



**CHAMBERS  
IRELAND**  
IN BUSINESS FOR BUSINESS

**Submission by Chambers Ireland to the Action Plan  
for Jobs 2015**

**September 2014**

## Introduction

Chambers Ireland supports the Government's intention to publish an Action Plan for Jobs 2015 and welcomes the opportunity to contribute to its development. Chambers Ireland is the largest business network in the State. With members in every geographic region and economic sector in Ireland, we are well positioned to understand the concerns of business owners and represent their views.

Notwithstanding the recent positive growth in the economy, we recognise the fiscal and resource constraints that both the public and private sectors are operating under. We believe that we have identified four actions that do not require significant investment of capital or human resources, but that have the potential to greatly improve the environment for economic growth and job creation.

## Stimulating Economic Activity through Effective Public Procurement

### 1. What theme does this action support?

Assisting Indigenous Business to Grow/Stimulating Demand in the Domestic Economy

### 2. Description of Action

Ireland can strategically use its public procurement procedures to help stimulate activity in the economy. While we must be mindful of adhering to EU regulations on public procurement, there are a number of ways that public procurement policies can legitimately be leveraged to benefit the Irish economy as a whole. In order to facilitate this, a number of measures can be implemented to allow public procurers more scope to make decisions that are in the best interests of the economy.

We are encouraged by the Government's intention to transpose the new European Union directives into national law as soon as is practicable. This should be undertaken without any unnecessary gold-plating.

Reduce the number and types of contracts being awarded on the basis of price alone. An appreciation of the benefits to the Irish economy in terms of jobs created or revenue raised through taxation should become the norm in tendering procedures.

Public procurers should continue to simplify the process of pre-qualification and reduce the amount of material that must be provided by suppliers at the pre-qualification stage.

Initiatives such as Green Public Procurement could also lead to sector specific growth. Green Procurement Guidance for the public sector has already been published by the EPA in collaboration with a number of State Agencies and Government Departments. Ireland has the potential to expand a sustainable and environmentally friendly indigenous forestry and timber industry. Should Local Authorities and central government implement a responsible timber procurement policy, which insists on Forest Stewardship Council (FSC) certified timber and focusing on locally-produced timbers, the Irish forestry and timber industry could supply this demand.

### **3. Potential impact of action on job creation**

Supporting the development of viable domestic industries through effective public procurement policies will help sustain existing jobs and ultimately generate new jobs in supporting industries.

### **4. Costs associated with delivering action**

There could potentially be additional costs to a procuring body on individual purchasing decisions in using a domestic supplier over an international competitor. However where there is a strong case to be made for a positive cost/benefit analysis for the economy as a whole, then the additional cost is justified.

### **5. Funding/personnel resources**

The funding/personnel required are available within the Office of Government Procurement.

### **6. Responsibility for implementing action**

Responsibility for implementing this action should rest with OGP, but should be jointly overseen by a steering group involving Department of Jobs, Enterprise and Innovation; Department of Environment, Community and Local Government; and the Department of Public Expenditure and Reform.

### **7. Likely timeline for delivery**

A coherent strategy should be agreed upon, focusing on sectors where identifiable benefits for the wider economy could be realised if key companies/industries were supported via public procurement. This should then be put into practice in Q1 2015.

A key goal should be to implement the new Directives as soon as is practicable.

### **8. Actions delivered in Ireland or abroad**

Many European states have well developed strategic plans formally incorporating green public procurement requirements, weighting for social and ethical standards, and promotion of innovation. We would view these as being important components of a national strategic procurement plan.

## **Streamline the Planning and Regulatory Process for Strategic Infrastructure Projects**

### **1. What theme does this action support?**

Increasing Competitiveness/Developing and Deepening Foreign Direct Investment.

### **2. Description of Action**

The planning and regulatory procedure for large scale projects is rife with uncertainty and delay. This applies to all large scale developments, but it has a particularly pronounced impact on energy and infrastructure projects. Many important projects have faced difficulties in this regard in recent years.

The project stoppages and unforeseen hold-ups associated with such delays add to the overall cost of development for the investor and ultimately, the taxpayer.

Legislative and regulatory certainty is a prerequisite for attracting long term investment. Investors need to be certain that there will not be major legislative or regulatory changes which will undermine their position after a significant investment has taken place. Regulatory oversight and consultation should be framed in the context of Ireland's strategic economic development.

### **3. Implement enforceable timeframes for decisions**

We need greater consistency in the 18 week statutory guidelines target. There is simply not enough urgency when it comes to meeting this deadline and the negative cost effects of this on businesses are often disregarded. In addition, a statutory deadline should be introduced and adhered to for all An Bord Pleanála decisions.

Review the third party appeals system - greater priority should be placed on third parties who can demonstrate that they may be potentially directly affected by a proposed development. If a party raises an issue that does not directly affect them, then it should not be considered by An Bord Pleanála. This would greatly reduce the number of 'principle' objections. We recognise that this change may give rise to constitutional issues which will need to be clarified.

### **4. Revise the Process by which a Project can be Judicially Reviewed**

Currently projects can be appealed to the High Court for judicial review of the process by which the decision was made. There is a strong case for a revised system that gives preliminary screening of a Judicial Review application at a much earlier date, with only the very few progressing to a full judicial review where grounds for judicial review are determined at that early stage.

A communication and consultation process with industry and investment stakeholders should be taken prior to any decisions being made on regulations, licensing, or permits that may affect them. It is important that all consultations are open and transparent, and allow for all stakeholders to have their voice heard.

### **5. Potential impact of action on job creation**

There is potential for impact on job creation in a number of different stages of any large project's development. The initial planning, development and construction phase will be labour intensive. The ongoing operation and servicing of infrastructure once built will provide long terms jobs and has the potential for the growth of subcontracting companies. The development of infrastructure will have spill over benefits throughout the economy.

### **6. Costs associated with delivering action**

There is no capital outlay required to deliver this action. Some resources will have to be allocated to examining the existing planning and regulatory framework with a view to implementing legislative or regulatory change where necessary.

### **7. Funding/personnel resources**

Key personnel from a number of Government bodies and departments should be allocated to a project to identify blockages and bottlenecks in the planning and regulatory process for important projects.

#### **8. Responsibility for implementing action**

Responsibility for implementation should lie with a steering group comprised of public and private stakeholders and overseen by the Department of the Taoiseach.

#### **9. Likely timeline for delivery**

Given the current stalling of infrastructure projects, and the possibility of some form of capital investment programme being implemented in the near future, it would be prudent to review the regulatory and planning processes as soon as possible with a view to having a more streamlined process in place to encourage private investment.

#### **10. Actions delivered in Ireland or abroad**

N/A

## **Alternative Dispute Resolution – Court Appointed Mediation Programme**

### **1. What theme does this action support?**

Improving Competitiveness.

### **2. Description of Action**

Development of a scheme for Court appointed mediation in lower value commercial disputes. Many companies are unaware of the availability of alternative dispute resolution (ADR) processes for commercial disputes, and many members of the judiciary and legal professionals may be unsure as to how best to move a case from litigation to ADR.

We believe that a pilot scheme that facilitates court appointed mediation should be introduced. There is strong evidence that mediation processes lead to more satisfactory outcomes for both parties in a dispute, ensure commercial relationships are maintained, significantly reduces costs, and allow the courts system to focus their resources on more appropriate cases.

The outline scheme is reasonably simple: when a case is presented for listing before the courts, the clerk of the court or the judge should be able to review the facts of the case, and if appropriate, immediately recommend that the parties consider entering the mediation scheme.

### **3. Potential impact of action on job creation**

The cost savings to companies that would otherwise be exhausted in expensive litigation should help support job retention in companies generally. There is also an opportunity to provide employment for professional mediators, many of whom are currently under-employed as solicitors or barristers.

#### **4. Costs associated with delivering action**

The costs associated with the action are nominal, as all that needs to be put in place is a framework and system of protocols for the judiciary to operate within. Some basic promotional material should be produced to inform both companies and legal practitioners as to the availability of the scheme.

#### **5. Funding/personnel resources**

This action does not require significant set up costs or ongoing funding other than a nominal outlay to promote the scheme. There would however likely be some staff resources from the courts service required to be allocated to the initiative to monitor the action and its outcomes. It is likely that the transfer of cases from litigation through the courts to the mediation scheme will result in a net cost saving to the State.

#### **6. Responsibility for implementing action**

This action should be implemented by a steering group involving Department of Jobs, Enterprise and Innovation; Department of Justice and Equality; the Judiciary; and private sector mediation associations.

#### **7. Likely timeline for delivery**

We are disappointed that it looks as if the publication of the Mediation Bill has once again been delayed, and will not be in place until early 2015. Preparation for this action should begin immediately in order to have the scheme in place and ready to operate once the Mediation Bill is published.

#### **8. Actions delivered in Ireland or abroad**

There are numerous court appointed mediation schemes in operation across Europe and internationally that can provide examples of best practice. Chambers Ireland is working with its European partners and the European Association of Judges for Mediation to design such a scheme for Ireland, and we would welcome the opportunity to engage in dialogue with the relevant Departments with a view to implementing a pilot scheme as soon as possible.

It is worth noting that similar schemes have already been operated in Ireland but in areas of civil law and family law. These schemes can be used as a template for a court appointed mediation scheme in commercial disputes.

### **Progress of the Valuation (Amendment) (No.2) Bill**

#### **1. What theme does this action support?**

Improving Competitiveness.

#### **2. Description of Action**

Ensure swift progress of the Valuation (Amendment) (No. 2) Bill. This Bill is an important step in making the valuations system on which commercial rates are collected more efficient. The proposed amendments to the Valuation Act 2001 are designed to accelerate the valuation process, to minimise exemptions from rateability and to streamline the appeal procedures available to ratepayers. Commercial rates are a significant cost to businesses, and consequently the valuations process, and the subsequent appeals process are of great concern to the business community. This Bill was presented to the Seanad in August 2012, and is still listed as a 'Section D' Bill on the Seanad Order Paper. We believe that efforts should be made to expedite the progress of this Bill towards publication.

### **3. Potential impact of action on job creation**

Commercial rates are often the third biggest cost to businesses after labour and rent. Rates that are based on outdated valuations, and a convoluted appeals process can cause disproportionately high costs and uncertainty for businesses, particularly SMEs. Developing an efficient valuations and appeals process will provide businesses with a cost base that more accurately reflects their trading conditions and increase their capacity to take on new employees.

### **4. Costs associated with delivering action**

There should be no undue costs associated with progressing the Bill. The Financial Implications of the Bill itself have been described as: "While the enactment of sections 4 and 29 of the legislation will increase costs for some bodies, the expansion of the rates base should allow for reductions in the overall rates burden on businesses while maintaining the rates income of local authorities."

### **5. Funding/personnel resources**

See point 4 above.

### **6. Responsibility for implementing action**

The responsibility for ensuring that the progress of the Bill is expedited rests with the Oireachtas.

### **7. Likely timeframe for Delivery**

We believe that the Oireachtas should consider prioritising this Bill in order to help on build on the current growth being experienced in the domestic economy and encourage a new group of entrepreneurs and business owners to generate employment.

### **8. Actions delivered in Ireland or abroad**

N/A