

Know your Employment rights

English edition



FEBRUARY
2020



MRCI

**MIGRANT RIGHTS
CENTRE IRELAND**





STOP!

As a Non-EU national worker you are entitled to the **SAME** employment rights and protections as Irish & EU workers!

You are entitled to the same employment rights!

Irrespective of where you come from and what industry you work in; be it in a **mushroom farm, meat factory, or warehouse**; or if you are a **carer, a domestic worker** or an **au pair**; you are entitled to the **same basic employment rights!** This guide will give general guidance. For more detailed information on your rights please refer to the following resources:

- www.workplacerelations.ie-WRC provides information to employees, including the adjudication and inspection services of employment premises
- www.citizensinformation.ie- CIS provides comprehensive resources and information on their website on employment and other rights



About the MRCI

The Migrant Rights Centre Ireland is a National Organisation working to promote justice, empowerment, and equality for migrants and their families.

The MRCI mission's is to tackle labour exploitation, abuse, racism and discrimination in the workplace.

Our Services

We provide information, support, and advocacy on a wide variety of issues, including employment rights, to **migrant workers**. We support migrant workers face-to-face in our free and confidential Drop-In-Centre clinics and also by telephone, email and ongoing public awareness campaigns.

This employment rights information guide provides information about your BASIC employment rights, which are **by no means different** from the entitlements of Irish or EU nationals!

You have same rights and you are equal!



Disclaimer

These materials have been prepared by the Migrant Rights Centre Ireland (MRCI) for information purposes only with no guarantee as to accuracy or applicability to a particular set of circumstances. The materials are not intended and should not be considered to be legal advice. The information given may change from time to time and may be out of date. The Migrant Rights Centre Ireland disclaims any legal responsibility for the content or the accuracy of the information provided. MRCI is not a practising law centre.



Contract of employment:

Irrespective of the industry, **every employee is entitled to receive core terms of employment** within the first 5 days of starting a job **AND** the remaining terms must be provided in writing **within 2 months**.

The core terms should be issued in a language understandable to employee and must include:

- The full names of the employer and an employee
- The address of the employer
- The expected duration of the contract (is it temporary, fixed-term or a permanent position)
- The rate of pay e.g. hourly rate or annual remuneration
- The daily and weekly hours expected to be worked (e.g. 39 hours per week or 8 hours per day 5 days a week)



The remaining terms of employment should include:

- The job title and job description
- The employment start date
- Pay intervals (for example weekly or monthly)
- Any special terms or conditions relating to hours of work (including overtime)
- Paid and unpaid leave entitlements, including annual leave and public holiday entitlements
- Sick leave and pay
- Pension and pension schemes if any
- Period of notice to be given by employer or employee
- Details of any collective agreements that may affect employee terms of employment

If your employer did not issue you with an employment contract, contact the MRCI or make a free e-complaint seeking adjudication to the **Workplace Relations Commission (WRC)**, within **6 months** of the employment start date.




Minimum wage:

If you are an experienced employee and over the age of 18 you are entitled to the national minimum wage (NWH) rate. The national minimum wage rate is subject to change and depends on the State's annual Budget Plan. It is an offence for employers to pay their experienced adult employees below this rate.

| NMW Hourly Rates from 1st February 2020 | NMW Hourly Rates from 1st January 2019 | NMW Hourly Rates from 1st January 2018 | NMW Hourly Rates from 1st January 2018 |
|---|--|--|--|
| €10.10 | €9.80 | €9.55 | €9.55 |

Exceptions apply to:

- individuals who are employed by a close relative (for example, a spouse, civil partner or parent)
- people who are in a statutory apprenticeship, internship or volunteering program
- employees under the age of 18



Also, if you are a live-in Au Pair or Domestic you are entitled to the national minimum wage but board and lodging rate is allowed to be deducted from your pay.

The following rates apply:

- For board (food) only: €0.90 per hour worked (calculation at an hourly rate)
- For lodging (accommodation) only: €23.86 for per week or €3.42 per day

If your employer pays you below the national minimum wage rate contact the MRCI immediately for support and advocacy on this matter! We can assist you in making a free e-complaint seeking adjudication to the Workplace Relations Commission (WRC), **within 6 months of the date of the infringement.**

**KNOW
YOUR
RIGHTS**



Deduction from Wages and Payslips:

Employers are obliged to give you payslips itemising each deduction. It is an offence not to do so.

- The payslips should be given to you on a regular basis without unreasonable delays
- An employer must keep all records about your working hours for at least 3 years


Employers may make deductions from wages only if: required by law, such as tax deductions (PRSI/PAYE) provided for in the contract of employment,

(e.g. for certain occupational pension contributions; bike to work scheme; commuter travel scheme)

made with the written consent of the employee, for example a private health insurance payment or trade union subscriptions.

It is illegal for an employer to make any deductions (other than those required by law) from your salary if they were not agreed to in writing in advance.

In order for the deduction to be legal, you must explicitly agree to it!



For example an **employer should not deduct money** for damaged equipment or tools unless a deduction from your wages of this kind was **agreed** with you by virtue of a term in the contract of employment which you signed. **IN ADDITION** the **value of the deduction** in such a situation **must be fair and reasonable**, taking into consideration all circumstances, including the salary of the employee.

If your employer makes unfair deductions to your salary and/or does not provide payslips, contact the MRCI immediately!



COME AND VISIT US

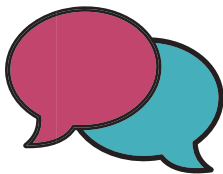
Maximum working week – hours of work:

The Organisation of Working Time Act, 1997 sets out the **Maximum Weekly Hours of Work:**

- the maximum average working week for many employees cannot exceed 48 hours. The average is usually based on the past 4 months
- these 48 hours of work do not include annual leave, sick leave, maternity, adoptive, or parental leave

This does not mean that a working week can never exceed 48 hours; it is the average that is important

If you are forced to work more than 48 hours per week on long-term basis please contact the MRCI immediately! If your employer is taking advantage of you and exploits you and other employees, it is important to lodge a WRC complaint within 6 months of the date of the last breach. In this case you might be entitled to compensation of up to 2 years' salary.



Talk to us!

Overtime:

Overtime is work done outside normal working hours. Employers have no legal obligation to pay you for work completed in overtime (unless you work in a specific sector that is covered by special agreements like construction). However, your contract of employment should state whether you are required to work overtime and if you will be paid for it

Minimum Breaks and Rest Periods

In general employees are entitled to a minimum of:

- 15 minute unpaid break after 4 ½ hours of work
- 30 minute unpaid break after 6 hours of work, which can

include the first 15-minute break.

NOTE: There is no entitlement to be paid for these breaks

and they are not considered working time.

- retail/shop employees who work more than 6 hours and whose hours of work include the period 11.30am–2.30pm are entitled to a one-hour consecutive break which must occur between 11.30am–2.30pm.
- 11 consecutive hours rest should be provided in between periods of work (e.g. if you finished work at 22:00 you should not be required to come back to work earlier than 9:00 next morning).
- employees should get 24 consecutive hours rest in any period of 7 days' work (e.g. if you worked non-stop for full week for seven days, on day 8 you should get a full day off, followed by 11 consecutive hours' rest)

Holidays/Annual leave:

If you worked full time (or at least 1,365 hours) in a year you are entitled to a minimum of 4 weeks' paid holidays, or 8% of the hours worked in the leave year

If you worked for at least 8 months you are entitled to an unbroken period of 2 weeks' annual leave.

If you got sick during your holidays, these sick days should not count towards your holiday period and annual leave days must be given back to you (subject to providing a medical certificate).

Your annual leave is not affected by any other type of leave provided for by law (e.g. parental leave), this is a separate legal entitlement.

If you are leaving your job you are entitled to receive payment for any outstanding annual leave and public holidays due to you.





Sunday Work and Bank Holidays:

Sunday Work: You are entitled to a premium payment or paid time off in lieu for your Sunday work. If there is no agreement between you and employer with regards to Sunday work and pay, the employer must give you **one or more** of the following:


- A reasonable allowance
- A reasonable pay increase
- Reasonable paid time off work

Bank Holidays and Public Holidays:

If you are a full-time employee, you are entitled to nine public holidays during the year, in respect of which your employer must give you one of the following four options:

- A paid day off on the public holiday
- An additional day of annual leave
- An additional day's pay
- A paid day off within a month of the public holiday

If you work as a part-time employee, to qualify for a public holiday you should work at least 40 hours for the past 5-weeks prior the public holiday



The following are the nine public holidays in Ireland:

1. New Year's Day
2. Saint Patrick's Day
3. Easter Monday
4. Early May Bank Holiday
5. June Bank Holiday
6. August Bank Holiday
7. October Bank Holiday
8. Christmas Day
9. Saint Stephen's Day

For more information please come and talk to us!



**IT'S
ABOUT
WORKERS
RIGHTS**





Dismissal

Dismissal is the loss of a job which can be:

- fair due to gross misconduct or poor performance
- or unfair based on gender/race, discriminatory dismissal

If you have been dismissed, your employer should show substantial grounds to justify it and explain to you the reason for dismissal.

Constructive Dismissal

Occurs when you terminate the contract of employment, with or without prior notice, due to the serious conduct of your employer and inability to continue work in an unsafe, intimidating, or discriminatory environment.

Under The Unfair Dismissals Acts, 1977 to 2015 if **you believe you have been unfairly dismissed or constructively dismissed you can bring a complaint to WRC within 6 months of the date of dismissal.**



Minimum Notice

Every employee who has worked for at least 13 weeks is entitled to a minimum period of notice prior to the termination of employment or dismissal (with exception to dismissal because of gross misconduct e.g theft).

This period varies depending on your length of service.

13 weeks, but less than 2 years' service = one week

Two years, but less than 5 years = two weeks

Five years, but less than 10 years = four weeks

Ten years, but less than 15 years = six weeks
More than fifteen years = eight weeks

An employer has the option to offer payment for the amount of the notice period instead of asking you to work that time.

If you had been dismissed without prior notice please come in to our Drop-In centre for assessment!

Discrimination and Equality

You are protected from discrimination in employment on the grounds of your age, gender, marital status, family status, race, religion, sexual orientation, disability, or membership of the Traveller community.

Discrimination can occur at any stage of the employment process: during recruitment, training, in relation to promotion and equal pay etc.

Discrimination is the treatment of one person in a less favourable way than another person based on any of the above described 9 grounds.

Discrimination can be of 2 types: direct and indirect.

- Direct discrimination –example: staff within the same department have received a pay rise except a team member who is the only black person in a team.
- Indirect discrimination is when there is a practice, policy, or rule which applies to everyone in the same way, but it has a more negative effect on some people than others. For example: if your workplace has a dress code or rules on appearance which applies to everyone, it may indirectly discriminate against you if you follow a particular religion.

If you feel you have been discriminated against at your workplace please contact the MRCI immediately or speak to the Irish Human Rights and Equality Commission's confidential advice service at 1 890 245545.

Redress/Complaints Procedures

If you suspect that any of the above outlined employment rights have been breached by your employer come to our Drop-In centre for free and confidential assessments! Our caseworkers will assess your situation and will provide you with relevant information and support.

You may also lodge a free electronic complaint individually at WRC website, following this link:

https://www.workplacerelations.ie/en/e-complaint_form/

Please make sure that you select the Adjudication option in your complaint form and provide accurate employer details, employment start and termination dates, and the other required information. Please keep a copy of this complaint for your records.

Contact Details:

Information and Customer Service

Workplace Relations Commission, O'Brien Road,
Carlow, R93 E920. DX Number: 271001

Tel: 059 9178990

Lo Call: 1890 80 80 90

Opening Hrs: 09:30 - 17:00, Monday to Friday





Useful contacts:

Health and Safety

Information in relation to health and safety in the workplace may be obtained from the Health and Safety Authority at The Metropolitan Building, James Joyce Street, Dublin 1.

Telephone: (01) 614 7000 or Lo-Call: 1890 289 389
Log onto www.hsa.ie

Tax Issues

Matters referring to taxation generally should be addressed to The Revenue Commissioners, Taxes Central Registration Office, 9/15 Upper O'Connell Street, Dublin 1.

Lo-Call: 1890 60 50 90 (PAYE enquiries) or

Lo-Call: 1890 30 67 06

Log onto www.revenue.ie

PPS and Social and Family Affairs

Matters relating to PPS numbers should generally be addressed to your local Intreo office.

Log onto www.welfare.ie, E-mail: info@welfare.ie



Citizens Information Service

By Phone: 0761 07 4000.

In Person: By visiting your nearest Citizens Information Service.

You can find your nearest Citizens Information Centre by using the directory on www.citizensinformation.ie
Irish Human Rights & Equality Commission

Irish Human Rights & Equality Commission

16-22 Green Street

Dublin 7

D07 CR20

Lo-call: 1 890 245545

Tel: + 353 (0) 1 8583000

Email: YourRights@ihrec.ie

Relevant Legislation

Terms of Employment (Information) Act, 1994

Employment (Miscellaneous Provisions) Act 2018.

Payment of Wages Act, 1991


National Minimum Wage Act, 2000

Organisation of Working Time Act, 1997

Unfair Dismissals Acts, 1977 – 2015

Minimum Notice and Terms of
Employment Acts 1973 – 2005

Employment Equality Acts 1998–2015



If you have any further questions or concerns with regard to your employment rights, please visit our Drop-in Centre!

*Our address is: 13 Lower Dorset Street, Dublin 1
We are open Monday, Tues or Wednesday 10-1
or 2-4 pm
Tel: 01 5313238*

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Recording your hours, breaks and pay gives you evidence to stand up for your right

| DATE | START TIME | END TIME | BREAK TIME | BREAK TIME | TOTAL HOURS WORKED | WORK-PLACE ADDRESS |
|----------------|-------------|-------------|--------------|--------------|--------------------|--------------------------------|
| <i>Example</i> | <i>10am</i> | <i>11pm</i> | <i>2-3pm</i> | <i>6-7pm</i> | <i>11</i> | <i>10 Worker Ave, Dublin 1</i> |
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EUROPEAN UNION

**Asylum, Migration
and Integration Fund**



**AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS
DEPARTMENT OF JUSTICE AND EQUALITY**