

Unite Submission to Consultation on Ireland's Action Plan to promote Collective Bargaining

Unite the union organises workers throughout the economy and in both jurisdictions on the island of Ireland. We welcome the opportunity to make a submission to the public consultation on Ireland's Action Plan to promote collective bargaining, required pursuant to the 2022 European Directive on Adequate Minimum Wages.

International and European context

The lack of proper collective bargaining legislation means that Ireland is out of step not only with the rest of the European Union, but even with Britain and Northern Ireland – jurisdictions which are scarcely beacons of workers' rights.

Last year, Unite members in Seagate outside Derry were able to vote for their union to be recognised and secure a recognition agreement – yet our members 100 miles down the road in Dundalk do not have that right.

Since the late 1990s, unions have pointed out that – by not providing a statutory right to collective bargaining – Ireland is potentially in breach of its international obligations including International Labour Organisation instruments, the European Social Charter and the European Convention on Human Rights.

Ireland is bound by the European Social Charter which states that:

"All workers and employers have the right to bargain collectively"

In its 2018 decision on a case brought against Ireland by the Irish Congress of Trade Unions, the European Committee on Social Rights – which monitors adherence to the Charter - reiterated its position that

[...] domestic law must recognise that employers' and workers' organisations may regulate their relations by collective agreement. If necessary and useful, and in particular if the spontaneous development of collective bargaining is not sufficient, positive measures should be taken to facilitate and encourage the conclusion of collective agreements¹.

Ireland is also bound by the European Convention of Fundamental Rights, which states that:

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels.

The European Court of Human Rights has found (Demir and Baykara v Turkey) that

[...] the right to bargain collectively with the employer has, in principle, become one of the essential elements of the 'right to form and to join trade unions for the protection of [one's] interests' set forth in Article 11 of the Convention.

¹ Council of Europe, Committee of Social Rights, No. [123/2016](#) Irish Congress of Trade Unions v. Ireland

Developments at a European level, including the Directive on Adequate Minimum Wages as well as the Pay Transparency Directive, mean that there is a growing political imperative for Ireland to address our low levels of collective bargaining. Article 13 of EU Directive 2023/970 (Pay Transparency Directive) states that:

Member States shall, without prejudice to the autonomy of the social partners and taking into account the diversity of national practices, take adequate measures to promote the role of the social partners and encourage the exercise of the right to collective bargaining on measures to tackle pay discrimination and its adverse impact on the valuation of jobs predominantly carried out by workers of one sex.

In April 2024, at La Hulpe in Belgium, the European institutions and European social partners including ETUC signed the Declaration on the Future of the European Pillar of Social Rights. The only dissenters were the Swedish minority government supported by a far-right party, and Ireland, which issued a statement reinforcing the state's 'voluntarist' approach to labour relations².

Paragraph 9 of the La Hulpe declaration states that:

We recall the importance of the freedom of assembly and association, and workers' and their representatives' right to information and consultation within their workplace and the right to collective bargaining and action. Trade unions and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration³.

Recital 24 of the EU Directive on Adequate Minimum Wages summarises the relevant international agreements, pointing out that:

Member States have ratified ILO Freedom of Association and Protection of the Right to Organise Convention No 87 (1948) and ILO Right to Organise and Collective Bargaining Convention No 98 (1949). The right to bargain collectively is recognised under those ILO conventions, under ILO Labour Relations (Public Services) Convention No 151 (1978) and ILO Collective Bargaining Convention No 154 (1981), as well as under the Convention for the Protection of Human Rights and Fundamental Freedoms and the ESC. Articles 12 and 28 of the Charter guarantee, respectively, the freedom of assembly and association and the right of collective bargaining and action. According to its preamble, the Charter reaffirms those rights as they result, in particular, from the Convention on the Protection of Human Rights and Fundamental Freedoms and the Social Charters adopted by the Union and by the Council of Europe.

² <https://data.consilium.europa.eu/doc/document/ST-10676-2024-ADD-1/en/pdf>

³ <https://gouvernement.lu/dam-assets/documents/actualites/2024/04/17-deprez-mischo-socle-hulpe/declaration-finale.pdf>

The EU Directive on Adequate Minimum Wages

At a time when one in five workers in Ireland is officially low-paid, the EU Directive on Adequate Minimum Wages explicitly highlights the central role played by collective bargaining in driving up wages and addressing low pay. Specifically, Recital 25 states that:

Member States with a high collective bargaining coverage tend to have a small share of low-wage workers and high minimum wages. Member States with a small share of low-wage earners have a collective bargaining coverage rate above 80 %. Similarly, the majority of the Member States with high levels of minimum wages relative to the average wage have a collective bargaining coverage above 80 %. Therefore, each Member State with a collective bargaining coverage rate below 80 % should adopt measures with a view to enhancing such collective bargaining.

Article 4 of the Directive therefore requires that:

*In addition, each Member State in which the collective bargaining coverage rate is less than a threshold of 80 % **shall provide for a framework of enabling conditions for collective bargaining**, either by law after consulting the social partners or by agreement with them. Such a Member State shall **also** establish an action plan to promote collective bargaining. The Member State shall establish such an action plan after consulting the social partners or by agreement with the social partners, or, following a joint request by the social partners, as agreed between the social partners. The action plan shall set out a clear timeline and concrete measures to progressively increase the rate of collective bargaining coverage, in full respect for the autonomy of the social partners [emphasis added].*

It is Unite's view that Ireland is clearly out of step with our European peers in not providing a statutory right to union recognition and collective bargaining, and that an Action Plan alone, without robust primary legislation providing a statutory right to union recognition and collective bargaining, will fail to achieve the target of 80 per cent collective bargaining coverage set out in the 2022 Directive on Adequate Minimum Wages.

It should also be noted that a full transposition of the Directive, ensuring that Irish workers enjoy the same rights as their European counterparts, could help bolster confidence in the European Union at a time when public support for EU membership, although still high, is falling and currently at its lowest level since polling began in 2013⁴.

Irish context: the Constitution

Unite shares the view of the Irish Congress of Trade Unions⁵ and others that there is no constitutional barrier to legislating for a statutory right to union recognition and collective bargaining.

⁴ <https://www.europeanmovement.ie/em-ireland-eu-poll/>

⁵ Irish Congress of Trade Unions, 2024. General Election Manifesto, [Promoting Collective Bargaining 2024 – 2029](#)

In December 2023, a paper commissioned by the Irish Human Rights and Equality Commission concluded that that:

[...] the plenary constitutional power of the Oireachtas to legislate on any matter not otherwise constitutionally proscribed means that a statutory protection is presumptively possible, and such a law would enjoy a presumption of constitutionality.

- This is further bolstered by the express constitutional authorisation to regulate freedom of association, which might be thought to envisage legislation of this sort, and the fact that this legislation would uphold and vindicate an EU Charter right and otherwise implement EU law.

- We do not think that there are any conflicting rights recognised by the Irish Constitution that would frustrate such a statutory protection, or we think their limitation by the Oireachtas would be found constitutional by the courts⁶.

The Constitution explicitly protects the right to freedom of association – and the right to collective bargaining is fundamental to that.

In 2023, Unite took an appeal to the Supreme Court after the High Court granted an injunction effectively preventing Unite mechanical members from taking strike action. The 2024 Supreme Court decision in this case was a landmark judgement advancing workers' right to take collective action.

Significantly, Supreme Court Justice Gerard Hogan noted that:

It is arguably implicit in these provisions that the right to form trade unions implies in turn at least some – perhaps as yet undefined – zone of freedom for those unions to organise and campaign. The 'effet utile' [meaningful effect] of this constitutional provision would otherwise be compromised⁷.

Limits of the present consultation

We note that the present consultation is largely confined to the proposals in the LEEF report. Given Ireland's low levels of collective bargaining coverage, it is highly unlikely that even statutory provisions regarding the proposals in the LEEF report – such as 'good faith engagement' or similar initiatives – would close the gap between Ireland's current 34% collective bargaining coverage and the 80% aspiration in the Directive.

Rather than simply adding to Ireland's piecemeal industrial relations architecture, it is obvious that the voluntarist model of industrial relations – which allows employers to opt out at every stage – is not fit for purpose and should be replaced by a statutory right to union recognition and collective bargaining.

⁶ Eustace, A. and Kenny, D., *Collective Bargaining and the Irish Constitution – Barrier or Facilitator?* Irish Human Rights and Equality Commission. Dublin, 2023

⁷ H.A. O'Neill Ltd – v – Unite the union and ors, [2024] IESC 6

Unite's responses to the present consultation are therefore premised on the enactment of a new Bill of Workers' Rights, supplemented by a statutory Action Plan to promote collective bargaining.

It is Unite's view that this approach would most accurately reflect the intention of Article 4 of the Directive.

Unite recommends: A new and comprehensive Workers' Rights Act

The right to bargain collectively presupposes the right to union recognition. In order to fully avail of either right, trade unions must have access to workers in the workplace, and workers must be protected by strong anti-penalisation measures.

Unite therefore proposes a new Workers' Rights Act to include, but not be limited to:

- A statutory path for workers to have their union/unions recognised for collective bargaining purposes by demonstrating that they are representative of workers in a given employment, or in a category/grade in that employment
- Provision for the Labour Court to impose a 'bargaining order' if an employer refuses to bargain collectively through a union/unions notwithstanding the union/unions having demonstrated that they are representative of workers
- Analogous provisions at sectoral level
- Provision for unions to have a right of access to workplaces to tell workers about the benefits of union membership and collective bargaining, and to advise and represent workers
- Strong anti-penalisation provision including dissuasive sanctions should a worker be dismissed or suffer a detriment due – even in part – to trade union activity
- Legal prohibition on employers pressurising, coercing or otherwise inducing workers to refrain from taking collective action.

All legislative proposals made in the context of this consultation should be housed in the above proposed Workers' Rights Act.

Q 4 Views in relation to training or other capacity building activities which would assist the social partners to engage in collective bargaining?

We note that Article 4.1 of the Directive makes it clear that the aim of the article is:

*"increasing the collective bargaining coverage and of **facilitating the exercise of the right to collective bargaining on wage-setting**" (emphasis added).*

Thus, any measures proposed in the context of Article 4.1 should complement rather than replace a statutory right to union recognition and collective bargaining.

Unite recommends

- Unite endorses the recommendation by the Irish Congress of Trade Unions that National and EU funding such as the National Training Fund, the ESF+ and the Technical Support Instrument be used to build and strengthen the capacity of the social partners to engage in collective bargaining.
- Recognising that an informed and engaged workforce is one of the pillars of an effective trade union movement, Unite further proposes that modules on workers' rights and trade union organisation be included in the Politics and Society subject in Senior Cycle.

Additional resources should also be provided to the Workplace Relations Commission and Labour Court to ensure that cases are progressed expeditiously. It is Unite's experience that, even where parties have concluded a collective agreement and that agreement provides for the state's industrial relations machinery to be used for dispute resolution, the process can stretch over a period of several months. In addition to increased resources, cases where recourse to the state's industrial relations machinery forms part of a collective agreement should be prioritised

Conditionality

The state has persuasive policy levers at its disposal to encourage employers to engage in collective bargaining and desist from anti-union activities. These include:

Public procurement

Article 9 of the Directive restates previous Directives and provides that:

Member States shall take appropriate measures to ensure that, in the awarding and performance of public procurement or concession contracts, economic operators and their subcontractors comply with the applicable obligations regarding wages, the right to organise and collective bargaining on wage-setting, in the field of social and labour law established by Union law, national law, collective agreements or international social and labour law provisions, including ILO Freedom of Association and the Protection of the Right to Organise Convention No 87 (1948) and ILO Right to Organise and Collective Bargaining Convention No 98 (1949)

Accordingly, Unite recommends that:

- (1) The award of all public contracts above a specified value be made contingent on the enterprise engaging in collective bargaining
- (2) Where an enterprise is found to be in breach of workers' rights, including failure to engage with the state's industrial relations machinery as well as abuses such as bogus self-employment, it should be included in a non-compliance register and precluded for tendering for a public contract for a period of five years

Government supports

Employers may be in receipt of a myriad government supports, from direct monetary supports to in-kind supports such as those provided by Enterprise Ireland and the Industrial Development Agency – for example inclusion in government-supported business parks.

Where an enterprise is found to be in breach of workers' rights as outlined in No. 2 under public procurement above, they should be precluded from receiving such supports. Where a support is ongoing, such as inclusion in a government-supported business park, the enterprise should be given a period of time to demonstrate that it has rectified the breach.

Unite recommends:

- Public contracts above specified value be contingent on collective bargaining
- Enterprises in breach of workers' right be included in a non-compliance register and precluded from tendering for public contracts for a period
- An analogous approach adopted in respect of state supports

Q5 Views in relation to the operation of Joint Labour Committees and how social partners can be incentivised to participate in them?

Joint Labour Committees

Unite represents workers in a range of sectors covered by Joint Labour Committees, including English Language Teaching, hairdressing and security.

The Joint Labour Committee system has the potential to provide minimum terms and conditions for workers in the relevant sectors. In particular, JLCs have the potential to provide safeguards in sectors which are traditionally low-paid, precarious and with a high proportion of young people, women and migrant workers.

The JLC system also has the potential to provide a level playing field for employers, ensuring that bad employers cannot undercut compliant employers in a race to the bottom.

However, as is the case in the hospitality sector where employers have, since 2012, refused to engage with trade unions and the State's industrial relations machinery in respect of a JLC, the voluntarist nature of JLCs gives employers a veto on decent work.

Unite recommends:

- The recommendation in the Final Report of the LEEF High Level Working Group that the de facto employer's veto be abolished be implemented immediately
- Establishing mandatory collective bargaining in sectors or sub-sectors where union density is above a specified threshold.
- In the absence of a collective bargaining requirement at sectoral or sub-sectoral level, it is Unite's view that public policy levers should be used to persuade employers to participate in Joint Labour Committees in the sectors concerned. This could, for example, include making VAT reductions or other public subsidies to a sector contingent on employers engaging.

Q6 Views on a proposal to have a Good Faith Engagement process at enterprise level which would involve a single mandatory meeting between an employer and a trade union

Attempts by unions to bargain with employers at enterprise level are regularly thwarted by the refusal by some employers to engage meaningfully with workers' representatives or, failing such meaningful engagement, to implement Labour Court recommendations that they so engage.

Based on Unite's experience, any requirement for a single mandatory meeting would be treated by many employers as a 'tick box exercise' requiring no engagement thereafter.

Instead, Unite would favour:

- Legislation mandating 'good faith' engagement between employers and trade unions at enterprise level, incorporating a 'right of access' by authorised representatives of a licensed trade union to workplaces.

In respect of 'good faith bargaining, the requirements set out in the Australian Fair Work Act⁸ provide a useful starting point. They stipulate that a bargaining representative for a proposed enterprise agreement must:

- Attend and participate in meetings at reasonable times;
- Disclose relevant information in a timely manner;
- Respond to proposals made by other bargaining representatives in a timely manner;
- Give genuine consideration to the proposals of other bargaining representatives, and give reasons for their responses to those proposals;
- Refrain from capricious or unfair conduct that undermines freedom of association or collective bargaining;
- Recognise and bargain with the other bargaining representatives for the proposed agreement.

The Fair Work Act further defines conduct as capricious or unfair if an employer:

- Fails to recognise a bargaining representative;

⁸ From: Australian Fair Work Commission [website](#)

- Does not permit an employee who is a bargaining representative to attend meetings or discuss matters relating to the terms of the proposed agreement with fellow employees;
- Dismisses or engages in detrimental conduct towards an employee because that employee is a bargaining representative or is participating in bargaining;
- Prevents an employee from appointing his or her own representative.

A bargaining representative for a proposed enterprise agreement may apply to the Fair Work Commission for a serious breach declaration in relation to the agreement. This is generally available where there are serious and sustained contraventions of a bargaining order that significantly undermine the bargaining process.

The Australian legislation also provides that a Bargaining Order may be made in the absence of good faith engagement.

Unite recommends:

- Legislation mandating good faith engagement incorporating a right of trade union access
- Requirements for what constitutes good faith engagement to be set out
- Definition and prohibition of capricious conduct
- Provision for a 'Bargaining Order' to be made in absence of good faith engagement

Q 7 Views in relation to how negotiations between social partners on wages could be promoted and facilitated?

The most effective means for promoting and facilitating negotiations between employers and trade unions on wages is to legislate for union recognition, collective bargaining rights and a union right of access to the workplace.

See also Unite's response to Q6 above.

Q8 Views on how the social partners could better access the information required to engage in negotiations

The wider imbalance of power between employers and workers is exacerbated by the asymmetric provision of information. Unite supports the principle of financial assessors, which we believe would be helpful to the state industrial relations machinery and those utilising it. We note that advice is rarely value free and recommend as follows to ensure that all parties have equal access to the relevant data, and to ensure public trust in the independence of those providing and analysing data.

Unite recommends

- All documents on the Companies Registration Office website to be free to view and download
- All enterprises to be required to submit full accounts
- Filing exemptions for non-designated Private Unlimited Companies to be abolished
- The establishment of a Financial Assessment Unit within the WRC, with trade unions and employer bodies having equal involvement in appointing the Assessors, whose role would be confined to providing and analysing data
- Employers to be required to disclose all relevant financial information to the Financial Assessment Unit, including information regarding related party transactions both domestically and in foreign jurisdictions

Q9 Are Ireland's protections, including Codes of Practice, adequate to protect members and representatives of trade unions from unfair dismissal? If not, how can these protections be strengthened?

Dismissal, or the threat of dismissal, of union members and activists is one of the tactics used by some employers to prevent or disrupt union organisation. It is worth noting that the Directive specifically references union-busting in Recital 16:

*[...] traditional collective bargaining structures have been eroding during recent decades, due, inter alia, to structural shifts in the economy towards less unionised sectors and to the decline in trade union membership, in particular as a consequence of **union-busting practices** and the increase of precarious and non- standard forms of work. [emphasis added].*

Therefore, any measures to promote collective bargaining must include strong protections for union members and activists, as well as effective deterrents to prevent employers engaging in union-busting.

Unite recommendations - unfair dismissal:

- Consideration should be given to reducing the current requirement that, in most circumstances, a worker must have been employed for twelve months before being covered by the 1977 – 2015 Unfair Dismissals Acts.
- Section 6 of the 1977 Unfair Dismissals Act to be amended so that a worker is deemed to have been unfairly dismissed where it is found that trade union membership or any associated activity, including industrial action, played any part in the dismissal, rather than only where a worker was dismissed 'wholly or mainly' on foot of such membership.
- As recommended by the Irish Congress of Trade Unions, protections against unfair dismissal on foot of trade union activity to be extended to activities carried out during working hours
- An option for workers found to have been unfairly dismissed to be awarded penal damages in addition to compensation for loss of earnings.
- Where a worker making a claim for unfair dismissal states that their preferred form of redress is reinstatement or re-engagement, the employer to be required to reinstate or re-engage the worker.
- Consideration to be given to reinstatement being the default remedy, unless the worker concerned chooses otherwise
- The time limit for submitting a complaint to be extended so that workers can take an unfair dismissal case up to two years following the dismissal.

Q 10 Are Ireland's protections, including Codes of Practice, adequate to protect members and representatives of trade unions from discrimination due to their union membership, or activities on behalf of, a trade union? If not, how can these protections be strengthened?

In Unite's experience, employers may engage in a wide range of union-busting practices, including but not limited to: Victimisation of shop stewards and union members; blacklisting of union activists; denying workplace access to union representatives and denying facility time; establishment and promotion of in-house staff associations; legal manoeuvres to prevent or delay industrial action; one-off bonus payments or other inducements for non-striking workers; use of agency workers as strike-breakers; large-scale layoffs or closure of unionised workplaces; use of 'union-busting' consultants; and de-recognition of one or more previously recognised trade unions.

In addition to the protection against unfair dismissal outlined above, therefore, additional measures need to be put in place to specifically counter union-busting and thus remove some of the obstacles to collective bargaining identified in the Directive.

Tackling union-busting: Unite recommends

- Legislation defining and outlawing union-busting, and providing for punitive sanctions for employers found in breach of the legislation
- Enhancing the protections afforded to trade union representatives in organised workplaces;
- Making it illegal for employers to pressurise, coerce or otherwise induce workers to refrain from taking collective action, for example by offering one-off ‘bonuses’ to workers not joining a strike, or imposing less favourable working patterns or precarious working arrangements on workers participating in strike action
- Amendment of the Employment Equality Acts to specifically reference trade union membership or activity as a protected characteristic

Q 11 Do you have any views as to whether workers are sufficiently protected by law, including Codes of Practice, from acts of discrimination if they wish to organise or join a trade union?

The significant and consistent public sentiment in favour of trade union recognition and collective bargaining seems to indicate that Ireland’s low levels of union density and collective bargaining coverage are due to external forces, and in particular fear of discrimination or detriment if they wish to organise or join a trade union.

In 2021, the Report of the Citizens’ Assembly on Gender Equality – comprising members randomly selected to represent Irish society in terms of age, gender, social class and regional spread – voted by 96.7% in favour of *“Establishing a legal right to collective bargaining to improve wages, working conditions and rights in all sectors”*⁹.

- An FSU/Ireland thinks poll found that 74% of respondents believed employers should be legally required to negotiate with their trade unions if employees wish them to do so
- That figure rose to 79% among women¹⁰

A survey conducted by UCD¹¹ found that:

- 44% of non-union members would vote to establish a union in their workplace
- Around two-thirds of young workers aged between 16 and 24 would vote to establish a union
- Half of women workers would vote to establish a union
- Almost four out of five workers in unionised workplaces would vote to keep the union

⁹ <https://citizensassembly.ie/wp-content/uploads/2023/02/report-of-the-citizens-assembly-on-gender-equality.pdf>

¹⁰ Poll conducted by Ireland Thinks on behalf of the Financial Services Union, published 15 November 2023, https://www.fsunion.org/assets/files/pdf/ireland_thinks_poll.pdf

¹¹ Geary, J and Belizon, M, *Union Voice in Ireland: First Findings from UCD Working in Ireland Survey*, 2021.

Q12 Views as to whether employers are sufficiently protected in Irish law against acts of interference where they wish to participate in collective bargaining?

Unite notes that the relevant section of Article 4 obliges member states

‘For the purpose of promoting collective bargaining on wage-setting, [to] take measures, as appropriate, to protect trade unions and employers’ organisations participating or wishing to participate in collective bargaining against any acts of interference by each other or each other’s agents or members in their establishment, functioning or administration’.

While we are not aware of instances of trade unions interfering with an employers’ desire to bargain collectively, we are aware of numerous instances of union-busting practices by employers, as detailed above.

For the sake of completeness, we note that the Directive defines collective bargaining as follows (Recital 3):

*‘collective bargaining’ means all negotiations which take place according to national law and practice in each Member State between an employer, a group of employers or one or more employers’ organisations on the one hand, and one or more **trade unions** on the other, for determining working conditions and terms of employment [emphasis added].*

It is clear from this that the Directive does not envisage staff associations or similar bodies controlled by an employer playing a role in the collective bargaining process.

Q 13 Views as to whether a statutory entitlement should be introduced to allow for trade union access to the workplace, or activities within the workplace, for the purpose of promoting collective bargaining even in the case where an employer has not given permission for such activities in the workplace?

A right of union access to workplaces is fundamental to ensuring that workers are effectively represented and supported by their trade union(s), and should not be subject to an employer veto.

This is recognised in the Directive, which states (Recital 24) that measures to promote collective bargaining may include “*measures easing the access of trade union representatives to workers*”.

Unite notes that our nearest neighbour and trading partner, the UK, is currently progressing a new Employment Rights Bill which creates a right for independent trade unions to access workplaces to meet, represent, recruit or organise workers or to facilitate collective bargaining. The Bill is deficient in a number of respects, and merely provides for a statutory right to request – rather than a right to be granted – access. Nevertheless, it recognises the important role of access in facilitating effective collective bargaining.

The Bill would also require employers to provide trade union representatives with sufficient access to facilities, for example office and meeting space. Amendments tabled in March 2025 include:

- "Supporting a trade union member with an employment-related matter" as a purpose for which unions can exercise access rights;
- Creating a "fast track" process for applications to the Central Arbitration Committee which meet prescribed requirements (the details of which are yet to be announced); and
- allow access agreements to cover virtual access to employees.

The New Zealand 2000 Employment Rights Act¹² provides a robust right of access as follows:

Unions have a right to access workplaces to carry out their work. This work includes:

- Representing individual workers in bargaining or in any other employment related issue.
- Dealing with health and safety issues.
- Monitoring compliance with the collective agreement (if there is one) as well as the Employment Relations Act and other Acts that relate to workers' rights.

A union representative does not need to obtain consent from the employer before entering the workplace if either a collective agreement is in force that covers work done by employees at that workplace; or a collective agreement is being bargained for that covers work done by employees at that workplace.

Where either of the above doesn't apply then the union representatives must obtain the consent of the employer or representative of the employer before entering the workplace. However, the employer cannot unreasonably withhold consent for a request to enter and must respond to the request by the working day after the date of the request. Consent is treated as having been obtained if the employer does not respond to a request within two working days after the date of the request.

Unite recommends:

Primary legislation (a new Workers' Rights Act) and the Action Plan should provide for a right of access along the lines of the New Zealand model cited above.

Q14 Views on what measures could be introduced which would promote employer engagement in collective bargaining?

See response to Q4 above, with particular regard to conditionality.

¹² New Zealand Employment Relations Act 2000, [Section 20](#)

Review

Article 4(2) of the Directive provides that:

The Member State shall review its action plan regularly, and shall update it if needed. Where a Member State updates its action plan, it shall do so after consulting the social partners or by agreement with them, or, following a joint request by the social partners, as agreed between the social partners. In any event, such an action plan shall be reviewed at least every five years.

Given Ireland's current low level of collective bargaining, it is Unite's view that the Action Plan should be subject to review as below.

Unite recommends:

- (1) The WRC be required and fully resourced to issue an annual report on the operation of the Action Plan, including:
 - Developments in collective bargaining coverage during the preceding year, including a sectoral breakdown
 - The extent to which specific elements of the Action Plan have verifiably impacted on collective bargaining coverage
 - A survey of the social partners to ascertain their experience of the Action Plan in the preceding year
- (2) The Action Plan be updated every two years in consultation with the social partners

ENDS