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Registered Employment Agreements to be given statutory basis

The **Industrial Relations (Amendment) Bill 2015** which was published on 14 May 2015 will, when enacted, provide for a system of registered employment agreements (“**REAs**”) and sectoral employment orders. The need with regard to REAs arises following the finding of unconstitutionality in the Supreme Court of the previous system.

Registered Employment Agreements

An REA will essentially be an agreement which relates to employees’ remuneration and / or terms and conditions and which is registered in the Register of Employment Agreements which will be maintained by the Labour Court and which will be published on the internet. Any party to an REA will be able to apply to register an employment agreement provided they furnish certain information showing that the trade union is “substantially representative” of the workers in the class, type or group. The **Labour Court** will be obliged to register an agreement provided it is satisfied of certain matters including that all parties agree that it be registered, that it is expressed to apply to all and that it is normal and desirable practice or expedient to have a separate agreement for this group. If a trade dispute arises there is to be no industrial action or lock-out before negotiations have taken place. The Labour Court will be obliged to direct the parties to publish details of any application to register and must allow a 14 day period for objections in which case, unless the objections are considered frivolous, it must hear all relevant parties. An REA may not prejudice rights concerning remuneration or terms and conditions conferred by statute.

An application may be made by a party to vary an REA in its

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application to any worker or workers to whom it applies and the parties will be able to jointly apply to cancel the registration of an agreement.

If there is a difference in pay rates or less favourable terms and conditions between a contract and an REA, then the greater amount of pay or better terms and conditions contained in the REA will be deemed to apply.

The Labour Court will have the power to give an interpretation of a provision of an REA and any Court will be obliged to take that interpretation into account in and Court proceedings or a Court will be able to refer a question to the Labour Court for an interpretation.

Sectoral Employment Orders

An appropriately representative trade union will be able to request the Labour Court to examine the remuneration, sick pay or pension scheme of workers in a particular economic sector. The Labour Court, having published notice of its intention to do so and having allowed 28 days to receive submissions, will be obliged to carry out the examination provided that some basic criteria are satisfied. A “sectoral employment order” may make provision for such matters as remuneration, overtime, unsocial hours, Sunday working, travelling time. The Labour Court, having considered economic factors will be empowered to make a recommendation to the Minister to make a “sectoral employment order” and the Minister will be obliged to do so within six weeks of having been properly recommended to do so by the Labour Court. The Order must be voted on by the Oireachtas and it may be annulled. If there is a difference in pay rates or less favourable pension scheme or sick pay scheme between a contract and a sectoral employment order the greater amount of pay or better pension scheme or sick pay scheme will apply.

Employers will be prohibited from victimising employees who make complaints regarding breaches of sectoral employment orders and there will be a rebuttable presumption that employees complained reasonably and in good faith.

The Labour Court will be permitted, once in 5 years, in cases of proven severe financial difficulties, to exempt an employer, for between 3 and 24 months, from the terms of a sectoral employment order. The employer will be obliged to furnish a current tax clearance certificate and such other information as the Labour Court may require. In any event, any rate of pay will not be allowed to be below the Minimum Wage. Contracts of employment will be deemed amended to reflect the exemption during its term. Exemptions will be published on a Register and there will be no appeal against an exemption except to the High Court on a point of law.

The Act will make various amendments to the Industrial Relations Acts including inserting a new definition of collective bargaining which will essentially mean voluntary negotiations concerning working conditions or terms of employment or non-employment of workers.

The progress of the Bill will be followed with interest in sectors likely to be affected.

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