



An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission

# Posted Worker – Employment Rights and Protections

Eurodétachment Co-operation

# Transposition of the Framework Directive

## PROTECTION OF EMPLOYEES (PART-TIME WORK) ACT 2001

- **20.—(1) In this section, the “Directive” means Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.**
- **(2) For the avoidance of doubt, every enactment referred to in *subsection (3)* that confers rights or entitlements on an employee applies and shall be deemed always to have applied to—**
  - **( a) a posted worker (within the meaning of the Directive), and**
  - **( b) a person, irrespective of his or her nationality or place of residence, who—**
    - (i) has entered into a contract of employment that provides for his or her being employed in the State,
    - (ii) works in the State under a contract of employment, or
    - (iii) where the employment has ceased, entered into a contract of employment referred to in *subparagraph (i)* or worked in the State under a contract of employment,
  - in the same manner, and subject to the like exceptions not inconsistent with this subsection, as it applies and applied to any other type of employee.
- **(3) The enactment mentioned in *subsection (2)* is one the principal functions under which are vested (disregarding functions vested in the Labour Court, the Employment Appeals Tribunal or any other person who is not a Minister of the Government or a Minister of State) in—**
  - **( a) the Minister or a Minister of State at the Department of Enterprise, Trade and Employment, or**
  - **( b) the Minister for Justice, Equality and Law Reform or a Minister of State at the Department of Justice, Equality and Law Reform.**

# National Minimum Wage Act 2000

The National Minimum Wage applies to most employees. It is the minimum hourly pay rate that must be paid. It applies to full-time, part-time, temporary and casual employees. However the following categories of employees are excluded:

- Employees who are close relatives of the employer, where the employer is a Sole Trader, such as a spouse, civil partner, parent, step-parent, grandparent, child, step-child, grandchild, sibling or half-sibling of the employer;
- A craft apprentice within the meaning of the Industrial Training Act, 1967, or the Labour of Services Act, 1987.

Age	Amount	% of NMW
Under 18	€7.14	70%
18 years old	€8.16	80%
19 years old	€9.18	90%
National Minimum Wage (20+)	€10.20	100%

# National Minimum Wage Act 2000 – Reckonable Components

The following can be included to make up the national minimum wage

- normal basic pay
- shift allowances or other similar payments
- any fee, bonus or commission
- zero hours payments
- Board & Lodgings – subject to certain maximum amounts:
  - (i) for board only, €0.91 per hour worked
  - (ii) for lodgings only, €24.10 per week, or €3.45 per day
- Service charge given through the payroll

# National Minimum Wage Act 2000 – Non- Reckonable Components

The following payments cannot be included to make up the national minimum wage rate:

- any payment of expenses incurred by the employee in carrying out his/her employment
- premiums including overtime, public holiday, Saturday, Sunday, unsocial hours or call out
- allowances for special duties including a post of responsibility, on call or standby
- tips or gratuities paid into a central fund and paid through the payroll
- any payment to the employee not made for their role as an employee
- any payment in kind or benefit in kind.
- any sum payable to an employee in lieu of notice of termination of employment

# National Minimum Wage Act 2000 – other important aspects

- **Average Hourly Rate of Pay**
  - The average hourly rate of pay must not be less than the national minimum wage hourly rate
  - The average hourly rate of pay is calculated by dividing the gross reckonable pay by the numbers of hours worked in pay reference period.
- **Pay Reference Period**
  - Every employer must select a pay reference period for each employee. It may be a week but no longer than one month. It must be included in the written statement of [terms of employment](#) given when an employee starts work. The reference period is used in calculating the average hourly rate of pay.
- **Statement of Average Hourly Rate of Pay**
  - An employee can ask in writing for a statement of their average hourly rate of pay for any pay period within the last 12 months. The employer must give the statement in writing within four weeks of getting the request.
  - The statement should set out:
    - Details of reckonable pay with each pay area listed separately
    - The working hours of the employee
    - The average hourly pay
    - The minimum hourly rate of pay the employee is entitled to
  - The statement should be signed by the employer or on behalf of the employer. A copy of the statement should be kept by the employer for 15 months.

# Collective Sectoral Pay and Conditions Agreements

## Sectoral Employment Orders

A Sectoral Employment Order (SEO) is an agreement drawn up by a Joint Industrial Council (JIC), recommended by the Labour Court, and given legal effect by the Minister for Enterprise, Trade and Employment. SEO's covering rates of pay, sick pay, and pensions across the construction sector, the mechanical engineering sector were signed into legislation following acceptance by the Minister at the Department of Enterprise, Trade and Employment.

The SEOs place a legally binding floor on rates and obligations in the sectors throughout the country. The SEO sets the minimum hourly rates for workers but this does not prevent an employer paying a higher rate of pay that defined in the SEO.

### Construction Sector

### Mechanical Engineering Building Services Contracting Sector





## Construction SEO Minimum Pay Rates

Category/Classification	Rate of Pay	class of worker
Craftsperson	€19.44 per hour	Bricklayers/Stone Layers; Carpenters and Joiners; Floor Layers; Glaziers; Painters; Plasterers; Stone Cutters; Wood Machinists; Slaters and Tilers.
Category A Worker	€18.86 per hour	Scaffolders who hold an Advanced Scaffolding Card and who have four years' experience; Banks operatives, Steel Fixers; Crane Drivers and Heavy Machine Operators.
Category B Worker	€17.50 per hour	Skilled General Operatives who have worked in the sector for more than 2 years.
New Operative Workers – Applies for 2 years	€14.14 per hour	Workers over the age of 18 years and entering the sector for the first time.



# Collective Sectoral Pay and Conditions Agreements

## Employment Regulation Orders

An Employment Regulation Order (ERO) is an agreement drawn up by a Joint Labour Committee (JLC), adopted by the Labour Court, and given statutory effect by the Minister for Enterprise, Trade and Employment.

The ERO fixes minimum rates of pay and conditions of employment for workers in specified business sectors: employers in those sectors are then obliged to pay wage rates and provide conditions of employment not less than those prescribed in the ERO.

[Contract Cleaning Industry](#)

[Security Industry.](#)



## Contract Cleaning ERO Minimum Pay Rates

The Order applies to workers employed by undertakings engaged in whole or in part on the provision of cleaning and janitorial services in, or on the exterior of, establishments including hospitals, offices, shops, stores, factories, apartment buildings, hotels, airports and similar establishments.

Age	Hourly Rate of pay
Under 18	€7.84
18 years old	€8.96
19 years old	€10.08
20 years old +	€11.20

## Payment of Wages Act 1991

- Applies to individuals engaged under a “contract of employment” as defined in the Act
- Defines “wages” for the purposes of the Act
- Outlines methods of payment allowed by law
- Regulates deductions that are permitted from wages
- Obliges employers to provide a statement of wages and deductions
- Provides a dispute mechanism for employees
- Provides for employer sanction for non-compliance

## Payment of Wages Act 1991

“contract of employment” means—

(a) a contract of service or of apprenticeship, and

(b) any other contract whereby an individual agrees with another person to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract) whose status by virtue of the contract is not that of a client or customer of any profession or business undertaking carried on by the individual, and the person who is liable to pay the wages of the individual in respect of the work or service shall be deemed for the purposes of this Act to be his employer,

whether the contract is express or implied and if express, whether it is oral or in writing



## Payment of Wages Act 1991

“wages”, in relation to an employee, means any sums payable to the employee by the employer in connection with his employment, including—

- (a) any fee, bonus or commission, or any holiday, sick or maternity pay, or any other emolument, referable to his employment, whether payable under his contract of employment or otherwise, and
- (b) any sum payable to the employee upon the termination by the employer of his contract of employment without his having given to the employee the appropriate prior notice of the termination, being a sum paid in lieu of the giving of such notice

Wages does not include Expense Payments, Redundancy Payments or Payments in connection with the Retirement or death of an employee.

## Payment of Wages Act 1991

The following methods of payment, are permitted -

- a cheque or bank draft drawn on a commercial bank or a Trustee Savings Bank
- a Payable Order or Warrant, issued by a Minister of the Government, Local Authority
- a Postal Order, Money Order or Payable Order Warrant issued by or drawn on An Post
- a credit transfer to an account specified by the employee
- cash

Employers are required to make alternative arrangements for wage payment where a strike or other industrial action affects a financial institution and as a result of which cash is not readily available to employees who are paid wages other than in cash. In such circumstances, wages may be paid with the employee's consent by another one of the legally acceptable modes of wage payment (other than cash). Otherwise, the employer must pay the wages in cash.

## Payment of Wages Act 1991

An employer is allowed to make the deductions from wages:

- Any deduction required or authorised by law (e.g. taxes and social insurance contributions)
- Any deduction authorised by the term of an employee's contract (e.g. pension contributions, uniform expenses or particular till shortages)
- Any deduction agreed to in writing in advance by the employee (e.g. private health insurance subscription, sports and social club membership subscription).

There are restrictions in relation to deductions (or the receipt of payments) from wages, which

- (i) arise from any act or omission of the employee (e.g. till shortages, bad workmanship, breakages), or
- (ii) are in respect of the supply to the employee by the employer of goods or services which are necessary to the employment (e.g. the provision or cleaning of uniforms).



## Terms of Employment (Information) Act 1994

The **Terms of Employment (Information) Act, 1994**, provides that an employer must issue employees with a written statement of terms and conditions relating to their employment .

It also provides that an employer must notify the employee of any changes in the particulars given in the statement – in writing within 30 days of the change.

In the case of agency workers, the party who pays the wages is the employer for the purposes of this Act, and is responsible for providing the written statement.

The Act provides that certain employment particular must be included.

The WRC provides a “sample written statement of terms of employment” on our website to assist employers to be compliant.



## Remuneration / Reimbursement of Expenses

Due to the original transposition of the framework Directive (96/71/EC), posted workers have the same remuneration entitlements as Irish workers.

There is no statutory / legal entitlement to expenses incurred in employment or on secondment

Reimbursement of expenses incurred is regarded as a contractual matter – to be agreed between the workers and the employer

Reimbursement is tax free / not subject to national insurance deductions

Employers generally agree a scheme of reimbursement directly with the tax authorities

Where no reimbursement is agreed, a worker can claim refund of tax directly from the tax authorities

## Competent Authority in Ireland

The Workplace Relations Commission (WRC) is the National Liaison office and competent Authority in Ireland, for enquiries in relation to obligations under the European Posting of Workers Directives.

WRC is the **contact points** for

- Public Authorities from other Member States via IMI or directly
- Companies / undertakings that post workers to work in the State, and
- Posted workers themselves who require information / assistance.



## Submission of Form of Declaration

An employer posting workers to the State must submit a **Form of Declaration** for all temporary postings of workers to Ireland from another Member State. The form is available on our website [www.workplacerelations.ie](http://www.workplacerelations.ie)

Forms may be e-mailed to the dedicated e-mail address [WRCpostedworkers@workplacerelations.ie](mailto:WRCpostedworkers@workplacerelations.ie)

The e-mail address is also used for the submission of:-

- General enquiries from both workers and employers
- Complaints about non-compliance

Failure to submit a Form of Declaration is a criminal offence. A fine of up to €5,000 may be imposed upon summary conviction.



## Statistics – Forms of Declaration Received

Year	Employer Notifications	Number of workers
2016	35	409
2017	402	956
2018	630	1095
2019	1486	2157
2020	811	1452

# Form of Declaration

**This form must be fully completed for all posted workers.**  
**Form of Declaration**

Name and Address of Service Provider: \_\_\_\_\_

Name and Address of Contact Person: \_\_\_\_\_

Work Location: \_\_\_\_\_



Employee Name	Employee Address	Date of Birth	Social Security Number	Job Description / Job Title	Nationality	(Non-EEA National) Employment Permit held (Y/N) Provide Details	Start Date	Projected End Date	Gross Weekly Pay	Total of Weekly Hours Worked	Gross Hourly Rate of Pay

# [www.workplacerelations.ie](http://www.workplacerelations.ie)

The screenshot shows a web browser window with the URL [https://www.workplacerelations.ie/en/what\\_you\\_should\\_know/](https://www.workplacerelations.ie/en/what_you_should_know/). The page features a green header with the WRC logo, navigation links for 'Find a Decision', 'e-Complaint Form', and a search bar. Below the header, a navigation menu includes 'What You Should Know', 'Complaints & Disputes', 'Publications & Forms', 'What We Do', and 'Contact Us'. The main content area is titled 'What You Should Know' and contains a list of topics: 'Hours and Wages', 'Leave', and 'Public Holidays'. A sidebar on the right contains social media icons for LinkedIn, Twitter, and Email.

English Gaeilge Google Translate A A A

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Workplace Relations Commission

Find a Decision e-Complaint Form Search...

What You Should Know Complaints & Disputes Publications & Forms What We Do Contact Us

Home > What You Should Know

## What You Should Know

The aim of this section of the website is to provide both employers and employees with the information they require to ensure that their workplace operates to the best standards in terms of compliance with employment rights and industrial relations legislation.

In this section you will find both practical guidance and links to the piece(s) of legislation which are relevant to particular topics and

What You Should Know ^

- Hours and Wages
- Leave
- Public Holidays



# Publications in other Languages

The screenshot shows a web browser window with the URL [https://www.workplacerelations.ie/en/publications\\_forms/other\\_language\\_publications/](https://www.workplacerelations.ie/en/publications_forms/other_language_publications/). The page features a navigation menu on the left with the following items: Information Guides & Booklets, Irish Language Publications, Forms, Other Language Publications (highlighted), Legislation, and Corporate Matters. The main content area is organized by language:

- Arabic**
  - [WRC دليل صاحب العمل لعمليات التفتيش من قبل WRC - Guide to Inspections](#)
  - [لجنة علاقات مكان العمل دليل - Guide to the Workplace Relations Commission](#)
  - [شرح قانون العمل - Employment Law Explained](#)
- Filipino**
  - [Paliwanag sa Batas sa Empleo - Employment Law Explained](#)
- French**
  - [Droits du travail des travailleurs domestiques en Irlande - Domestic Workers Rights](#)
  - [Guide de l'Employeur pour préparer les inspections de la WRC - Guide to Inspections](#)
  - [Guide de La Commission des relations en milieu de travail \(CRMT\) - Guide to the Workplace Relations Commission](#)
  - [Le droit du travail expliqué - Employment Law Explained](#)
- Hindi**
  - [आपातकाल में कामकाज का सही तरीका कामकाजों का सही तरीका अधिकांश - ...](#)

On the right side of the browser window, there are social media sharing icons for Facebook, LinkedIn, Twitter, and Email.



# Recurring Issues

Posting of third Country Nationals

Temporary Placement Agencies

Unauthorised Deductions from Wages

Board and Lodgings Issues



# Statutory Powers of Inspectors - Workplace Relations Act, 2015

- **27. (1)** For the purposes of this Act or a relevant enactment, an inspector may—
  - (a) subject to *subsection (3)*, enter (if necessary by the use of reasonable force) at all reasonable times any place of work or any premises—
    - (i) that he or she has reasonable grounds for believing has been or is being used in connection with the employment of persons, or
    - (ii) at which he or she has reasonable grounds for believing that records or documents relating to the employment of persons are kept,
  - (b) at such place of work or premises, inspect and take copies of, any books, records or other documents (including books, records or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection,
  - (c) remove any such books, documents or records from such place of work or premises and retain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,
  - (d) require any person at the place of work or premises concerned, including the owner or person in charge of that place or premises, to give the inspector such information and assistance as the inspector may reasonably require for the purposes of his or her functions under this Act,
  - (e) require any person at the place of work or premises concerned, including the owner or person in charge of that place or premises, to produce to the inspector such books, documents or other records (and in the case of documents or records stored in non-legible form, a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as he or she may reasonably require for the purposes of his or her functions under this Act,
  - (f) require any person, whom the inspector has reasonable grounds for believing to be, or to have been, an employer or employee, to answer such questions as the inspector may ask relative to any matter under this Act or a relevant enactment and to make a declaration of the truth of the answers to those questions, and
  - (g) examine with regard to any matter under this Act or a relevant enactment, any person whom the inspector has reasonable grounds for believing to be, or to have been, an employer or employee, following the inspector's having cautioned the person that the person is not obliged to say anything unless he or she wishes to do so but that whatever he or she says will be taken down in writing and may be given in evidence.
- (2) When performing a function under this Act, an inspector may, subject to any warrant under *subsection (4)*, be accompanied by such number of other inspectors or members of the Garda Síochána as he or she considers appropriate.



**WRC**

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