



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Employment (Miscellaneous Provisions) Act 2018

FAQ for Employees

Q1. When did the Act come into effect?

The Act came into effect on Monday 4 March 2019

Q2. How will this Act affect me as an employee?

- You will be entitled to receive a written statement of the core terms of employment, in writing, no later than five days after starting work.
- The use of zero hours contracts by employers is restricted
- You may be able to receive a minimum payment where you are called into work and not given that work
- If your contract of employment does not reflect the reality of the hours you work, you may ask to be placed on a band of hours that more accurately reflect how many hours you work per week
- If you believe you have been penalised for attempting to obtain your rights under this legislation you can make a complaint looking for compensation

Terms of Employment (Information) Act 1994

Q3. What changes have been made to the *Terms of Employment (Information) Act 1994*?

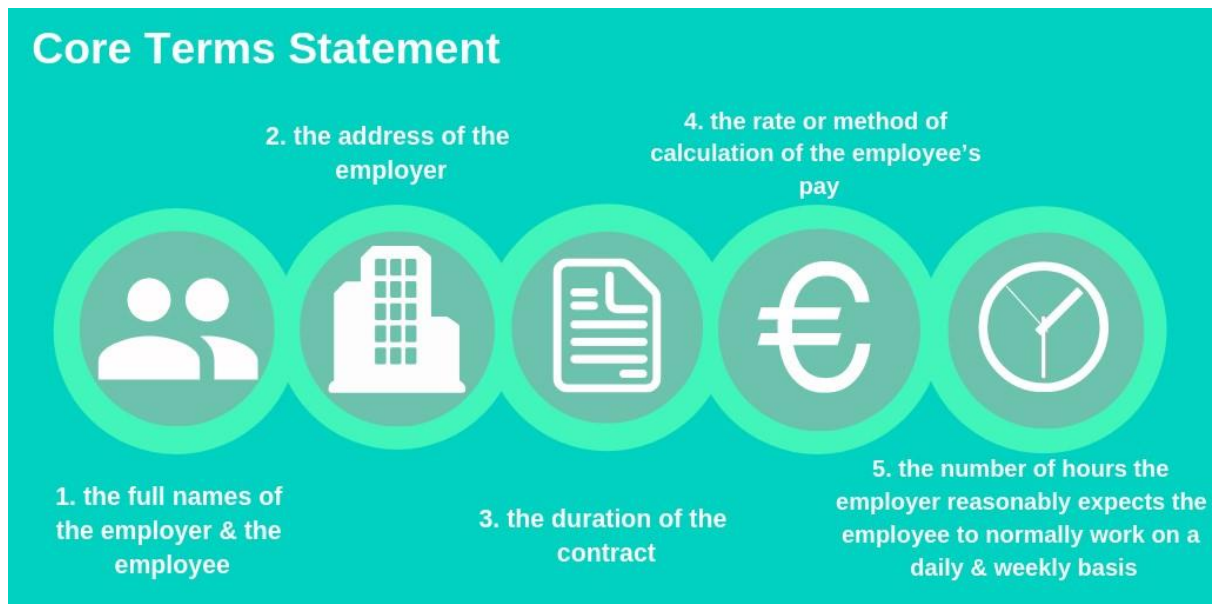
Currently, your employer must provide you with a written statement of your terms of employment in writing within two months of starting a new position. These terms set out specific details of the employment relationship and include important information like place of work, job title, start date, working hours etc. **What is a statement of core terms?**

Under the new Act your employer must now provide you with **five** core terms of your employment within **five** days of starting your new job. These core terms are:

1. the full names of the employer and the employee,
2. the address of the employer,
3. the duration of the contract (where temporary or fixed-term),
4. the rate or method of calculation of the employee's pay, and
5. the number of hours the employer reasonably expects the employee to normally work on a daily as well as a weekly basis (e.g. five hours per day, three days per week).

Your employer must provide these terms to you in writing. The remaining terms of employment must also be provided in writing within two months. All written statements must be signed and dated by your employer and they must keep a copy on file for one year.

To see a template of the statement of core terms, see www.workplacerelements.ie



My employer is sending me to work abroad for a short term – does this affect me?

Under the new Act employees who are sent to work for at least one month - are entitled to a statement of core terms before leaving to work abroad. This is in addition to the full statement.

I am currently working and have an existing contract. Can I get a statement of my core terms?

Existing employees can request a statement of their core terms from their employers and the employer must provide this document within two months. This may be useful for employees who do not know the number of hours they are expected to work per normal working day and normal working week.

What if I leave my new employment before the two months is up?

Your employer must still provide you with your statement of core terms of employment within two months.

What happens if my employer doesn't provide me with the statement of my core terms or my terms of employment within two months?

Under the new Act it is an offence for an employer to fail to provide the statement of core terms to you within one month of starting employment. It is also an offence for your employer to deliberately or recklessly provide false or misleading information to you in your statement.

If your employer fails to provide a statement of core terms within one month and/or written terms of employment to you within two months, you may take an adjudication case to the Workplace Relations Commission (WRC). If the Adjudication Officer (AO) finds in your favour you could be awarded up to four weeks' pay.

Remember under the amended *Terms of Employment (Information) Act 1994*

- It is an offence for your employer to fail to provide you with the statement of core terms in writing within one month of starting employment.
- It is an offence for your employer to deliberately or recklessly provide false or misleading information to you in your statement.

Penalisation under the *Terms of Employment (Information) Act 1994*

Penalisation is broadly defined under the Act. If you feel you are being penalised for asking for or invoking any of your rights under the Act you can take an adjudication case to the WRC. The maximum redress an AO can award you in this circumstance is four weeks' pay. A penalisation claim can be taken as well as a claim for not receiving your written terms of employment.

Prosecution

A WRC inspector may issue a fixed payment notice to your employer for the two offences mentioned above and for each one. This can occur where the inspector has reasonable grounds to believe your employer has committed an offence or.

Prosecution under the Act may lead to a Class A fine of €5,000 or imprisonment of up to 12 months for your employer. Directors can also be held liable for corporate offences under the Act.

Organisation of Working Time Act 1997

Q4. What changes have been made to the *Organisation of Working Time Act 1997*?

Under the Act

- The use of zero hours contracts has been restricted
- Minimum payments have been introduced in certain circumstances

- The statutory right to request to be placed on a band of hours that reflects your hours of work has been introduced

I usually work more hours than stated in my contract. Can I request to be put on a banded hours contract?

Your employer is not obliged to place you on a banded hours contract from the outset, however if you habitually work more hours each week than is provided for in your contract of employment or statement of terms of employment, you have the right to request to be placed in a band of weekly working hours that better reflects your actual working time under the new Act. You must be working for your employer for at least a year before making this request Under the Act the bands of hours are as follows:

Band	From	To
A	3 hours	6 hours
B	6 hours	11 hours
C	11 hours	16 hours
D	16 hours	21 hours
E	21 hours	26 hours
F	26 hours	31 hours
G	31 hours	36 hours
H	36 hours and over	

How do I get a banded contract?

You must make the request in writing. Once you make the request, your employer has four weeks to consider it. This is to allow them time to check their records.

There are a few situations where an employer can say no to placing you on the band of hours that you think you should be on:

- the facts do not support your claim (e.g. you did your calculations incorrectly and you should not be on the band of hours that you think you should be),

- b. significant adverse changes have impacted on the business (e.g. loss of an important contract),
- c. emergency circumstances (e.g. business has had to close due to flooding),
- d. where the hours worked by the employee were due to a genuinely temporary situation (e.g. cover for another employee on maternity leave).

If your employer decides to reject or ignore your request or place you on the wrong band, you can make a complaint to the Workplace Relations Commission for mediation or adjudication. If an Adjudication Officer (AO) finds in your favour they can tell the employer to place you on the appropriate band of hours.

I have a zero-hours contract. What does the Act say about my contract?

Under the new Act zero-hours contracts are now prohibited in most circumstances, apart from emergencies and short-term relief to cover routine absences as well as genuine casual work. All employees are entitled to know what their employer reasonably expects the length of their normal working day and normal working week to be. You may also apply to be placed on a band of hours if you are 12 months or more working for that employer, where your contract of employment or your statement of terms of employment does not reflect the reality of the hours you have worked over the 12 months.

What are the changes concerning minimum payments?

Under the new Act if an employee is called into work and sent home without work, they will now be entitled to a minimum payment of 3 times the National Minimum Wage (hourly rate) or three times the minimum rate in an Employment Regulation Order if one applies to them. Employees ‘on call’ will continue to be excluded from this minimum payment.

National Minimum Wage Act 2000

Q.5 What changes have been made to the *National Minimum Wage Act 2000*?

Under the new Act wage rates for employees under 18 and those over 18 have been simplified and will be solely based on age. Trainee rates of pay have been abolished.

What are new wage rates? See box below

Age	Amount	% of NMW
Under 18	€6.86	70%

18 years old	€7.84	80%
19 years old	€8.82	90%
National Minimum Wage	€9.80	100%

Q.6 How do I make a complaint to the Workplace Relations Commission?

If you feel your employer has breached any of the above employment legislation you can make a complaint to the Workplace Relations Commission. Your complaint must be presented within 6 months of the date of the alleged breach. You can submit your complaint using the on-line form.

For further information on your employment rights contact one of our information officers on lo-call 0818 80 80 90 or visit www.workplacerelations.ie for more information.