



KNOW YOUR

EMPLOYMENT

RIGHTS



WORKING YOUR WAY THROUGH LIFE? YOU MIGHT NEED A HELPING HAND

Congratulations - if you are fortunate enough to have a job. Better again if you are a member of a union. You may be aware that surveys show that unionised workers enjoy better pay, better protection and better conditions.

If you believe you are being treated very well by your employer and all your rights are respected, there may not be a reason for you to read any further. **However, if you feel that you, a relative or close friend is not receiving fair play at work then this leaflet might be of some help.** It's an outline guide to basic employment rights.

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

1890 747 881

or access our website at:

www.workersrightscentre.ie

email: wrc@siptu.ie

If you are currently a member of SIPTU, we're already at your service.

We'll do our best to advise you if you have concerns about your employment rights. 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

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• **ADVICE, SUPPORT AND HELP**
WHEN YOU NEED IT AT WORK

• **CONFIDENTIAL** INFORMATION
HELPLINE

• **EXPERT** ADVOCATES AND
NEGOTIATORS TO TAKE YOUR CASE

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 on or after 1st January 2017 are:

	Minimum hourly rate of pay
Experienced adult worker	€9.25
Aged under 18	€6.48
First year from date of first employment aged over 18	€7.40
Second year from date of first employment aged over 18	€8.33
Employee aged over 18, in structured training during working hours	
1st one third period	€6.94
2nd one third period	€7.40
3rd one third period	€8.33



If you want to secure better pay and conditions in your employment – Get organised!

Unionised workers enjoy better pay, better protection and better conditions.

TERMS OF EMPLOYMENT

Every worker is entitled to a written statement of their terms of employment within 2 months of starting their employment. A written statement of employment must contain:

Name of employer and employee, 'Place of work (if it is not fixed, a statement of same)', 'Title of job or nature of work', Date of commencement of employment, If a temporary employment then the duration of contract, Rate or method of calculation of pay and pay frequency, Terms and conditions relating to hours of work, 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 and Working abroad entitlements (for those working more than one month outside the state).

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 to complicate matters! It's 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 the comparable employee but 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 nine public holidays in the year. (New Year'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.

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 re-instatement 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 only from the date of the determination or compensation for loss of earnings may be awarded.

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 produced a code of practice on the prevention and resolution of workplace bullying in 2007. This code is regularly relied upon by the Courts as being the yardstick definition of bullying as follows:

"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 reasonably be regarded as undermining the individual's right to dignity at work".

Employers are obliged to have proper formal and informal procedures in place for the processing of complaints by employees.

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

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.

Maternity, Adoptive and Parental Leave

Any period of apprenticeship stands suspended while an apprentice is on Maternity, Adoptive or Parental leave in accordance with the Maternity Protection Acts, the Adoptive Leave Acts and the Parental Leave Acts. This in effect means that the length of apprenticeship is extended by the time spent on leave under these Acts.

Protection of Employees (Fixed-term) Work Act 2003

A contract of apprenticeship is not regarded as 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 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.

Remember that unionised workers enjoy better pay, better protection and better conditions.