

## Department of Enterprise, Trade and Employment Guide To Employment Rights Information

This leaflet is intended to give general guidance to employees on employment rights matters. It is not a complete or authoritative statement of the law and is not a legal interpretation. More detailed information is available from the Employment Rights Information Unit of the Department of Enterprise, Trade and Employment. Complaint forms in relation to employment rights entitlements are also available on request from the Employment Rights Information Unit.

### **Important Addresses and Telephone Numbers**

Details of the addresses and telephone numbers of the offices of the Department of Enterprise, Trade and Employment with responsibility for statutory employment rights and work permits matters are as follows:

Employment Rights Information Unit: Department of Enterprise, Trade and Employment, Davitt House, Adelaide Road, Dublin 2.

Tel No: (01) 631 3131. Fax No: (01) 631 3329.

Lo-Call Telephone service for outside (01) area: 1890 201 615.

Website: [www.entemp.ie](http://www.entemp.ie); e-mail: [erinfo@entemp.ie](mailto:erinfo@entemp.ie)

Labour Inspectorate Section: Department of Enterprise, Trade and Employment, Davitt House, Adelaide Road, Dublin 2.

Tel No: (01) 631 3322 Fax No: 6313279.

Lo-Call Telephone service for outside (01) area: 1890 220 222 (ask operator to be put through to Labour Inspectorate Section).

Work Permits Section: Department of Enterprise, Trade and Employment, Davitt House, Adelaide Road, Dublin 2.

Tel No: (01) 631 3333/631 3308; Fax No: (01) 631 3268.

Lo-call Telephone service for outside (01) area: 1890 201 616.

Website: [www.entemp.ie](http://www.entemp.ie); e-mail: [workpermits@entemp.ie](mailto:workpermits@entemp.ie)

Employment Appeals Tribunal,

Davitt House, Adelaide Road, Dublin 2.

Tel No: (01) 631 2121. Fax No: 631 3266.

Lo-Call Telephone service for outside (01) area: 1890 220 222 (ask operator to be put through to Employment Appeals Tribunal).

Rights Commissioner Service

Labour Relations Commission,

Tom Johnson House, Haddington Rd, Dublin 4.

Tel No: (01) 613 6700. Fax No: (01) 613 6701.

Lo-call Telephone service for outside (01) area: 1890 220 227.

Website: [www.lrc.ie](http://www.lrc.ie) e-mail: [info@lrc.ie](mailto:info@lrc.ie)

Labour Court,  
Tom Johnson House, Haddington Rd, Dublin 4.  
Tel No: (01) 613 6666. Fax No: (01) 613 6667.  
Lo-call Telephone service for outside (01) area: 1890 220 228.  
Website: [www.labourcourt.ie](http://www.labourcourt.ie) e-mail: info@labourcourt.ie

## **STATUTORY EMPLOYMENT RIGHTS AND PROTECTIONS OF NON-NATIONALS WORKING IN IRELAND**

As a non-national working in Ireland you are entitled to the full range of statutory employment rights and protections in exactly the same manner as a native Irish worker.

### **Who is your employer?**

Generally the party who pays your wages is your employer and is responsible for ensuring that you receive your minimum entitlements as set out in this leaflet. The title of the employer (limited company/sole trader) on your income tax documentation is often a good indication of the legal title of your employer.

#### **Important Note**

1. Employment Agencies must be licenced under Irish Law and must not charge a fee solely for seeking employment for another person.
2. An employer does not have power to have an employee arrested by police or to have an employee deported from Ireland. This can only be done in accordance with law.

## **Terms of Employment**

Terms of employment are negotiatiable between the employer and employee but any agreement entered into cannot offer terms less than the statutory minimum entitlements listed in this guide.

Your employer is required under the **Terms of Employment (Information) Act, 1994 and 2001** to give you certain information in writing – the important elements of your terms of employment – within two months of your start date. This information must include:

- name and address of employer
- place of work
- job title/nature of the work
- date of commencement of employment
- if temporary, the expected duration of employment
- if for a fixed term, the expiry date of the contract
- rate of remuneration [and the pay reference period for the purposes of the National Minimum Wage Act]
- the pay period (the intervals at which you will be paid)
- hours of work (including overtime)

- rest break entitlements
- paid leave
- arrangements for when you are unable to work due to sickness or injury
- pensions and pension schemes
- periods of notice which both your employer and you must give on ending employment
- reference to any collective agreements which affect your work contract.
- Statement of employee's right to request and obtain a written statement from the employer of the employee's average hourly rate of pay for any pay reference period within the previous 12 months. (Minimum Wage Act, 2000)

**Complaints Procedure:** Employees who do not receive a written statement of terms of employment or an accurate written statement of terms of employment as outlined above may refer a complaint to a Rights Commissioner. The relevant complaint form is available on request from the Employment Rights Information Unit.

## **Pay**

### **Minimum Wage**

An experienced adult employee is entitled to a minimum rate of pay of €7.00 per hour under the **National Minimum Wage Act, 2000**. An experienced adult employee is an employee who has been in any employment in any two years from the date of first employment over the age of 18. Lesser rates apply to other categories of workers. The two years employment referred to here does not have to be with the same employer, or in the same industry, or even in Ireland. All employment over age 18 is reckonable for the purposes of the minimum wage entitlement.

Employees in the first year of employment over age 18 are entitled to €5.60 per hour. Employees in the second year from the date of first employment over age 18 are entitled to €6.30 per hour.

The minimum rate of pay increases from time to time. Details of current minimum rates are always available from the Employment Rights Information Unit.

Certain sectors of industry, including agriculture, catering, contract cleaning, construction, electrical contract, hotels (outside Dublin city, Dun Laoghaire and Cork city), retail grocery, and security are covered by legally binding Agreements/Orders which set minimum rates of pay, which may be in excess of the National Minimum Wage, for those employments. Details and copies of these Agreements/Orders are available on request from the Employment Right Information Unit.

**Complaints Procedure:** Employees who are not being paid the appropriate minimum wage rate may refer a complaint to a Rights Commissioner or to a Labour Inspector (but not to both). However, if your employment is in one of the sectors outlined above you should refer your complaint to the Labour Inspectorate. The relevant complaint forms are available on request from the Employment Rights Information Unit.

## **Wages and Wage Slips**

Under the **Payment of Wages Act, 1991** the employer must give you, with your wages, a written statement of your gross wages and details of all deductions made. If the wages are paid by credit transfer, the statement of wages should be given to the employee as soon as possible after the credit transfer has taken place.

The Payment of Wages Act also protects against unlawful deductions from wages. Deductions from employee wages must be authorised by either the employee's contract of employment, or by the written consent of the employee. A deduction (other than income tax and pps contributions) that is not authorised in either manner is an improper deduction. The Payment of Wages Act provides that an employer may deduct employee wages because of (i) employee error or (ii) the supply to the employee of goods or services that are necessary to the employment. The employee must be given at some time prior to the employee error or the provision of the goods or services, written details of the term of employment governing the deduction, and must **also** receive written notification one week prior to a deduction that is based on employee error.

**Complaints Procedure:** Employees who do not receive a pay slip may refer a complaint to the Labour Inspectorate. Complaints in relation to non-payment of wages or improper deductions from wages may be referred to a Rights Commissioner. The relevant complaint forms are available on request from the Employment Rights Information Unit.

## **Working Time/Holidays**

**The Organisation of Working Time Act, 1997** sets out rights of employees in respect of the following:

### **Maximum Weekly Hours of Work**

The maximum average working week is an average of 48 hours averaged over 4, 6, or 12 months (in most cases no more than 4 months).

### **Minimum Rest Times/Breaks**

You are entitled to a **minimum** of –

- 11 consecutive hours rest per 24 hour period
- one period of 24 hours rest per week, preceded by a daily rest period (11 hours)
- 15 minutes where more than four and a half hours have been worked; 30 minutes where more than six hours have been worked which may include the first break.
- Shop employees who work more than six hours and whose hours of work include 11.30am - 2.30pm are entitled to a one-hour consecutive break that must occur during those hours.

## **Sunday Work**

You are entitled to an extra payment or paid time off in lieu for Sunday work.

## **Holidays and Public Holidays**

Holiday entitlements are earned from the day you begin work

Your minimum annual leave entitlement is 4 working weeks paid annual leave per leave year. However, annual leave is accrued based on time worked by the employee. Full-time employees earn one week of paid annual leave for every three months worked. Employees who work 1365 hours in any given leave year have earned their full four week annual leave entitlement at that point, except if it is a leave year in which the employee changes employment.

If you work part-time, you are entitled to annual leave consisting of 8% of all the hours you work, subject to a maximum of 4 working weeks in the leave year.

Employees are also entitled to nine public holidays during the year, in respect of which your employer may choose to give you one of the following four options:

- a paid day off on the day, or
- a paid day off within a month, or
- an extra day of paid annual leave, or
- an extra day's pay.

The following are the nine public holidays in Ireland:

- (a) 1<sup>st</sup> of January,
- (b) St. Patrick's Day,
- (c) Easter Monday,
- (d) First Monday in May,
- (e) First Monday in June,
- (f) First Monday in August,
- (g) Last Monday in October,
- (h) Christmas Day,
- (i) St. Stephen's Day.

In order for a part-time worker to qualify for a public holiday, he/she must work at least 40 hours in the 5-week period that immediately precedes the public holiday.

## **Pay for Public Holidays**

If the public holiday falls on a day on which the employee normally works, the employee is entitled to a day's pay for the day.

If the public holiday falls on a day on which the employee does not normally work, the employee is entitled to one fifth of his/her normal weekly wage for the day.

Employees who are asked to work on a public holiday are entitled to either an additional day's pay for the day, or a paid day off within a month of the day, or an additional day of paid annual leave.

**Complaints Procedure:** Employees who do not receive paid annual leave, public holidays, rest breaks, Sunday Premium, or who are asked to work more than the maximum average working week may refer a complaint to a Rights Commissioner under the Organisation of Working Time Act, 1997. However, if you work in one of the sectors outlined earlier in the section on Pay, you could refer your complaint to the Labour Inspectorate. The relevant complaint forms are available on request from the Employment Rights Information Unit.

## **Dismissal**

**The Unfair Dismissals Acts, 1977 to 2001** outlines rights and procedures in the event of dismissal from work. Generally, an employee must have at least 12 months continuous service with his/her employer before he/she is entitled to bring a claim for unfair dismissal under the Acts. For agency workers, the employer for the purposes of unfair dismissal is the user company - not the employment agency.

An employee does not require 12 months service where the dismissal results wholly or mainly from any of the following grounds:

- employee's trade union membership or activity
- an employee's entitlements, future entitlements, exercise or proposed exercise of rights under the National Minimum Wage Act, 2000.
- employee pregnancy, giving birth or breastfeeding (or any matters connected)
- the exercise or proposed exercise by the employee of rights under the Maternity Protection Act, 1994, the Adoptive Leave Act, 1995, the Parental Leave Act, 1998, or the Carer's Leave Act, 2001

The dismissal is presumed to be unfair unless the employer can show substantial grounds to justify it. A dismissal will be fair if it is based wholly or mainly on one of the following grounds:

- your capability, competence or qualifications for the job
- your misconduct (in which case disciplinary procedures may be important)
- your redundancy
- where the continuance of your employment would contravene another legal requirement
- where there are other substantial grounds

If it is found by the Rights Commissioner or Employment Appeals Tribunal that you were dismissed without substantial grounds, the dismissal is automatically unfair.

The Unfair Dismissals Acts provide that the Rights Commissioner or Employment Appeals Tribunal may, in certain circumstances, regard the broken service of an employee as continuous for the purposes of the Acts, if of the opinion that the employer deliberately broke the service of the employee in order to avoid liability under the Unfair Dismissals Acts.

**Complaints Procedure:** Employees may refer a complaint under the Unfair Dismissals Acts to either a Rights Commissioner or the Employment Appeals Tribunal. The relevant complaint form is available on request from Employment Rights Information Unit.

## **Minimum Notice**

**The Minimum Notice Act, 1973 to 2001** provides that every employee who has been in the employment of his/her employer for at least 13 weeks is entitled to a minimum period of notice before that employer may dismiss him or her. This period varies from one to eight weeks according to the length of service. An employer who is unable to provide the appropriate minimum notice may pay notice in lieu to the employee. An employee's minimum notice entitlement is as follows:

13 weeks but less than 2 years service	= one week notice
two years but less than five years	= two weeks notice
five years but less than ten years	= four weeks notice
ten years but less than fifteen years	= six weeks notice
more than fifteen years	= eight weeks notice

An employee who has 13 weeks service with his/her employer is obliged to give one week's notice to his/her employer when resigning, unless there is a written contract of employment that provides otherwise.

**Complaints Procedure:** Employees who do not obtain minimum notice or payment in lieu of notice prior to dismissal may refer a complaint to the Employment Appeals Tribunal. The relevant complaint form is available on request from the Employment Rights Information Unit.

## **Other Employment Legislation**

Employees are protected from discrimination in employment regardless of their age, gender, marital status, family status, race, religion, sexual orientation, disability, or membership of the travelling community (Employment Equality Act, 1998).

Queries or complaints should be addressed to The Equality Authority at Clonmel Street (off Harcourt Street), Dublin 2. Telephone (01) 417 3333 or Lo-Call 1890 245 545 (outside 01 area). Website: [www.equality.ie](http://www.equality.ie) e-mail: [info@equality.ie](mailto:info@equality.ie)

Information on the Maternity Protection Act 1994, Parental Leave Act 1998, Adoptive Leave Act 1995, may also be obtained from the Equality Authority.

## **Health and Safety**

Information in relation to health and safety in the work place may be obtained from the Health and Safety Authority at Temple Court, Hogan Place, Grand Canal St., Dublin 2, telephone (01) 614 7000. Website: [www.hsa.ie](http://www.hsa.ie) e-mail: [infotel@hsa.ie](mailto:infotel@hsa.ie)

## **P45 and Tax Issues**

Matters relating to P45 and taxation generally should be addressed to The Revenue Commissioners, Taxes Central Registration Office, 9/15 Upper O'Connell Street,

Dublin 1, Telephone Lo-Call 1890 60 50 90 (PAYE enquiries) or Lo-Call 1890 30 67 06 (Forms and Leaflets), Website: [www.revenue.ie](http://www.revenue.ie)

### **PPS and Social and Family Affairs Issues**

Matters relating to PPS generally should be addressed to: PPS Records, Gandon House, Amiens Street, Dublin 1, Telephone (01) 7043232, Fax No 7043138 or to Information Service, Aras Mhic Dhiarmada, Store Street, Dublin 1, Telephone (01) 7043174, Website: [www.welfare.ie](http://www.welfare.ie) e-mail: [info@welfare.ie](mailto:info@welfare.ie)