

Section 1- Executive Summary

Summary of Regulatory Impact Assessment (RIA)			
Department: Jobs, Enterprise and Innovation		Title of Legislation: Industrial Relations (Amendment) Bill 2015 (Part 4 of Bill)	
Stage: Published		Date: May 2015	
Contact for enquiries: Liam Kelly/Michael Greene		Telephone: 01 6312610/6313289	
<p>Policy options considered</p> <ol style="list-style-type: none"> 1. Do nothing 2. Legislate for a revised framework. <p><u>Preferred option:</u></p> <p>Option 2 is the preferred option.</p> <p>Option 1 would result a continuation of the status quo whereby the 2001/2004 Industrial Relations Acts had become inoperable.</p>			
Options			
	<i>Costs</i>	<i>Benefits</i>	<i>Impacts</i>
2	No additional costs to the exchequer anticipated.	<p>For workers, it will provide a mechanism whereby their remuneration and conditions of employment can be independently assessed and they cannot be victimised for doing so.</p> <p>For employers, it will provide clarity and certainty in managing their workplaces over the years ahead and will ensure that their concerns regarding inappropriate use of the Act are addressed.</p>	Will address the Supreme Court ruling in the <i>Ryanair</i> case and ensure that the 2001/2004 Industrial Relations Acts will operate as had been originally intended.

INDUSTRIAL RELATIONS (AMENDMENT) BILL 2015

(Part 4 of Bill)

Regulatory Impact Analysis

Section 2 – Description of policy context and objectives

2.1 Policy Context

The Programme for Government provides for a commitment to reform the current law on employees' right to engage in collective bargaining (the Industrial Relations Amendment) Act 2001), so as to ensure compliance by the State with recent judgments of the European Court of Human Rights (ECHR). In addition, there is a commitment in the Statement of Government Priorities 2014-2016 to prioritise the enactment of the Collective Bargaining legislation as approved by Government.

Both the Industrial Relations Act 2001 and its associated Act of 2004 were enacted to provide a mechanism, in relation to companies that do not engage in collective bargaining, by which the fairness of the employment conditions of workers could be assessed and to provide protection for employees initiating action in this regard.

The 2007 decision of the Supreme Court in *Ryanair - v - The Labour Court*, however, cast doubt on the functionality of the Acts and had a chilling effect on their usage.

Prior to the outcome of the *Ryanair* Supreme Court case, the original legislative arrangements had been seen as a workable compromise. The legislative model for resolving issues relating to employee representation had reflected a shared commitment that, where negotiating arrangements are in place, the most effective means of resolving differences which arise between employers and trade unions representing employees is by voluntary collective bargaining. In the absence of a practice of voluntary collective bargaining, subject to agreed qualifying criteria, the Industrial Relations Acts, 2001 and 2004 provided a mechanism by which the fairness of the employment conditions of workers in their totality could be assessed.

In addition, following the publication of the Programme for Government, the ILO Committee on Freedom of Association issued its report in response to a complaint referred to it by Irish Congress of Trade Unions (ICTU) and IMPACT arising from the Ryanair Supreme Court judgment.

As part of the Government's response to the ILO Report, it indicated that these matters would be addressed in the context of a review of the operation of the Industrial Relations (Amendment) Act 2001 as signalled in the Programme for Government.

2.2 General objective

The legislative proposals respect Ireland's voluntary industrial relations system but ensure that where an employer chooses not to engage in collective bargaining either with a trade union or an internal 'excepted body' the 2001 Industrial Relations Act will, as amended, will ensure there is an effective means for a union, on behalf of members in that employment, to have disputed remuneration and conditions of employment assessed against relevant comparators and determined by the Labour Court.

The legislation will also ensure that if an employer chooses to collectively bargain with an internal 'excepted body', as opposed to a union, that body must pass tests as regards its independence.

Provisions are included to ensure the Act is used appropriately. There are provisions to ensure cases dealt with are ones where the numbers of workers are not insignificant; provisions to ensure elements of remuneration and conditions are not challenged without regard for the totality of remuneration, terms and conditions; provisions to manage the frequency of reassessment of the same issues.

Additional protection by way of interim relief is proposed where a union member, identified in the course of use of the process under the Act, is to be dismissed.

Specifically, the legislation will include:

- definitions of what constitutes "collective bargaining" and "excepted body",

- provisions to help the Labour Court identify if internal bargaining bodies are genuinely independent of their employer,
- bringing clarity to the requirements to be met by a Trade Union advancing a claim under the Act,
- setting out policies and principles for the Labour Court to follow when assessing workers' terms and conditions, including the sustainability of the employers business in the long-term,
- new provisions to ensure cases dealt with are ones where the numbers of workers are not insignificant,
- provisions to ensure remuneration, terms and conditions are looked at in their totality,
- provisions to limit the frequency of reassessment of the same issues, and
- enhanced protection for workers who may feel that they are being victimised for exercising their rights in this regard by way of interim relief in the case of dismissal.

2.3 Immediate Objectives

The immediate objective of the legislative proposals is to reform the Industrial Relations Act of 2001 and 2004 to put in place a revised framework whereby workers in employments that do not engage in collective bargaining can have their rates of remuneration and conditions of employment independently assessed and not be victimised by an employer for doing so.

Section 3 – Identification and description of policy options

3.1 Do Nothing

The “do nothing” option would fail to address the commitment in the Programme for Government to reform the Industrial Relations (Amendment) Act 2001 and the Statement of Governments Priorities 2014–2016 commitment to prioritise the enactment of the Collective Bargaining legislation. To “do nothing” would also result in the continuation of the status quo, whereby the operation of the 2001/2004 Industrial Relations Acts had fallen into disuse following the 2007 Supreme Court ruling in the *Ryanair* case.

3.2 Legislate

To comply with the commitments in the Programme for Government to reform the Industrial Relations (Amendment) Act 2001 and the Statement of Governments Priorities 2014–2016 on the issue of collective bargaining, it is necessary to legislate.

3.3 Conclusion

For the reasons set out above, Option 2 – legislate to the reform of the 2001/2004 Industrial Relations Acts can only be considered.

Section 4 – Analysis of costs and benefits

4.1 Benefits

For workers, the legislation will ensure that, where there is no collective bargaining, they will have an effective system that ensures they can air grievances about remuneration and conditions of employment in the Labour Court and have these determined based on those in similar companies and not be victimised for doing so

For employers, the reform of the Industrial Relations Act 2001 will provide a clear and balanced mechanism by which the fairness of the employment conditions of workers in their totality can be assessed where collective bargaining does not take place. It will provide clarity and certainty for employers in managing their workplaces over the years ahead and will ensure that their concerns regarding inappropriate use of the Act are addressed.

4.2 Costs

It is not anticipated that any additional costs will arise to the Exchequer from the proposed Bill.

Section 5 - Impacts

5.1 National Competitiveness

During the course of the consultation process involved in the review, employer representatives expressed the view that any change in this area is unnecessary and undesirable. They were concerned that the competitiveness of Ireland's investment environment for further foreign direct investment and increased employment opportunities could be threatened. However, the Minister is confident that the

proposals in Part 4 of the Bill, in respecting Ireland's voluntarist system of industrial relations, will reconcile Ireland's constitutional, social and economic traditions, and international obligations, whilst at the same time ensuring continued success in building Ireland's domestic jobs-base and in attracting overseas investment into the economy.

5.2 Socially excluded or vulnerable groups

No impacts are envisaged for people experiencing or at risk of poverty or social exclusion.

5.3 Gender Equality

It is not expected that the legislation will have an impact on gender equality.

5.4 Economic Markets/Consumers and Competition

The proposed legislation does not involve a policy change in the economic market.

5.5 Rights of Citizens

The proposed legislation will address the Supreme Court ruling in the Ryanair case and will introduce a revised framework ensuring workers, who have effectively been unable to do so since 2007, will have an effective system that ensures they can air grievances about remuneration and conditions of employment and have these determined by the Labour Court based on those in similar companies and, if necessary, secured by way of Circuit Court Order. The legislation will also ensure workers will not be victimised for doing so.

5.6 Other impacts

There are no impacts are anticipated the Environment or North South and East West relations.

Section 6 - Consultation

Worker and employer stakeholders have played a critical role in assisting government to develop a framework in this area, in the spirit of social dialogue and partnership.

On foot of the Programme for Government commitment, the Minister for Jobs, Enterprise and Innovation requested key stakeholders to make submissions on the matter. The legislative proposals have been derived from a lengthy consultation process involving extensive engagement with stakeholders with a view to arriving at broadly acceptable proposals that will operate effectively in practice.

Section 7 - Enforcement and Compliance

The legislative proposals provide for a continuation of the role of the Labour Court in the investigation of disputes under the 2001/2004 Industrial Relations Acts. In this context, the Court will be provided for additional assistance in undertaking the task in terms of the provision of a definition of “collective bargaining” for the purposes of the Act and the provision of policies and principles for the Labour Court to follow when assessing workers’ terms and conditions, including the sustainability of the employers business in the long-term

Section 8 - Review

The effect and impact of the new legislation will be kept under review by the Department of Jobs, Enterprise and Innovation in co-operation with the State’s industrial relations institutions and employer and worker representative bodies

Section 9 - Publication

This RIA is being published on the website of the Department of Jobs, Enterprise and Innovation.

Department of Jobs, Enterprise and Innovation

May, 2015