



**KNOW YOUR
BASIC EMPLOYMENT
RIGHTS**



If you need further guidance
or advice why not contact the
Workers Rights Centre at:

1800 747 881

email: wrc@siptu.ie
www.siptu.ie

You might even apply to join our union
SIPTU, where we can give professional
representation on issues that affect you.



**AN INJURY TO ONE
IS THE CONCERN OF ALL**

NATIONAL MINIMUM WAGE

There is a national minimum wage in Ireland. All workers are entitled to be paid the minimum wage unless they are employed by a close relative, or are working as an apprentice.

Any worker who seeks to be paid the minimum wage by their employer and is victimised for doing so has the protection of the National Minimum Wage Act 2000.

Any worker who is dismissed by their employer for seeking the minimum wage can bring a claim for unfair dismissal regardless of their length of service with their employer.

The current rates for the national minimum wage are:

Age	Amount
Under 18	€9.91
18 years old	€11.32
19 years old	€12.74
National Minimum Wage (20+)	€14.15



TERMS OF EMPLOYMENT

Within 5 days of the start of employment workers are entitled to be given a statement containing core terms of their employment.

This statement should set out the following in writing:

- the names of the employer and employees names;
- the employer's address;
- the employee's title/nature/grade of work or brief specification and description of work;
- the employee's date of commencement and any terms and conditions relating to hours of work, including overtime;
- the employee's place(s) of work or if the employee is free to determine their own;
- when the contract is expected to end;
- the employee's pay (incl. basic pay and any other pay, frequency and method of pay);
- the reference period for the national minimum wage;
- the employees' normal working hours per day and per week that the employer reasonably expects them to work; and
- the employee's length of probationary period, if any.

In addition, within one month of the start of employment workers are also entitled to a 'written statement of terms and conditions' which sets out your employment relationship in more detail including:

- A reference to any Registered Employment Agreement or Employment Regulation Order which applies, a statement that the employee may request the reference period under the National Minimum Wage Act, the rate of intervals between pay (e.g. weekly or fortnightly), the terms or conditions relating to paid leave, any terms relating to sick pay or pension, notice which the employee must give or will receive for termination, reference to any collective agreements, the training entitlement (if any) provided by the employer, if the work pattern is entirely/mostly unpredictable – the number of guaranteed hours and pay for work in excess of guaranteed hours plus the reference hours and days a worker may be required to work plus the minimum period of notice to be given before start of work, and working abroad entitlements (for those working more than one month outside the state).
- Five-day and one-month statements must be signed and dated by or on behalf of the employer, in writing and on paper or, electronically if accessible by the worker and the statement is capable of being printed and stored. Existing employees who have not already received them can request one-month statements.

PART-TIME AND FIXED-TERM WORK

Students will invariably encounter an employment contract as a part-time worker or a fixed-term worker, or have a part-time, fixed-term contract. It is important to recognise the distinction between both terms because there are separate pieces of legislation dealing with both.

Part-Time

The Protection of Employees (Part-Time Work) Act, 2001 covers all part-time employees where a part-time employee is an employee whose normal working hours are less than those of a comparable full-time employee e.g. the part-time employee working 15 hours where the full week is 39 hours.

The part-time employee cannot be treated less favourably in their terms and conditions of employment than a comparable full-time employee but pay, pension etc. should be paid pro rata.

However, students should be made aware that casual employees can be treated less favourably. The following circumstances may define an employee as being casual:

- The employee has been working for less than 13 weeks; and
- The period of service and any previous period of service could not be reasonably considered to constitute regular or seasonal employment;

- The employee fulfils conditions for casual employment specified in a collective agreement that has been approved by the Labour Court.

Fixed-Term

The Protection of Employees (Fixed-Term Work) Act, 2003 gives protection to fixed-term workers. A worker is deemed a fixed-term worker where the end of a contract is determined by:

- The arrival of a specific date; or
- The completion of a specific task; or
- The occurrence of a specific event e.g. a worker returning from maternity leave where cover was given by a fixed-term employee.

Like the part-time worker, the fixed-term worker cannot be in receipt of less favourable terms and conditions of employment than: in this instance, the comparable permanent employee.

The employer cannot continually issue fixed-term contracts. If the employee has been engaged on two or more continuous contracts where the aggregate duration exceeds 4 years, then the employee is entitled to a contract of indefinite duration, unless there is objective justification for not doing so i.e. the reason for not granting it should not be the fixed-term status of the employee but could be other legitimate but measurable reasons.

PUBLIC HOLIDAYS

There are ten public holidays in the year. (New Year's Day, St. Brigid's Day, St. Patrick's Day, Easter Monday, First Monday in May, First Monday in June, First Monday in August, Last Monday in October, Christmas Day and St. Stephen's Day).

Once a worker has worked at least 40 hours in the five weeks before a public holiday then they are entitled to one of the following in respect of that public holiday:

- A paid day off on that day
- A paid day off within a month of that day
- An additional days leave
- An additional days pay

ANNUAL LEAVE HOLIDAYS

All workers are entitled to paid annual leave. The amount of annual leave that a worker is entitled to will be based on the hours that they have worked.

The method that is used to calculate a workers' annual leave entitlement is as follows:

- Four working weeks annual leave, where the worker works more than 1,365 hours in the leave year
- Or if the worker works less than 1,365 hour in the year then
Either
 - 1/3 of a working week where the

worker works at least 117 hours in a calendar month
or

- 8% of the hours the worker worked in the leave year (to a maximum of four working weeks per year).

If a worker works eight months or more in a leave year then they are entitled to an unbroken period of two weeks annual leave.

It is the employer who decides the times at which a worker takes their annual leave having regard to work requirements.

However, the employer is obliged, when making such a decision, to take into account the needs of the worker to reconcile work and family responsibilities as well as the opportunities for rest and recreation that the worker has available to them.

EMPLOYMENT EQUALITY

Employers cannot discriminate against employees in any aspect of the employment relationship on any of the following grounds as laid down in the Employment Equality Acts;

- Gender
- Family status
- Civil status
- Religion
- Age
- Sexual Orientation
- Disability
- Race

- Membership of the Travelling Community

Harassment/Sexual Harassment under the Equality Acts

Harassment is unlawful and is defined as any form of unwanted conduct related to any of the nine discriminatory grounds, which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Such unwanted conduct may consist of:

- Acts
- Requests, spoken words, gestures
- The production, display or circulation of written words, pictures or other material

Sexual Harassment is also unlawful under the Employment Equality Acts and is defined as;

- Acts of physical intimacy
- Requests for sexual favours
- Words or gestures
- Production, display or circulation of written words or pictures which are unwelcome and which have the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

The Irish Human Rights and Equality Commission produced a Code of Practice on Sexual Harassment and Harassment at Work in March 2022

which acknowledges: “Trade unions can play an important role in creating a culture free of harassment by contributing to the development and implementation of policies and procedures, through their information and training services, and through the collective bargaining process. Trade unions may also play a role in providing information, advice and representation to employees who have been harassed and to employees against whom allegations of harassment have been made”.

STATUTORY SICK PAY SCHEME

Sick leave entitlement is five days paid sick leave. It is paid at 70% of gross salary, capped at €110 per day. Sick days can be taken as consecutive or non-consecutive days. Workers cannot carry over unused sick days to the following year. The sick pay year is the calendar year, so it runs 1st January to 31st December.

In order to qualify for this sick pay, the worker must:

- Be an employee
- Have worked for their employer for at least 13 continuous weeks before they are sick
- Be certified by a GP as unable to work
- Not be a member of a sick pay scheme that overall has better conditions than provided for under the Sick Leave Act.

UNFAIR DISMISSAL

A worker has the protection of the Unfair Dismissals Acts if he/she has at least one year’s continuous service in employment. If the dismissal is for trade union activity, pregnancy or for taking a claim under other designated pieces of employment legislation, then there is protection from day one of employment.

A dismissal may be deemed fair if the principal reason for the dismissal is gross misconduct, lack of competence, capability or by reason of redundancy. The employer has to prove also that he/she acted reasonably in coming to the decision to dismiss and that fair investigative and disciplinary methods were used.

A complaint of unfair dismissal can be made to the Workplace Relations Commission within 6 months from the date of dismissal and within 12 months where there is reasonable cause. An award of reinstatement i.e. resulting in getting the job back with loss of earnings from the date of dismissal, re-engagement i.e. results in getting the job back but compensation for loss of earnings may be awarded from the date of the determination.

BULLYING

There is no employment law statute which outlaws bullying per se but an employer who engages in bullying, or tolerates such inappropriate behaviour, risks being sued for personal injury resulting from such behaviour and would also be in breach of the duty of care explicit in the Health and Safety, Welfare at Work Act for the protection of the health and welfare of the employee. The Health and Safety Authority and the Workplace Relations Commission jointly produced a code of practice on the prevention and resolution of workplace bullying in 2021. The purpose of the Code is to provide guidance for employers, employees and their representatives on good practice and procedures for identifying, preventing, addressing and resolving issues around workplace bullying. Workplace Bullying is defined in the code as “repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could be reasonably regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but, as a once off incident, is not considered to be bullying”.

WEEKLY WORKING HOURS BREAKS AND REST PERIODS

Weekly Working Hours

The maximum average working week is 48 hours. The working week average is calculated in one of the following ways:

- Over a four month period (which applies to most employees)
- Over a six month period (for employees working in certain industries)
- Over a 12 month period (where there is an agreement between the employees and their employer which has been approved by the Labour Court)



Breaks and Rest Periods

The Organisation of Working Time Act 1997 lays down what breaks and rest periods an employee is entitled to but it also provides that some employees are exempt from these provisions in certain circumstances. Therefore, in general, but with some exceptions:

- Every employee is entitled to an 11 hour rest period in each 24 hour period during which they work for their employer.
- For every 4.5 hours worked, an employee is entitled to a 15 minute break.
- For every 6.5 hours worked, an employee is entitled to a 30 minute break In each 7 day period worked, an employee is entitled to a rest period of 24 consecutive hours.

Zero Hours/Minimum Payments/Banded Hours

The Organisation of Working Time Act 1997 restricts the use of “zero hour” working practices; provides for minimum payments where a worker is required to be available to work for an employer but gets no work and entitles an employee to request what are known as a “banded hours contract”. This is a complex area so if you are in any of these situations you should seek advice.

APPRENTICES

Apprentices, in general, have different rules applied to them under employment legislation. Below are some of the most relevant pieces of employment legislation and how they apply to apprentices:

Dismissal during apprenticeship

Where an employee has been unfairly dismissed they are protected, and may make a claim, under the Unfair Dismissals acts, subject to them meeting the criteria set down by the act. Apprentices, however, are not covered by this legislation if their dismissal takes place within six months after the start of the apprenticeship or within one month of the completion of the apprenticeship. The exception to this is if an apprentice is dismissed for trade union membership or activity. If this should occur, an apprentice can make a claim at any time.

Statutory Protective Leave

A period of apprenticeship may stand suspended while an apprentice is on Maternity, Adoptive, Carers or Parental leave or any other period of statutory protective leave. This in effect means that the length of apprenticeship is extended by the time spent on these forms of leave.

Protection of Employees (Fixed-term) Work Act 2003

A contract of apprenticeship is not regarded as a contract of employment for the purposes of this legislation. This means that apprentices do not have any claims under this legislation.

Safety Health and Welfare at Work Act 2005

An apprentice is deemed to be an employee for the purpose of this legislation and is therefore afforded the protections of this legislation. This means that, among other things, an apprentice's employer owes them a duty of care to protect their safety at work and in turn apprentices have a duty to protect their own safety and those with whom they work.

Redundancy Payments Act 1967

If an apprentice is dismissed within one month of the completion of their apprenticeship, they are not entitled to a redundancy payment.



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