (CSNA)

Prior to engaging in the formal response to the Consultation, CSNA would like to take the opportunity to object to the very significant deviation in the Study from the Term of Reference contained within the Tender Documents.

The Statement of Government Priorities July 2014 committed the Government to “conduct a Study on the prevalence of zero hour contracts”. There was no commitment to enquire into low hour contracts.

When the Department of Jobs, Enterprise and Innovation issued a call to tender a Study on zero hour contracts, they included within the document a request to Study low hour contract, having fulfilled the objective of studying zero hour contracts. The tender documents stated that “a similar assessment in relation to low hour contracts, which for the purpose of this Study are defined as contracts of 8 hours or less per week”.

It is clear from the report (UL), that many of the recommendations are based on **all** workers employed for less than full (35-39 hrs per week) hours.

CSNA contends that the Report exceeded its remit in considering aspects of work and work practices that were not zero-hour or the clearly defined low hours (8 hours or less) standard as per the Tender Document.

CSNA would further contend that the University of Limerick Study were fully aware that there is no commonly used national or international definition of low hours, and that the definition of low hours (8 hours or less) as provided within the tender documents was not in contravention of any accepted criteria.

As such the University of Limerick should not have sought to extend its Study into low hours exceeding 8 hours per week. Within the Report, the 1-8 hrs are re-classified as very-low hours, allowing the introduction of low hours as a category for work in excess of 8 hours; this is stretching the Terms beyond the Tender.

The Study makes reference to “If and When” contracts as separate from low hours contracts. If such is the case, then the study had no business investigating an area outside the Terms. It required an analysis of zero hour and low hour (1-8 hr) contracts, it did not seek an investigation of any other work practices or contracts.

CSNA does not believe that this report should form the basis of Government policy as it addresses areas that were not agreed in the revised Programme for Government.

We further contend that the Report exceeded the Terms of Reference and as such, as a matter of principle, should not be accepted as being a duly compiled Study!

In pages 14-15 “What are low working hours?” of the report, the Study shows how far the researchers were prepared to ignore the clearly defined parameters of the Terms.

It sought the opinions of various organisations as to what **their** view of what constituted low hours. These were not the action of a body committed to honouring the Term of Reference for a publically

– funded contract. It is incredible that they conclude “given the variety of meanings, it is appropriate to consider low hours as part – time hours”.

This astonishing conclusion “permits” the UL Study to stray into the area of working hours that are **not** defined in the very explicit Term of Reference.

Response

- a) CSNA does **not** support each of the findings made by UL in the Study.
- b) CSNA does **not** support each of the recommendations made by UL in the Study.

Findings

1. CSNA note the finding that zero hour contracts are not extensive in Ireland. CSNA does not accept that “If and When” contracts should have formed part of the Study.
2. This finding related to a form of contract that the Study was not provided for within the Tender.
3. This Study relates to the U.L “definition” of low hours, i.e. part-time work – this is outside the limit of the Study.
4. This finding relates to opinions formed from investigating a style of contract that was not provided for investigation in the DEJI Tender.
5. This finding relates to variable working hours. There is no finding limited to those working 1-8 hours and as such is not a “true” finding based on the remit given to UL.
6. This finding does not relate to zero hours or low-hours as defined in the DEJI Tender Document.
7. This finding related to the proportion of women vis-à-vis men that work constantly variable part-time hours – this was not provided for within the Tender Document.
8. This relates to variable working hours and the propensity of there being “more likely” to work “nonstandard” hours – As the finding is not limited to zero hours or 1-8 hours, it is outside the remit of the Tender.
9. This shows the percentage of low hour’s workers as defined by the DEJI and as such, we accept the CSO figures that 2% of employees regularly work 1-8 hours per week. We accept the findings of the 9-18 sector and 19-35 sector for the purposes of comparison and fact.
10. We accept the figure of 1-8 hours being prevalent in the wholesale/retail and accommodation/food sectors. We strongly reject the additional application, by UL, to use the category as being **very** low hours. This may be the consideration of UL, but it is not the definition accorded by DEJI and as such, should not have been so recorded.
11. In so far as the statistics for higher proportions of personal service and sales workers when compared with other occupation regularly work 1-8 , 9-18, 19-35 hours per week, and that these occupations are “highly feminised”, we accept this finding.

12. This finding – relating to the 4 sectors studied (retail, hospitality, education and health) reports on contracts not provided for within the Tender and extends the Terms of “low hours” beyond the clearly defined Term. As such we cannot accept the finding in the context of a response to the Study as the Study has exceeded its remit.
13. This relates to a style of contract that was not the subject of required investigation.
14. As 13, this relates to a style of contract that was not the subject of required investigation.
15. As 13 and 14.
16. This relates to variable and part-time hours. There is no suggestion that these concerns are limited to the 1-8 hours per week low hours that the Study was required to confine itself to investigation and reporting on.
17. This relates to a style of contract that was not the initial subject of investigation.
18. We note this finding and accept it.

Recommendations:

1. We accept that the Acts could be amended to provide for written statements on the terms and conditions of employment but disagree that it would be possible to provide same on the date of “first hire”. We would suggest that they should be provided within one week of the first day of employment.
2. We reject this recommendation as it would significantly impede flexibility.
3. We do not accept the recommendation to repeal Section 18.
4-8. We do not accept these recommendations either on new legislation or a new section OWT Act 1997.
Specifically our objection to 4-8 are as follows
4. (ii) This includes reference to “If and When” contracts. As we have previously noted, we do not consider that these contracts were to be the subject of the regarded study.
(iv) This is neither zero – hours or low hours as defined with the Terms of Reference, as such it is not, in our opinion, a recommendation that follows from the Term of Reference.
5. Leaving aside the provision of the vague term “exceptional and unforeseeable circumstances”, CSNA does not believe that the payment of time and a half (or 150%) of the rate is an appropriate or flexible response to an employer’s genuine need to provide a service to their customers. Whilst the following observation may not be politically correct, we would also observe that there is ample evidence of some employees “manufacturing” overtime and availability of additional premium when such styles of extra – rate premiums are available.
7. This is totally unworkable in many industries, especially where the actual work requires only 1 or 2 hours labour. A cleaner, a lunch time deli assistant, people required to fill in to cater breaks etc. We reject this recommendation.
8. No employer nor employee can be forced to be a member of a representative group.
9. No comment
10. Not part of Study.
11. With regard to the “low hours” aspect, we accept that the Department of Social Protection should hold consultation with employers etc to exam social welfare issues.

12. As with recommendation no 11, a policy on childcare is needed
13. Accepted
14. Accepted – it is very important that CSO deliver a range of questions regarding all aspects of low hours.

This response is from

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Kildare

CSNA is a representative body incorporated in the State. It has over 1,200 individual members throughout the Republic of Ireland operating in over 1,500 stores.

The views expressed in this response are following our own discussion at National Executive Level and from response to requests from our members.

CSNA were **not** invited to participate in the original study.