



Submission to the Consultation on the National Minimum Wage Friday 6th March 2020

Introduction

The Migrant Rights Centre Ireland (MRCI) is a national organisation working to promote the rights of migrant workers and their families living in situations of vulnerability throughout Ireland. In 2019 MRCI provided information and support on 2283 cases to people from 116 different countries. Of this, 32% were undocumented, and the most common sectors of employment were care and domestic work and restaurants. Other sectors included retail, hospitality and fisheries.

MRCI welcomes the sixth review of the National Minimum Wage (NMW) by the Low Pay Commission. This review takes place in the context of full employment, a buoyant and growing economy and shortages in labour. The Economic and Social Research Institute forecast GDP growth a 4.5% in 2019. In January 2020 unemployment stood at 4.8% close to what is generally regarded a 'full employment'. This makes it the ideal time to significantly improve the living standards of minimum wage and low paid workers in Ireland. While Brexit and the impact of the Coronavirus remain unknown at the time of submission, the former should not impact on an increase in this wage floor as day to day living costs are increasing for all workers, and the later need to inform the protection of workers' rights.

Labour Migration 2019

In 2019, net inward migration stood at over 33,700.¹ In 2018 (latest figures) 142,924 Non-EU migrants registered in Ireland. In the same year 138,000 people's registrations of permission to remain in the State were new or renewed.² The precariousness associated with immigration

¹ CSO Population and Migration Estimates April 2019

<https://www.cso.ie/en/releasesandpublications/er/pme/populationandmigrationestimatesapril2019/>

² Immigration-in-Ireland-Annual-Review-2018 <http://www.inis.gov.ie/en/INIS/Immigration-in-Ireland-Annual-Review-2018.pdf/Files/Immigration-in-Ireland-Annual-Review-2018.pdf>

status merits special consideration when developing strategies to ensure equality outcomes for migrants including pay and conditions.

People from a migrant background are integral to the Irish labour market. CSO 2016 figures show that 14.9% of the workforce is non-Irish nationals with almost half are employed in Food Services, Manufacturing Industries and Human Health and Social Work. Nearly half (46.9%) are classified as non-manual, manual skilled, semi-skilled or unskilled workers, compared with 39.2% of Irish nationals. The unemployment rate among non-Irish nationals was 15.4%, compared with a rate of 12.6% among the Irish population.

In 2019 Minister Humphries approved new changes for employment permits in several sectors with identified labour shortages by business; lifting quota for chefs and increasing permits for food manufacturing by 1,500.

Consolidation of Employment Permit Acts

A long overdue review and consolidation of the Employment Permit Acts is being undertaken by the Department of Business, Enterprise and Innovation. While a welcome development, the proposed Heads of Bill contained very little by way of providing a more flexible and open system. A core element of the Labour Migration review is the stated commitment to fighting exploitation. Unfortunately, no changes to the legislation to date have been proposed to address a worker's mobility which would assist in addressing exploitation. However, a worker still remains tied to their employer which increases the risk of exploitation. MRCI is also extremely concerned that the proposed introduction of a Seasonal Employment Permit will leave workers extremely vulnerable to exploitation and is an approach which MRCI is highly critical of.

Gaps in Data Collection on Migrants

For the last six years MRCI has highlighted the lack of data being collected in relation to the participation of migrants in the labour market. The samples of publically available datasets remain too small to make statistically sound assertions on the proportion of migrant workers earning the minimum wage or in low-paid employment.

Non-Compliance and Exploitation

MRCI deals on a daily basis with people who have experienced exploitation. Exploitation continues to be persistent in low paid sectors of the economy and regime of compliance is central to its

eradication. Research by MRCI in 2015 with 104 migrant workers¹³, revealed that while migrant workers are more knowledgeable about their rights few are able to assert these rights and improve their conditions.

Fishers

In December 2017, MRCI launched research into the experience of migrant fishers which revealed widespread exploitation.

- A majority (65%) work more than 100 hours a week,
- Average pay is just €2.82 per hour,
- One in four have experienced verbal or physical abuse,
- One in five have experienced discrimination and racism,
- 40% do not feel safe at work,
- Discrimination, exploitation and verbal & physical abuse are common⁴

Irregular Migration

Pay and upholding good terms and conditions of undocumented migrant workers continues to be a serious issue for MRCI. Research carried out by MRCI in 2016 with over 1,000 undocumented migrants, found that the overwhelming majority (89%) are in employment, typically (though not always) in sectors where low-paid work is prevalent. The top five sectors of employment are Restaurant & Catering (32%), Domestic Work (29%), and Cleaning and Maintenance (13%). Other sectors include retail, hotel, medical, healthcare and agriculture.

A high proportion of these (66%) have been in their current job for over 2 years and of this 31% have been in the same job for over 5 years. 69% indicated that they are working over 30 hours, with more than half earning over €300 a week. The survey reveals that many undocumented migrants in Ireland are well-educated, with 97% possessing secondary school education and 53% educated at third level.⁵ This group are invisible in the labour market and in any official data. MRCI is conducting new research in this area in 2019 and will send it to the Commission when it is completed.

Access to Justice

MRCI is deeply concerned by the continued gap in protections for workers whose employer is informally insolvent. These workers are unable to access the State's Insolvency Payments Scheme

³ All Work and Low Pay; the experiences of migrants working in Ireland (MRCI - May 2015) <http://www.mrci.ie/wp-content/uploads/2015/11/MRCI-All-Work-and-Low-Pay.pdf>

⁴ Left High and Dry; The Exploitation of Migrant Workers in the Irish Fishing Industry (Dec 2017) <https://www.mrci.ie/press-centre/severe-exploitation-persists-on-irish-fishing-boats-says-new-report-11122017/>

⁵ Ireland is Home Survey 2016: <http://www.mrci.ie/wp-content/uploads/2016/05/Ireland-is-Home-2016-Infographic-FINAL.pdf>

when their employer walks away and fails to properly wind up a business. This was exposed in the Glegola Supreme Court judgement and the Government must act immediately to address this⁶.

MRCI is dealing with a numbers of cases where workers are exploited and have had their wages stolen but have no recourse because their employer closed up and walked away with impunity. Employers are acting without impunity and workers are receiving a double punishment for their actions. Workers wages are stolen by employers and they are then refused access to recourse by the Government. A key issue is that Ireland has not correctly transposed EU legislation into Irish law to deal with informal solvencies.

MRCI acknowledges that many of the issues that arise from the State's Insolvency Payments Scheme are outside the scope of the LPC, however, to date the Commission has taken a proactive role in highlighting exploitation and making recommendations to assist with its prevention and in protecting workers, which is a very welcome approach. We encourage the LPC to continue to have a dedicated focus on preventing, combating and addressing exploitation and to take this

⁶ <https://www.casemine.com/judgement/uk/5da02c8b4653d058440f99c4>
<https://www.irishexaminer.com/breakingnews/business/supreme-court-upholds-damages-award-of-16000-to-woman-over-redundancy-law-failure-by-state-893352.html>

MRCI Recommendations

Living Wage

MRCI proposes that the minimum wage should, over time, reach the level of the Living Wage (€11.90 - 2018). This would ensure that all full-time workers would earn enough to ensure a minimum adequate income. We recommend that the Low Pay Commission set a target date of increasing the NMW to the Living Wage within 4 years.

National Minimum Wage (NMW)

The NMW has incrementally increased since the establishment of the LPC. There are now just two years to reach the previous Government's stated aim of increasing the minimum wage to €10.50 by 2021. This means an increase of .40 cent to €10.50 for 2021 to narrow the gap between the NMW and the Living Wage.

Data and Research on Migrants

For the last six years MRCI has highlighted the lack of data being collected in relation to the participation of migrants in the labour market. MRCI recommends that the LPC agree as a matter of urgency a special module with the CSO to focus on generating data for persons from a migrant background to fully understand their living conditions including their earnings.

Addressing and Preventing Exploitation

We encourage the LPC when commenting on exploitation that reference is made to the commitments outlined in Ireland's Labour Migration review to fighting exploitation and to seek assurances as to how employment rights and standards for new employment permits holders will be communicated and monitored.

Addressing Lack of Protections in Insolvency Situations

MRCI recommends that the LPC make comment on anomalies with the Insolvency Payments Scheme for workers who find themselves in situations where an employer is informally insolvent and they cannot access this scheme. MRCI recommends the introduction of legislation to close this loop hole.