



**Submission to the Department of Jobs,  
Enterprise and Innovation**

**Consultation on Zero Hour Contracts and  
Low Hour Contracts in the Irish Economy**

**December 2015**

The Vintners' Federation of Ireland is a trade association representing the interests of publicans in the twenty five counties outside of Dublin. We have close to 4,000 members and, by and large, our member pubs are family owned and family run businesses. They operate in all parts of the country both urban and rural, town and village. There are upwards of 40,000 people employed by our members across the breadth of the country.

Over the past number of years the trade has been significantly hit by the effects of the recession, changing lifestyles and drinking habits. This has resulted in a serious contraction of hours and, in some cases, the number of days on which it is viable to open the businesses. It has also led to an expansion in other areas of business like food, entertainments, etc. One of the other features of the effects of the recession is the concentration of business towards the back end of the week. As always, businesses have to respond to the needs of the consumer and the consumer, in this case, is very clear in terms of their requirements – a more concentrated, Thursday to Sunday, one.

It has to be recognised that the majority of these businesses are small. Revenue figures indicate that 52% of the pubs trading in our catchment area have an annual turnover of less than €190,000 per annum. The same revenue figures show that almost 80% have a turnover of less than €380,000 per annum. These figures clearly demonstrate that the businesses are small and, as we have seen over the last number of years, quite vulnerable. There is now almost 20% less pubs in operation than there were seven to eight years ago.

Zero Hour Contracts are regulated in Ireland under the Organisation of Working Time Act and workers' rights are properly accommodated there. As a result they are rarely used and this is acknowledged in the report. It has to be acknowledged, and the report does not fully acknowledge this, that there is clear evidence of the demand from employees for flexible working arrangements and part time work. This demand is long standing and is evidenced by the need to establish a code of practice almost a decade ago for those seeking part time work. That code of practice refers to the importance of developing access to part time work as a strategic response to "growing demands for modern flexible work organisation". There were many reasons for that and they are still valid, around facilitating further education and trading, around facilitating the requirements of older people in the work place and those with disabilities and providing work/life balance options for others. That demand still exists and needs to be accommodated and not penalised. If some of the recommendations outlined were put in place it certainly would penalise the employer for being flexible and accommodating.

There should not be, and nobody should condone, any level of exploitation or discrimination. However, in the limited cases where these arise there are adequate remedies available through the existing mechanics of the state to address same.

Against that background we would address the specific issues raised on an individual basis as follows:

1. Requirement that the Terms of Employment Information Act be amended to require employers to provide the written statement on the terms and conditions of the employment on or by the first day of employees commencing their employment. We fully accept the requirement to have the terms and conditions of employment made available in a timely fashion. However, we would suggest that this should read "within the first two weeks" rather than "on or by the first day" to allow for situations where key staff may not be available on the day on which somebody may be due to commence work.

2. Recommendation that the Terms of Employment Information Act be amended to require employers to provide a statement of working hours which are a true reflection of the hours required of an employee. There are many cases where this may not be possible and may indeed work against the interest of employees. Employers may tend to guard against making higher commitments and consideration might be given to creating a banded basis on which the spirit of this recommendation could be achieved.
3. The recommendations in three are covered in four to eight below.
  - 4.1 Recommendation for employees with no guaranteed hours of work that the mean number of hours worked in the previous six months would be taken to be the minimum number of hours in the contract of employment. Business' needs vary and in many businesses in our sector there is a very significant seasonal variation. This is just not a practical proposal to put in place in our trade.
  - 4.2 For employees with a combination of minimum guaranteed hours and if and when hours the mean number of hours worked in the previous six months be taken to be the minimum. For the same reasons outlined at 4.1 above we do not see this as being workable.
  - 4.3 Recommendation that a mechanism be put in place whereby after the minimum number of hours is established employers and employees can review the pattern of working hours so that the contract accurately reflects the reality of working hours. Subject to 4.1 and 4.2 above there is no issue with such a review but it may be futile in the context of the issues raised in the comments therein.
  - 4.4 Enactment of a clause like this would force many employers to review the commitments in relation to hours and could impact negatively on the available hours for employees.
5. This is a recommendation that an employer should give notice of at least 72 hours to an employee to undertake any hours of work unless there are exceptional and unforeseen circumstances. What is critical in this statement is the definition of exceptional and unforeseen. Many situations arise at very short notice and if 72 hours' notice needs to be given it may mean that certain business would have to be turned down by employers. This is not in the short, medium or long term interests of either the business or its employees. What happens if an employee is unable to attend work and gives very short notice to the employer and that employee has to be replaced? Does this fall within this remit? If so, it can lead to undesirable practice between employees resulting in negative implications for the business.
6. This recommends that an employer should give notice of cancellation of working hours already agreed to employees of not less than 72 hours. As pointed out at 5 above there are many events that both come on stream and disappear at short notice and 72 hours is neither practical nor desirable.

7. This is a recommendation that there be a minimum working period of three continuous working hours where an employee is required to report for work. There are many established work patterns where the number of continuous hours is less than three. In the licensed trade there would be many instances of an individual, for example, coming in to clean a premises and the total duration would be less than three hours. Some of these individuals would have a number of such assignments and it could impact negatively on their capability to fulfil those assignments. Again, there are many areas where this is not practical and is certainly not desirable.
8. This recommendation is in respect of sector collective agreements. In reality what is on offer here is using the recommendations in 1-7 as a base and having a tier somewhat above that. This is certainly not an attractive proposition or a plus for creating sectoral agreements.
9. This is a recommendation in regard to sectoral agreements. We do not see sectoral agreements as any addition to the trade.
10. This is a recommendation that the government examine further the legal position of people on if and when contracts. Government have the right to carry out any such examinations as they see fit.
11. This is a recommendation that the Department of Social Protection put in place a system that provides for consultation with employer organisations and others with a view to examining social welfare issues as they affect if and when contracts. As per 10 above this is a matter for government.
12. This is a recommendation that the government develop a policy for an accessible, regulated and high quality childcare system. Again, as above, this is a matter for government.
13. This is a recommendation that the government establish an inter-departmental working group to allow for greater cooperation between departments on policies which affect pattern of working hours. Again, this is a matter for government.
14. This is a recommendation that the CSO have a rolling quarterly National Household Survey special module on non-standard employment which would include questions on non-guaranteed hours. It is always good to have full information on these areas so this is to be welcomed.