**Traineeships Directive Public Consultation
The Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships (‘Traineeships Directive’)**

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# Executive Summary

The Department of Enterprise, Trade, and Employment is seeking the views of stakeholders on the European Commission’s Proposal for a Directive of the European Parliament and of the Council on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships (‘Traineeships Directive’).

On 20 March 2024, the European Commission published the proposal for the Directive. The proposed Directive is part of a package which includes the Directive itself and a proposal to revise the 2014 Council Recommendation on a Quality Framework for Traineeships which sets out 21 quality principles to ensure high-quality learning and working conditions. [Further information available here](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1489). This public consultation is only seeking views on the Directive.

The purpose of the Directive is to improve and better enforce working conditions of trainees and combat employment relationships disguised as traineeship.

Please provide any feedback you have on [form below](#_Consultation) and email completed responses to employmentrights@enterprise.gov.ie using the subject line “Traineeships Directive Public Consultation”

**The deadline for submissions is close of business on 30 August 2024**

# Background

In 2014 the Council of the European Union published their recommendation, [Quality Framework for Traineeships](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014H0327(01)) which set out 21 quality principles to ensure high-quality learning and working conditions.

In 2023, the Commission reviewed this recommendation on traineeships, noting its positive impact but also that there was room for improvement. One of these improvements includes a proposed Directive to better enforce working conditions for trainees and prevent regular employment relationships being disguised as traineeships.

## What is type of ‘trainee’ does the Directive cover?

Article 2 of the proposed Directive defines a ‘trainee’ as “*any person undertaking a traineeship who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in every Member State with consideration to the case law of the Court of Justice”.*

Furthermore, under Article 153(1)(b) TFEU, the EU can only take legally binding measures by means of a Directive for trainees considered as “workers” within the meaning of EU law.

The proposed Directive also provides the following definitions under Article 2:

* ‘Traineeship’ means a limited period of work practice which includes a significant learning and training component, undertaken to gain practical and professional experience with a view to improving employability and facilitating transition to a regular employment relationship or accessing a profession.
* ‘Regular employment relationship’ means any employment relationship that is not a traineeship.
* ‘Regular employee’ means any person in a regular employment relationship.

# The Directive

The Directive has a dual aim to (1) improve and better enforce working conditions of trainees; and (2) combat employment relationships disguised as traineeship.

The Directive lays down a common framework of principles and measures to improve and enforce the working conditions of trainees. In this regard the Directive lays down the principle of non-discrimination to ensure that, with regard to working conditions (including pay), trainees are not treated in a less favorable manner than comparable workers in the same establishment, unless a different treatment is justified on objective grounds.

The Directive also lays down a common framework of principles and measures, including assessments and inspections, to combat regular employment relationships being disguised as traineeship, in addition to enforcement and supporting measures.

## Chapter I - General provisions

**Article 1** sets out the subject matter of the Directive, which is to lay down a common framework of principles and measures to improve and enforce the working conditions of trainees and to combat regular employment relationships disguised as traineeships.

**Article 2** contains definitions, including defining a ‘‘trainee’ as any person undertaking a traineeship who has an employment contract or employment relationship as defined by the law, collective agreements, or practice in force in every Member State with consideration to the case law of the Court of Justice.

## Chapter II - Equal treatment

**Article 3** concerns equal treatment and the principle of non-discrimination. It states that Member States must ensure that trainees receive fair treatment regarding working conditions and pay compared to regular employees in the same workplace, unless for justifiable reasons.

## Chapter III - Regular employment relationships disguised as traineeships

**Article 4 and 5** concern measures to combat regular employment being disguised as traineeships. Member States are obliged to provide for effective controls and inspections conducted by competent authorities to detect and take enforcement measures against practices where a regular employment relationship is disguised as traineeships. In order to determine whether a purported traineeship constitutes a regular employment relationship, competent authorities shall make an overall assessment of all relevant factual elements of the traineeship.

## Chapter IV - Enforcement and supporting measures

**Article 6** states that Member States shall take effective measures to ensure that all relevant Union law applicable to workers is fully implemented and enforced in relation to trainees including though ensuring information on the rights of trainees is publicly available; developing guidance for trainees regarding the legal framework; enabling competent authorities to enforce relevant labour laws; ensuring competent authorities have the necessary resources and capabilities; and ensuring malpractice reporting channels are available to trainees.

**Article 7** includes that Member States shall ensure that trainees have access to effective and impartial dispute resolution and a right to redress.

**Article 8** includes that Member States shall ensure that representatives of workers may engage in any relevant judicial or administrative procedure to enforce the rights and obligations arising from this Directive.

**Article 9** includes that Member States shall introduce the necessary measures to protect trainees and their representatives from any adverse treatment by the employer.

**Article 10** states that member states must establish penalties for infringements. These penalties must be effective, proportionate, and serve as a deterrent.

## Chapter V - Final provisions

**Article 11** emphasizes that the Directive does not diminish existing worker protections under EU law, national law, collective agreements, or practices.

**Article 12** outlines the timeline and procedures for Member States to comply with the Directive, including transposition into national law, and measures to involve social partners in implementation.

**Article 13 requires** Member States to provide implementation information to the Commission within five years, including data on traineeships.

**Article 14** states the date the Directive will enter into force of, while **Article 15** specifies that the Directive is directed at Member States.

# Consultation Response Form

Please provide your name, organisation and email address and use the space provided below each chapter heading to provide answers to the consultation questions and outline any other observations.

**Name:**

**Organisation:**

**Email address:**

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| **Chapter I - General provisions****Questions for consideration:** |
| 1. **What sector do you represent and are traineeships common practice within your sector or organisation?**
 |
| 1. **What are your views on the scope of the proposed Regulation? In your response, please provide specific details to support your position.**
 |
| 1. **What are your views on the definitions included in the proposed Regulation? In your response, please provide specific details to support your position.**
 |
| **Any other observations:** |
| **Chapter II - Equal treatment****Questions for consideration:** |
| 1. **In relation to Article 3, do you have any views on how different treatment of a trainee, including pay, could be objectively justified where there is no comparable regular employee? Is there a common practice within your sector?**
 |
| 1. **Where different treatment of a trainee, including pay, is objectively justified, in what ways could employers ensure the treatment is fair and proportionate?**
 |
| **Any other observations:** |
| **Chapter III - Regular employment relationships disguised as traineeships****Questions for consideration:** |
| 1. **In relation to Article 4, do you have any views on what ‘effective controls’ could be implemented by a competent authority to detect practices where a regular employee relationship is disguised as a traineeship?**
 |
| 1. **Do you have any views on the assessment proposed in Article 5(1) and (2)?**
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| 1. **In relation to Article 5(3), is there a clear time limit within your sector which would indicate an excessive duration of a traineeship?**
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| **Any other observations:** |

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| **Chapter IV - Enforcement and supporting measures****Questions for consideration:** |
| 1. **In relation to Article 6, do you think information and guidance on traineeships, within the context of this proposed Directive, is easily available in Ireland, from either an employer or trainee perspective?**
 |
| **Any other observations:** |
| **Chapter V - Final provisions** |
| **Please provide any observations you may have on the Final Provisions of the Act:** |
| **Any other observations:** |

# Information on Consultation Process

**Freedom of Information Act 2014 and Publication of Submissions**

The Department will make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

**General Data Protection Regulation**

Respondents should note that the General Data Protection Regulation (‘GDPR’) entered into force in Ireland on 25th May 2018 and it is intended to give individuals more control over their personal data.

The key principles under the Regulation are as follows:

* Lawfulness, fairness, and transparency
* Purpose limitation
* Data minimisation
* Accuracy
* Storage limitation
* Integrity and confidentiality
* Accountability.

The Department of Enterprise, Trade and Employment is subject to the provisions of the Regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 to 2018