

Low Pay Commission

Minimum wage rise could affect hours

Risk of 'slight adjustment' in workers' hours, says Low Pay Commission chief

Tánaiste says 50 cent an hour increase 'the start of a process, not the end'

FIACH KELLY
Political Correspondent

Employers could introduce a "slight adjustment" in the hours they give workers if the minimum wage increased by 50 cent an hour, the chairman of the Low Pay Commission has said.

Donal de Buitléir said there was no hard evidence to say a reduction in workers' hours would definitely result from the increase in the minimum hour-

ly wage from €8.65 to €9.15, which is expected to be ratified in the October budget and take effect from next January.

Taoiseach Enda Kenny, Tánaiste Joan Burton, Minister for Jobs Richard Bruton and Minister of State for business and employment Ged Nash yesterday welcomed the recommended 50 cent increase from the commission. Mr Nash said he hoped the minimum wage would increase further in future.

Mr Kenny said the budget would also contain changes to employers' PRSI to help offset the cost of the wage increase to businesses.

This was echoed by Mr Bruton, who said the Government would consider the "balanced, measured and very welcome" proposals while also ensuring any "knock-on impacts" were addressed.

Make work pay

Mr Kenny also said the rise in the minimum wage would be accompanied by taxation measures in the budget, such as reductions in the universal social charge and welfare changes as part of a Coalition package to "make work pay".

"This Government believes that a job is the only sustainable route out of poverty, that work should pay more than welfare,

and no household with a person in full-time work should be in poverty," he added.

The commission's report, published by the Government yesterday, said "moderate increases in the national mini-

“Enda Kenny said the budget would contain changes to employers' PRSI

mum wage are unlikely to have a significant adverse effect on employment (once they do not impact on employers' PRSI costs), though the position is less clear in relation to hours worked".

Asked whether employers may cut back on hours given to employees, Mr de Buitléir said:

"There might be slight adjustment in hours but that would be a matter for individual employers. We don't really have any hard evidence to quantify that. It is a possibility and it is flagged as a possibility."

The increase marks the first announcement from the commission, which will operate over a three-year period.

Start of process

Ms Burton, who has repeatedly called for a higher living wage, said she saw the 50 cent increase as "the start of a process, not the end".

Mr Nash said the increase represented a €1,000 pay rise a year for those on the minimum wage.

"The new rate, when adopted by Government, won't just assist the 70,000 people who earn €8.65 an hour but also the

additional 52,000 or so who earn up to €9.08 an hour," he said. "So in total, 122,500 will see an immediate and cash benefit in their pocket."

Fianna Fáil jobs spokesman Dara Calleary largely welcomed the increase but expressed concern about possible knock-on effects on PRSI paid by workers, although Ministers signalled this would also be addressed in the budget.

Sinn Féin Senator David Cullinane said the Coalition should increase the wage by €1 an hour. "A 50 cent increase in the minimum wage will have absolutely no impact on the issue of in-work poverty or on growing inequality in our society. Sinn Féin has repeatedly called for an initial increase of at least €1 with a guaranteed progression to a living wage over a three to four-year period," he said.



Commission splits over 50 cent wage increase

MARTIN WALL
Industry Correspondent

Trade union and migrant rights activists on the Low Pay Commission have disagreed with its overall recommendation that the national minimum wage should be increased by 50 cent.

The general secretary of the

Irish Congress of Trade Unions (Ictu), Patricia King, and Gerry Light of the Mandate trade union argued in a minority report that the proposed rise was inadequate.

They argued that an hourly increase of €1.35, bringing the minimum wage to €10, was "reasonable and proportionate".

Edel McGinley, director of the Migrants Rights Centre Ireland, said in her minority report that a 50 cent increase did not go far enough to address the eight-year stagnation in pay for workers on the national minimum wage.

She recommended the rate be increased by €1 to €9.65.

18 for the first year of employment and 90 per cent for the second year.

For those in structured training during working hours, the minimum is set at 75 per cent of the adult rate for the first one-third period.

€9.15

New recommended amount for the Low Pay Commission

one-third period, 80 per cent for the second one-third period and 90 per cent for the third one-third period.

The report says the three members of the commission with a business background urged that any increase should not be implemented before the second quarter of next year.

"Those members stated that to implement a revised rate in the first quarter of the year would add additional and unsustainable costs on businesses," the report says, "particularly in those sectors where low pay is most prevalent, ie retail, restaurants and hospitality at the worst period of the year – after Christmas, low retail spending and low-season for the hospitality sector."

In its conclusion, the commission says that, while it is not possible to be definitive, based on Irish and international evidence, moderate increases in the national minimum wage are unlikely to have a significant adverse effect on employment as long as they did not impact on PRSI costs. It warns that the position is less clear in relation to hours worked.

In its best judgment, the com-

mission said in its report, a moderate rise in the national minimum wage is unlikely to have a substantial effect on the cost of living.

In their minority report, Ms King and Mr Light maintained that because of an anomaly in the PRSI system, known as the PRSI step effect, a single adult working 39 hours a week could end up taking home less money after receiving a proposed 50 cent rise in the national minimum wage.

"There are no circumstances in which we can agree to such a scenario," they said.



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Six support

In its report, the commission said its recommendation the adult rate for the national minimum wage be set at €9.15 an hour was supported by six of its nine members. The current rate is €8.65 an hour for adults.

It says it did not propose any change to the existing sub-minimum rates set for young people and certain trainees. For people under 18, the rate is set at 70 per cent of the adult rate. It rises to 80 per cent for those over

PRSI change likely to accompany wage rise



Martin Wall Analysis

Anomaly on social insurance formed backdrop to talks on minimum wage rise

Government moves to increase the rate of the national minimum wage on foot of the report of the Low Pay Commission are likely to be introduced in tandem with PRSI reforms.

The report highlights anomalies in PRSI arrangements which if left unchanged could see workers take home less money following a rise in the national minimum wage.

At the same time, under current arrangements, employers would see their PRSI costs increase significantly on foot of

even small increases in the minimum wage above certain thresholds.

It is understood this anomaly formed, in part, the background of the decision by trade union leaders on the commission to dissent from the final recommendation for a 50 cent rise in the minimum wage.

Taoiseach Enda Kenny described some of the examples of these PRSI anomalies set out in the commission's report as "quite stark".

Tánaiste Joan Burton promised these issues would be addressed in the budget in October.

Net annual gain

The report says an increase in the hourly minimum wage of 37 cent to bring the level to €9.02 for a single adult working 39 hours a week would generate a net annual gain to the employee of €548.95. The cost to the employer would be €814.14.

However, an increase of 45 cent, to bring the level to €9.10, would result in the worker being worse off in net terms by €70.81 while the cost to the employer would be €990.17.

In her minority report, Irish Congress of Trade Unions general secretary Patricia King

included a table which maintained that under existing PRSI arrangements, increasing the minimum wage by the proposed 50 cent an hour would lead to a slight reduction in earnings for the employee.

Earlier this month Burton signalled to the trade union movement at its conference in Ennis that any such PRSI anomalies would be tackled in the budget.

However, it seems the Government did not provide sufficiently definitive commitments on its PRSI reforms to allow trade unionists on the commission back a 50 cent rise which, in theory and without changes to the anomalies, would not have delivered any increase in take-home pay.

Given the polarised nature of the debate over recent months on changing the national minimum wage it was probably to be expected there would be dissenting voices over the outcome.

However, on the basis that all employer groups had advocated keeping the existing €8.65 rate unchanged, it was surprising that commission members with a background knowledge of the business world had backed the proposed 50 cent rise while those on the

union and worker side had objected, albeit on the grounds the increase was inadequate.

Tax relief
Minister of State for business and employment Ged Nash said yesterday that the proposed minimum wage rate would benefit more than 122,000 workers when it comes into effect.

The Government is likely to come under pressure at the time of the budget to set out how much any changes in the PRSI regime would cost, given it has set a €750 million cap on tax relief provision.

In its report the commission says a moderate increase in the minimum wage rate is unlikely to have a significantly adverse effect on employment. However, it seems less sure of what impact it may have on the number of hours offered by employers to low-paid workers.

It seems certain the Government will increase the minimum wage from January, a move that will benefit thousands of workers. However, it remains to be seen, in the face of strong opposition to the rise from some business groups, whether some employers will see their working hours cut as a result of the measure.

Paper takes European court challenge over Leech libel case

Publisher says €1.25m award had 'chilling effect' on freedom of expression

RUADHÁN Mac CORMAIC

Independent Newspapers is to challenge Ireland's defamation laws at the European Court of Human Rights, claiming that a €1.25 million libel award to communications consultant Monica Leech had a "serious chilling effect" on freedom of expression.

Ms Leech (pictured) was awarded €1.87 million in 2009 by a High Court jury over a series of articles published in 2004 in the *Evening Herald*. A three-judge Supreme Court last December reduced the figure to €1.25 million – the highest that court has approved in a defamation action.

The case arose from a series of articles which Ms Leech said implied she was having an extramarital affair with then environment minister Martin Cullen, which was strongly denied. In the High Court, the jury found the words complained of did incorrectly suggest she had been having an affair and awarded her what was the highest ever libel award at that time.

Press freedom

In papers filed at the Strasbourg court, Independent Newspapers claims the size of the damages award against it has a "serious chilling effect" on press freedom and contravenes article 10 of the European Convention on Human Rights, which relates to freedom of expression. It also argues that defamation law and practice in Ireland is incompatible with article 10 in that it fails to provide "adequate and effective safeguards against disproportionate awards in defamation actions".

The publisher argues the monetary sanctions that can be imposed on defendants in defamation cases, including the size of the payout in the Leech case, are "wholly excessive and altogether too severe".

The challenge will centre on one of the most contentious aspects of Ireland's defamation regime: the limitless discretion for juries to select arbitrary – and at times enormous – damages.

The Leech case pre-dated the Defamation Act 2009, which allowed judges to give more directions to juries on the assessment of damages. Independent Newspapers says the 2009 Act introduced some "limited changes" to the law on damages but did not significantly alter the legal landscape.

The Leech jury settled on €1,872,000, but gave no analysis or breakdown of how it arrived at that figure. Last December, the Supreme Court, in a 2-1 decision, reduced the award to €1,250,000. The lead judgment, by Ms Justice Elizabeth Dunne, did not explain how the new figure was arrived at. Mr Justice John Murray agreed with Ms Justice Dunne's figure, but did not write a judgment.

Minority judgment

The minority judgment, by Mr Justice Liam McKechnie, suggested reducing the award to €1 million, but it has not yet been published on the Courts Service website.

Prior to the Leech case, the highest award approved by the Supreme Court was £380,000 in a case taken by then Democratic Left leader Proinsias De Rossa over a 1992 article in the *Sunday Independent*. Independent Newspapers estimates the De Rossa award, when index-linked to 2014, was the equivalent to €530,000 last year. It notes that the Supreme Court, in Ms Justice Dunne's judgment, expressly accepted that the libel in the Leech case could not be classified as "one of the most serious libels to come before

the courts, such as that in the De Rossa case", but then proceeded to award Ms Leech more than double the figure given to Mr De Rossa.

Deciding on damages in defamation cases is an inexact science with a large subjective element, but some legal systems try to guide juries so as to ensure awards are proportionate.

Comparisons

English case law, for example, makes clear that juries can be reminded of the purchasing power of given sums or offered comparisons with awards in other defamation cases. In a 2002 judgment a ceiling of £200,000 was set for damages for the most serious type of defamation in England and Wales.

In its submission to the European court, Independent Newspapers argues that the very precision of the jury award in the Leech case – €1,872,000 – demonstrates its "irrationality and unpredictability, in the absence of anything in the evidence to justify a precise figure".

In its submission, the publisher compares the payout to Ms Leech with awards made in personal injury cases. It states that in Ireland there is a conventional limit of about €450,000 on the most serious cases of paraplegia, for example. (The Supreme Court found the analogy of awards in personal injury cases was not useful.)



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The Strasbourg case, which is not likely to go to hearing until next year, comes as the Department of Justice prepares for a scheduled review of the 2009 Act. The review is required by law five years after the Act came into force, but a spokesman said no time frame had been fixed as it was "subject to competing legislative priorities".

Newsbrands Ireland, formerly the National Newspapers of Ireland, is supporting the case taken by Independent Newspapers. Patrick Smyth, a duty editor of *The Irish Times* and a Newsbrands Ireland representative on the Press Council, said the national newspapers and *The Irish Times* were "deeply concerned" about the scale of the damages in the Leech case and the threat that damages on such a scale represented to media freedom.

He also said damages of this order seriously threatened jobs in an industry under financial pressure. "In this case the award represents the annual salaries of more than 15 journalists. The damages bear no relation to any reasonable assessment of suffering."

Smyth said the 2009 Act was supposed to reform a defamation regime that was among the most oppressive in the world but had not done so. "Neither those mistreated by the media, nor the media, are served by a system that is essentially a rich man's preserve and a lawyers' dream," he added.

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