



# DECENT WORK CHECK

## **IRELAND** 2023

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## WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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## Bibliographical information

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# INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 12 more countries, thus taking the number of countries with a Decent Work Check to 125!

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. National Minimum Wage Act 2000 (Section 11) Order 2011, No. 13 of 2011
2. Organisation of Working Time Act, No. 20 of 1997
3. Payment of Wages Act, 1991
4. Terms of Employment (Information) Act 1994
5. Protection of Employees (Fixed Term) Work Act 2003
6. Minimum Notice and Terms of Employment Act, 1973
7. Redundancy Payments Acts 2003
8. Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007
9. Parental Leave Act, Act No. 30, dated 8 July 1998
10. Paternity Leave & Benefit Act 2016
11. Maternity Protection Act, No. 34 of 1994, amended up to Maternity Protection (Amendment) Act, 2004 (No. 28 of 2004)
12. Social Welfare Consolidation Act, No. 26, dated 27 November 2005
13. Safety, Health and Welfare at Work (General Application) Regulations, 1993
14. Factories Act 1955 (Manual Work) (Maximum Weights and Transport) Regulations, No. 283 of 1972
15. Safety Health and Welfare at Work Act 2005
16. Safety, Health and Welfare at Work (General Applications) Regulations 2007
17. Unfair Dismissals Act, Last amended 2007
18. Social Welfare and Pensions Act No. 47 of 2015
19. Employment Equality Act, 1998-2015
20. Protection of Young Persons (Employment) Act, 1996
21. Criminal Law (Human Trafficking) Act 2008, amended in 2013
22. Industrial Relations Act 1990

*The text in this document was last updated in December 2023. For the most recent and updated text on Employment & Labour Legislation in Ireland, please refer to: <https://mywage.org/ireland/>*

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

**Ireland has not ratified the Convention 95, 117 and 131.**

### ***Summary of Provisions under ILO Conventions***

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

## Regulations on work and wages:

- National Minimum Wage Act 2000 (Section 11) Order 2011, No. 13 of 2011
- Organisation of Working Time Act, No. 20 of 1997
- Payment of Wages Act, 1991

## Minimum Wage

The national minimum wage rate is set in an Order by the Minister for Enterprise, Trade and Employment. The National Minimum Wage applies to all employees, including full-time, part-time, temporary and casual employees, except the following categories or employees who are excluded from its provisions:

- Employees who are close relatives of the employer, such as a spouse, father, mother, son, daughter, brother or sister;
- Employees undergoing structured training such as an apprenticeship (other than hairdressing apprenticeships)

An employee who has not attained the age of 18 years shall be paid a rate that is not less than 70% of the national minimum hourly rate of pay. An employee who has attained the age of 18 years shall receive at least 80% of the minimum wage in their first year after having commenced employment, and at least 90% of the minimum wage in their second year after having commenced employment. Employers are permitted to pay employees who are under 18, first-time job entrants, or those undergoing structured training, specified rates below €8.65. For training rates to apply, the training is split into three equal parts of not less than one month and not more than twelve months each. Pay rates increase for

each third of the training time. The minimum period of training must be 03 months. As for the one-third period required under training programs, it can be at least 01 month but not longer than 12 months. There is also a case of experienced adult workers whose employer successfully applies to the Labour Court for a once-off temporary exemption from paying the national minimum wage on inability to pay grounds.

According to the National Minimum Wage (Low Pay Commission) Act 2015, the Low Pay Commission makes annual recommendations to the Minister for Jobs, Enterprise and Innovation regarding the national hourly rate of pay that is designed to assist as many low paid workers as is reasonably practicable. Minimum hourly pay is set at a rate that is both fair and sustainable; where adjustment is appropriate, is adjusted incrementally. Over time, is progressively increased and without creating significant adverse consequences for employment or competitiveness. This act also requires the Commission, when formulating its recommendations, to have regard to such matters as changes in earnings and currency exchange rates, international comparisons (particularly with the UK) and the likely effect on levels of employment, the cost of living and national competitiveness.

Labour Inspectors are required to ensure compliance with the provisions of labour laws including the provisions on minimum wages. A worker may file an online complaint with the Workplace Relations Commission requesting either the inspector from the Commission to investigate the claim or refer to the dispute the adjudicator from the Commission. Refusal to pay the minimum wage, as



prescribed per hour, is a punishable offence. An employer found guilty of an offence under the National Minimum Wage Act is liable, under summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months or both. In the case of conviction on indictment, fine up to £10,000 or imprisonment for a term not exceeding 3 years or both may be imposed

**Source:** National Minimum Wage Act S.14-17 and 35-37 last amended in 2016; S.I. No. 331 of 2011 S.2; National Minimum Wage (Low Pay Commission) Act 2015

For updated minimum wage, kindly refer to the section on Minimum Wages

## Regular Pay

The Payment of Wages Act 1991 regulates the manner in which employees are paid. Employment contracts must state the rate of pay, the timing and method of payment, and details relating to commissions or bonuses. Under the Payment of Wages Act, 1991, wages may be paid through:

- i. Cash;
- ii. a cheque or bank draft drawn on any of the commercial banks or a Trustee Savings Bank;
- iii. a Postal Order, Money Order or Payable Order Warrant issued by or drawn on An Post
- iv. a credit transfer to an account specified by the employee
- v. a Payable Order or Warrant, issued by a Minister of the Government, Local Authority, etc.

Employers must provide employees with written statements of wages and deductions at the time of payment, and are obliged to take all reasonable steps to

ensure confidentiality. Employers also are prohibited from making deductions from wages unless authorized by law or an employment contract, or with the consent of the employee.

Every employer must select a pay reference period for each individual employee. A pay reference period may be a week, a fortnight but can't exceed one calendar month. Factors influencing the selection of pay reference period for employees include whether an employee is paid on a weekly, fortnightly or monthly basis, whether the employee's earnings remain constant or fluctuate from week to week, and the requirement on an employer to provide an employee with a written statement, if requested by the employee, of the employee's average hourly rate of pay in a pay reference period or periods.

In accordance with section 3.1.h of the Terms of Employment (Information) Act, 1994, new employees have to be notified in writing of the pay reference period selected by their employer and other terms of employment within two months of taking up employment. A pay reference period cannot be longer than one month. However, the selection of a pay reference period does not affect the pay period of an employee. Employers can select a pay reference period of a month while paying employees on weekly basis.



# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Ireland has not ratified any of the above-mentioned Conventions.**

### ***Summary of Provisions under ILO Conventions***

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

## Regulations on compensation:

- Organisation of Working Time Act, No. 20 of 1997

## Overtime Compensation

The maximum average weekly working hours (including overtime) over a 4-month period cannot exceed 48 hours. The employer shall notify the employee with at least 24 hours in advance the times at which the employee will be required to start and finish working in each day, or on which days is required to work additional hours. Relevant provisions on overtime rates have been not identified in Irish legislation. The normal weekly working hours and maximum overtime hours have not been clearly identified in Irish legislation and are determined through collective agreements. The 48 hour limit is averaged over a reference period of not more than 4 months. The reference period can be extended to 6 months for certain specified activities (e.g. surveillance, hospitals, electricity/gas, airports/docks, and tourism industry related businesses) and to 12 months if there is an agreement between employer and employee and such agreement has been approved by the Labour Court. The overtime compensation is not clearly identified in legislation.

The 48-hour limit can be exceeded in exceptional circumstances or in emergencies beyond the employer's control.

Employment (Miscellaneous Provisions) Act 2018 makes amendment in the Organization of Working Time Act and prohibits zero hours contracts except in very limited circumstances. For example, when there is a genuine short-term casual

employment requirement (to cover an absent worker) or the need to provide cover in emergency situations.

**Source:** § 4(5), 5, 15(1) and 18 of the Organization of Working Time Act

## Night Work Compensation

Work performed between midnight and 07 a.m. of the following day is considered night work. A night worker (a worker normally working at least 3 hours of the daily working time between midnight and 7a.m.) shall not work for more than 8 hours for work involving special hazards or a heavy physical or mental strain. For all other night workers, 8 hours on average over a reference period are foreseen (2 months or a longer period if provided under a collective agreement). Normal salary is paid for night work as no statutory night work related salary benefits are identified.

**Source:** §16 of the Organization of Working Time Act

## Compensatory Holidays / Rest Days

An employee who is required to work on a Sunday in general shall be compensated by the employer for being required so to work by the following means, namely—

- a) by the payment to the employee of an allowance of such an amount as is reasonable having regard to all the circumstances, or
- b) by otherwise increasing the employee's rate of pay by such an amount as is reasonable having regard to all the circumstances, or
- c) by granting the employee such paid time off from work as is reasonable having regard to all the circumstances, or

- d) by a combination of two or more of the means referred to in the preceding paragraphs.

The employees who qualify for public holidays are entitled to:

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

If an employee is required to work on the public holiday, the employee is entitled to an additional day's pay for the public holiday (or to a paid day off within a month of the public holiday or to an additional day of annual leaves).

**Source:** §14(1) and § 21 of the Organization of Working Time Act

## Weekend / Public Holiday Work Compensation

According to Organization of Working Time Act S.14(1), an employee who work on Sunday either get allowance or a paid time off from work or the combination of two. However, law does not clearly provide the percentage of this allowance which seems to be determined under a collective agreement. In §21 of same Act there is provision of allowances or payment at premier rates for workers employed on public holidays but employer has the choice to give an additional day of annual leave or an additional day's pay or paid day off within month of public holiday.

# 03/13 ANNUAL LEAVE & HOLIDAYS

## **ILO Conventions**

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, for several industries, different Conventions apply.

**Ireland has ratified the Conventions 14 and 132 only.**

### ***Summary of Provisions under ILO Conventions***

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

## Regulations on annual leave and holidays:

- Organization of Working Time Act

### Paid Vacation / Annual Leave

The legislation provides a basic annual leave entitlement of 4 weeks. There are 3 different ways of calculating the duration of the annual leave entitlement;

- Based on the employee's working hours in one year. An employee who has worked at least 1,365 hours in the leave year is entitled to the maximum of 4 working weeks' annual leave.
- By allowing 1/3 of a working week for each calendar month in which the employee has worked at least 117 hours
- 8% of the hours worked in the leave year, subject to a maximum of 4 weeks.

An employee may use whichever of these methods gives the greater entitlement. If the normal working week is 5 days, the employee entitlement is 20 days. However, if the normal working week is 6 days, the holiday entitlement is 24 days.

The annual leave of an employee who works 8 or more months in a leave year includes include an unbroken period of 2 weeks unless provided otherwise under an employment regulation order, registered employment agreement, collective agreement or any agreement between the employee and his or her employer.

The annual leave pay is paid to the employee in advance and at the normal weekly rate. The employer determines the times at which annual leave is granted to an employee, taking into account, after consultation with the employee or trade union:

1. the need for the employee to reconcile work and family responsibilities;
2. the opportunities for rest and recreation available to the employee

Annual leave must be granted to the worker within the following leave year or, with the employee's consent, within 06 months of the following leave year (annual leave must be granted within 18 months of its eligibility). Employee, with the consent of employer, can also carry over holidays in excess of statutory minimum leave to a following leave year. An annual leave carryover period of 15 months after a leave year now applies to those employees who could not, due to illness, take annual leave during the relevant leave year or during the normal carryover period of 6 months.

On termination of employment, payment in lieu of untaken accrued annual leave applies to leave which was untaken as a result of illness in circumstances where the employee leaves the employment within a period of 15 months following the end of the leave year during which the statutory leave entitlement accrued. These changes were brought under the Workplace Relations Act and are applicable since August 2015.

**Source:** §19-20 of the Organization of Working Time Act

### Pay on Public Holidays

Public holidays are paid rest days. Full time employees are entitled to public holiday benefits for the following nine public holidays: New Year Day (1st January), St Patrick's day (17th March), Easter Monday, The first Monday in May, the first Monday in

June, The first Monday in August and The last Monday in October, Christmas day (25th December), St Stephens day (26th December). Part time employees are only entitled to a public holiday benefit if they have worked at least 40 hours in the five weeks proceeding the day before the public holiday. When a public holiday falls on a working day (a day on which employee normally works), employee is entitled to a day's pay for the public holiday. However, if the public holiday falls on a day on which the employee does not normally work, employee is entitled to one-fifth of his normal weekly wage for the public holiday. In respect of a public holiday, an employee has following 4 options as determined by his/her employer: (i) a paid day off on that day; (ii) a paid day off within one month of that day; (iii) an additional day of annual leave; and (iv) an additional day's pay. If a worker has submitted a request at least 21 days before the public holiday and employer has not nominated any of the above options, employee is entitled to a paid day off on the day of public holiday.

**Source:** §21-22 of the Organization of Working Time Act

## Weekly Rest Days

An employee shall be entitled to enjoy at least 24 consecutive hours of rest in each period of 7 days, and this should normally follow on from the daily rest period of the preceding shift. An employer may, in lieu of granting the weekly rest period to an employee, provide 2 periods each of at least 24 consecutive hours, in a period of 14 days. The 1 day per week requirement is not applicable where an employer provides for at least 4 rest days during a 4 week period. The minimum weekly rest period does not apply to certain categories of work or

workers. The weekly rest day (or days if they are provided as a lump sum over 2 week or 4 week periods) shall be the Sunday unless otherwise provided in the labour contract.

Workers are entitled to a 15-minute rest break after 4.5 hours of work. The rest break is 30 minutes for a 6-hour work period. Rest breaks cannot be granted at the end of the working day. Young workers are entitled to a rest break of at least 30 consecutive minutes after 4.5 hours of work.

The minimum daily rest period is at least 11 consecutive hours in a 24-hour period. Young workers are entitled to at least 12 consecutive hours of rest in a 24-hour period.

**Source:** § 13 & 35(2) of the Organization of Working Time Act; §6 of the Protection of Young Persons Act

# 04/13 EMPLOYMENT SECURITY

## ILO Conventions

Convention 158 (1982) on employment termination

**Ireland has not ratified the Convention 158.**

### *Summary of Provisions under ILO Convention*

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).



## Regulations on employment security:

- Terms of Employment (Information) Act 1994
- Protection of Employees (Fixed Term) Work Act 2003
- Minimum Notice and Terms of Employment Act, 1973
- Redundancy Payments Acts 2003
- Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007
- Minimum Notice and Terms of Employment Act, 1973

## Written Employment Particulars

An employment contract is a contract constituted by the undertaking of one party (the employee) to perform work as instructed by the employer and of the other party (the employer) to provide work for the employee and pay wages. According to section 01 of Terms of Employment (Information) Act 1994, contract of employment is a contract of service or apprenticeship and any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act, 1971, and is acting in the course of that business, 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) whether the contract is express or implied. If the contract is express, it may be in the oral or written. Thus the above act does not require an employment contract to be in written form. Anyone who works for an employer for a regular wage or salary automatically has a contract of employment whether written or not.

The Terms of Employment (Information) Act provides that an employer must issue its employees with a written statement of terms and conditions relating to their employment within two months of commencing employment. It must include the full name and address of the employer and the employee, place of work, nature of the work, date of commencement, expected duration of employment (for a fixed term contract), wages, terms of salary payment, pay reference period, working hours, terms or conditions relating to paid leave (other than paid sick leave), any terms or conditions relating to incapacity for work due to sickness or injury, any terms or conditions relating to pensions and pension schemes, periods of notice and a reference to any collective agreements which affect the terms of employment.

In line with an amendment in the Terms of Employment (Information) Act in 2018, employers are required to issue a statement of employment terms and conditions within 5 days of the commencement of employment relationship. The statement must include information on employer and employee, employer address, duration of fixed term contract and its expiry date (or contract for temporary employment and its duration), rate and method of wage calculation, and normal daily and weekly working hours.

An employer, who, without reasonable cause, fails to provide an employee with a statement of employment terms and conditions, within one month of the date of the commencement of that employee's employment, is guilty of an offence and is liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or to both.

The Employment (Miscellaneous Provision)

Act 2018 has been enacted to address the precarious employment liabilities. The Act provides that:

1. Employers must provide five core term of employment within the initial five days of work;
2. Zero-hour contract are restricted
3. The Act has defined banded-hours system as “where employees contract of employment or statement of terms of employment does not reflect the number of hours worked per week by an employee over a reference period, the employee shall be entitled to be placed in a band of weekly working hours”

The banded system is introduced where employee contract does not reflect the actual working hours

**Source:** §15, 16, of the Employment (Miscellaneous Provision) Act 2018; §3 of the Terms of Employment (Information) Act

## Fixed Term Contracts

Fixed term contracts are permissible under Irish legislature with certain conditions. The legislation also allows hiring fixed term contract workers for tasks of permanent nature. According to Protection of Employees (Fixed Term) Work Act employees cannot remain on a series of fixed-term contracts indefinitely. If an employee whose employment commenced prior to the 14th July 2003 accrues three years of continuous service as a fixed term employee, when that employee’s contract comes up for renewal on or after the 14th July 2003, the employee can only be offered one further fixed-term contract. This renewal on a further fixed-term basis cannot be for more than one year. After this, if the employer wishes the employee to

continue, it must be with a contract of indefinite duration. If an employee who commenced employment on a fixed-term basis on or after 14th July 2003 has had two or more fixed term contracts, the combined duration of the contracts shall not exceed four years. After this, if the employer wishes the employee to continue, it must be with a contract of indefinite duration.

After this, if the employer wishes to renew the employee’s contract, it must be an open-ended contract. However, the above above-mentioned rules do not apply when there are objective grounds justifying the renewal of a contract of employment for a fixed term only.

The Unfair Dismissal Acts 1977–2007 also contain a provision aimed at ensuring that successive temporary contracts are not used by the employer in order to avoid that legislation. Where a fixed-term or specified-purpose contract expires and the individual is re-employed within 3 months, the individual is deemed to have continuous service.

After completing a minimum of 6 months of continuous service, an employee, having finished their probationary period, may request more predictable and secure form of working conditions. The employer must provide a written reply with reasons within one month. A worker can make such a request once every 12 months. If a subsequent similar request is made by the same worker with an unchanged situation, an oral reply is permissible.

**Source:** §9-10 of the Protection of Employees (Fixed Term) Work Act; 6F of the Terms of Employment (Information) Act 1994

## Probation Period

The contract can include a probationary period and can allow for this period to be extended. If an employee is on probation, he or she cannot rely on unfair dismissals legislation unless he or she has more than one year's service; or is dismissed for trade union membership or activity; pregnancy-related matters, parental leave, adoptive leave, carer's leave, or claiming maternity rights. Rights such as information on matters like terms of employment, holidays and pay slips apply to an employee even while he or she is on probation. Since the Unfair Dismissals Acts 1977-2007 don't apply to the workers whose duration of probation or training are one year or less and are specified in the contract, we can infer from this provision that maximum duration of a probation period is 12 months. Shorter trial periods are and may be agreed between the parties, but claims under statutory unfair dismissal legislation are not normally possible until after 12 months.

The Regulations specify that probationary periods in the private sector cannot exceed 6 months (12 months for public servants). However, under exceptional circumstances, extensions beyond 6 months are allowed, up to a maximum of 12 months. It should be the exception, not the norm, for organizations to extend probationary periods, and any extension for an individual employee should not surpass an additional 6 months (with a recommendation not to go beyond 11 months), serving the employee's interest and in case of employee's absence from work.

For employees on fixed-term contracts, the probationary period should align with the contract's duration and job nature. If a fixed

term contract is renewed for the same functions, no new probationary period is required. For instance, a one-year fixed-term contract may have a three-month probationary period instead of the typical six months in a permanent contract.

**Source:** §6D of the Terms of Employment (Information) Act 1994; §9A of the Protection of Employees (Fixed-term Work) Act 2003 amended;

[www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/contracts\\_of\\_employment/contract\\_of\\_employment.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/contracts_of_employment/contract_of_employment.html)

## Notice Requirement

Both employees and employers are obliged to give notice in the case of termination of employment under the Minimum Notice and Terms of Employment Act. Employees who have been in continuous employment for at least 13 weeks are obliged to provide their employer with one week's notice of termination of employment. If a greater amount of notice is specified in the employee's contract of employment, then this notice must be given. Employers must give employees termination notice depending on the length of employee's service as follows:

- Thirteen weeks to two years (One Week)
- Two to five years (Two Weeks)
- Five to ten years (Four Weeks)
- Ten to fifteen years (Six Weeks)
- More than fifteen years (Eight Weeks)

If the employer does not require the employee to work out any part of their notice, the employer is obliged to pay the employee for that period. No notice is required if employment contract is terminated by either party on grounds of misconduct.

A dismissal is considered unfair if an employer has terminated the employment without serving a notice (although fair grounds for dismissal existed) or with notice (in the absence of fair grounds for dismissal). The fair grounds for dismissal relate to the capability, capacity/competence, qualifications, conduct, redundancy, contravention of law and other substantial grounds. If a dismissal is based on following reasons, it is considered unfair: membership or proposed membership of a trade union or engaging in trade union activities; religious or political opinions; legal proceedings against an employer where an employee is a party or a witness; race, colour, sexual orientation, age or membership of the Traveler community; pregnancy, giving birth or breastfeeding or any matters connected with pregnancy or birth; availing of rights under legislation such as maternity leave, adoptive leave, carer's leave, parental or force majeure leave; and unfair selection for redundancy

The Unfair Dismissals Act 1977 has been amended in 2015 so as to provide that the dismissal of a worker for having made a "protected disclosure" is automatically unfair. Moreover, the ceiling on compensation in respect of such unfair dismissal is increased from two to five years of remuneration.

**Source:** §4-8 of the Minimum Notice and Terms of Employment Act

## Severance Pay

Employers are not required to provide severance pay for employees who are terminated. Nevertheless, there are circumstances where an employer might want to pay an employee a severance payment, e.g., when they may have the

commercial advantages of reducing the risks of unfair dismissal claims. A waiver and discharge agreement should be signed by an employee where he or she is in receipt of a severance payment.

In cases when someone loses the job due to circumstances such as the closure of the business or a reduction in the number of staff this is known as redundancy. Generally, a redundancy situation arises if your job ceases to exist and you are not replaced. The Redundancy Payments Acts provide a minimum entitlement to a redundancy payment for employees who have a set period of service with the employer. Not all employees are entitled to this statutory redundancy payment, even where a redundancy situation exists. Workers aged 16 or over with 104 weeks' (2 years) continuous service with an employer are entitled to a statutory redundancy payment. The statutory redundancy payment is a lump-sum payment based on the pay of the employee. All eligible employees are entitled to:

- Two weeks' pay for every year of service over the age of 16 and
- One further week's pay (bonus week)

The amount of statutory redundancy is subject to a maximum earnings limit of €600 per week. A worker with 5 years of service is eligible for 11 weeks (10 weeks + 1 bonus week) of tax-free statutory redundancy pay.

**Source:** §11 of the Redundancy Payments Acts of 1967-2007

# 05/13 FAMILY RESPONSIBILITIES

## ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

**Ireland has not ratified the Convention 156 and 165.**

### *Summary of Provisions under ILO Convention*

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

## Regulations on family responsibilities:

- Parental Leave Act, Act No. 30, dated 8 July 1998
- Paternity Leave & Benefit Act 2016

## Paternity Leave

Paternity leave is not provided for in Irish legislation. Employers have no obligation to provide paid or unpaid leave to new father following the birth of a child. A worker may be able to take his annual leave at the time of birth of his child but this is at the discretion of the employer to decide the timing of the leave. The employees in the civil service, however, do get paternity leave of 3 days in respect of children born or adopted on or after 1 January 2000.

The Paternity Leave and Benefit Act 2016 introduces a statutory paternity leave of 2 weeks together with a new Paternity Benefit. When enacted, the legislation will allow new fathers to start the combined package of paternity leave and Paternity Benefit at any time within the first 6 months following birth or adoption of a child. The provisions are applicable to births and adoptions after 01 September 2016.

Workers are entitled to return to work and to the same job with the same contract of employment. If it is not possible for the employer to allow a worker to return to his job, employer must provide the worker with suitable alternative work. This new position should not be less favourable when compared with the previous job. Law also protects workers against penalization and unfair dismissal for claiming their rights under legislation.

**Paternity benefit** Under the 2023 amendment of Social Welfare Act of the 2022 is €274.

**Source:** §6 of the Social Welfare Act 2017; §6, 7 of the Social Welfare (Miscellaneous Provisions) Act 2023; Paternity Leave & Benefit Act 2016;  
[www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/leave\\_and\\_holidays/paternity\\_leave.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/leave_and_holidays/paternity_leave.html)

## Parental Leave

After one year of continuous employment with the employer an employee who is the natural, the adoptive parent or any person acting in loco parentis with respect to an eligible child is entitled to unpaid leave of twenty-two weeks each for both parents from his or her employment to take care of the child (Before 08 March 2013, the provision was only 14 weeks; it changed to 18 leave and then was changed to 22 weeks in September 2019). Fourteen of those 18 weeks are transferable between parents working for the same employer, provided the employer agrees. Employees returning from parental leave are entitled to request changes to their working hours or patterns. Employers who receive such requests are required to consider them, having regard to their own needs and those of the employee, but are not under obligation to grant them.

The parental leave must be taken before a child reaches the age of 12 years. If a child is adopted and his/her age is less than 06 years at the time of adoption, this leave must be taken before the child reaches 08 years of age. However, if the child is aged between 10 years and 12, this leave must be taken within 2 years of the adoption order. If a child has disability or long-term illness, the parental leave must be taken before the



child reaches 16 years of age. Since September 2020, 26 weeks' parental leave can be taken by an employee for each eligible child.

Under 2019 Budget, the Government has announced two weeks paid parent's leave (paid by the state) for both parents while the child is still under one year. The measure will be effective from November 2019. The government plans to raise it to 7 weeks over time. This leave is over and above maternity, adoptive, paternity and unpaid parental leave entitlements.

From 1 July 2022, Parent's Leave increased from 5 weeks to 7 weeks for children born or adopted after 1st July 2022.

Parents are entitled to take parental leave up to the age of 16 years, If the child is suffering from illness and disability.

Under 2023 amendments, the standard weekly parental benefit is € 274 and is paid by the state.

Parents are entitled to take parental leave up to the age of 16 years, If the child is suffering from illness and disability.

The standard weekly parental benefit is €245 and is paid by the state.

The Family Leave and Miscellaneous Provisions Act, 2021 entitles working parents to an additional three weeks of paid Parent's Leave for each parent, and extends the period in which the leave can be taken to the first two years after the birth or adoptive placement of a child. The total length of parental leave is now five weeks. These changes are effective from April 2021. The leave can also be taken by same sex parents.

Under the Work-Life Balance and Miscellaneous Provisions Act 2023, employees have the right to take unpaid leave, referred to as medical care leave, to provide personal care or support to a child (including adopted) with a serious medical condition. This entitlement allows an employee to take up to 5 days of unpaid leave within any 12 consecutive months, with the provision that the leave is not to be taken for a period of less than one day.

**Source:** § 5 of the Social Welfare Act 2017; §6-9, 13A of the Parental Leave Act 1998, amended in 2006; § 8 of the Work-Life Balance and Miscellaneous Provisions Act 2023

[www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/leave\\_and\\_holidays/parental\\_leave.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/leave_and_holidays/parental_leave.html);  
<http://www.irishstatutebook.ie/2013/en/si/0081.html> (S.I. No. 81/2013 - European Union (Parental Leave) Regulations 2013)

## Flexible Work Option for Parents / Work-Life Balance

There is no specific provision of flexible working time for employee with minor children however Persons entitled to parental leave have the right to work part-time, provided that an agreement between the employer or representatives of the employer and other employers and the employee or representatives of the employee and other employees has been reached.

This new leave, yet to be implemented, applies to employees who are parents or providing care to individuals recognized by the Work-life balance Bill. Eligible relationships include children, spouses, civil partners, cohabitants, parents, grandparents, siblings, and those residing



in the same household. The leave is for significant care or support due to a serious medical condition and the employee must have completed 6 months of continuous employment. To request flexible working for childcare, the child must be under 12 years (or 16 if disabled or suffering from a long-term illness).

Request for flexible working must be in writing, signed by the employee, and include details such as the requested arrangement, start date, and duration. It should be submitted to the employer as soon as possible, but no later than 8 weeks before the proposed start date.

**Source:** §7, 13B of the Parental Leave Act 1998 amended

# 06/13 MATERNITY & WORK

## **ILO Conventions**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

**Ireland has not ratified the Conventions 103 and 183.**

### ***Summary of Provisions under ILO Convention***

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

## Regulations on maternity and work:

- Maternity Protection Act, No. 34 of 1994, amended up to Maternity Protection (Amendment) Act, 2004 (No. 28 of 2004)
- Social Welfare Consolidation Act, No. 26, dated 27 November 2005
- Safety, Health and Welfare at Work (General Application) Regulations, 1993
- Factories Act 1955 (Manual Work) (Maximum Weights and Transport) Regulations, No. 283 of 1972

## Free Medical Care

In Ireland any person, regardless of nationality, who is accepted by the Health Service Executive (HSE) as being ordinarily resident in Ireland is entitled to healthcare services that includes a maternity cash grant for each new-born child and maternity care and infant welfare services, including the services of a family doctor during pregnancy and family doctor services for mother and infant up to six weeks after the birth.

**Source:** ISSA country profile

## No Harmful Work

During the period of pregnancy and during some weeks (10-14 weeks) after confinement, the female worker who is usually occupied in work that is considered as harmful to her health by the authority should be moved, without reduction of their earnings to another kind of work that is not harmful to their state. Prohibited work includes:

- a) Arduous work (manual lifting, carrying, pushing or pulling of loads);

- b) Work involving exposure to biological, chemical or physical agents;
- c) Work involving physical strain (prolonged periods of sitting, standing, exposure to extreme temperatures, vibration and
- d) Night work (if specified by medical practitioner)

In all of the above cases, employers are required to adapt the working conditions (like reduction in the working hours) for the pregnant or breastfeeding employee or transfer her to another work (from night work to day work) or another post which does not present a risk to the health and safety of worker or her pregnancy or breastfeeding.

In case, such adaptation in working conditions or transfer to another post or work is not technically or objectively feasible on duly substantiated grounds, employee is granted leave from her employment. For the first 21 days of leave, remuneration is paid by the employer. Afterwards, a health and safety benefit is paid to the woman worker until she becomes entitled to maternity benefit. The Health and Safety leave is also available for workers during 14 weeks immediately following the child birth or 26 weeks in case of breastfeeding employee.

Employers are required to ensure that pregnant, post-natal and breastfeeding employees are able to lie down to rest in appropriate conditions.

**Source:** Maternity Protection Acts 1994 and Amendment Act 2004; Safety, Health and Welfare at Work (Pregnant Employees etc.) Regulations 4 - 5 and Factories Act 1955 (Manual Work) (Maximum Weights and Transport) Regulations 5(2); Regulation 24

of the Safety, Health and Welfare at Work (General Application) Regulations, 2007

## Maternity Leave

Female employees are entitled to a paid maternity leave of 26 consecutive weeks plus 16 weeks unpaid maternity leave after confinement. Maternity leave may in general commence or end on any day selected by the female employee but two weeks before and four weeks after the end of the expected week of confinement is compulsory. The maximum pre-natal leave is 16 weeks. If the child is born later than expected, postnatal leave may be extended by the necessary number of consecutive weeks, up to a maximum of four weeks. To avail the maternity leave, the worker has to inform the employer in writing of her intention to take leave, and produce a medical certificate or "other appropriate certificate" confirming the pregnancy and indicating the expected week of confinement. If a worker has stillbirth or miscarriage any time after the 24th week of pregnancy, she is entitled to full maternity leave (paid 26 weeks + unpaid 16 weeks).

**Source:** §8 - 16 of the Maternity Protection Act 1994, amended in 2004

## Income

### Rate of maternity benefit for claims starting before 6 January 2014.

All women who are entitled to maternity leave, including women who are in self-employment are eligible for 80 percent of the average amount of weekly earnings, or a fixed weekly amount, or the amount of disability benefits which the woman would otherwise receive if she was entitled to the said benefit, whichever is the greater.

Maternity benefits amount at least to €207.80, up to a maximum of €280.00 per week (80% of reckonable earnings of up to €350). The right to cash benefits is subject to a medical certificate stating the expected week of birth and an employer's certificate stating that the female employee is entitled to maternity leave. Furthermore, the employee or self-employed must have paid social insurance contributions of a specified amount.

### Rate of maternity benefit for claims starting on or after 6 January 2014

For new maternity benefit claims on or after 06 January 2014, a standard rate of €230 per week is paid. This means an increase of €12.20 for those receiving less than €230 per week and a reduction of €32 per week for those receiving higher payments. From 13 March 2017, the standard maternity benefit is €240 per week. In March 2020, the standard maternity benefit is €240 per week.

**Source:** § 4 of the Social Welfare Act 2017 Social Welfare Consolidation Act §6(1), 47-49 of the Social Welfare Consolidation Act; [www.welfare.ie/en/Pages/mb.aspx](http://www.welfare.ie/en/Pages/mb.aspx)

## Protection from Dismissals

Termination or suspension of employment is void if the employee is terminated/suspended while on maternity leave, leave taken by the father if the mother dies, leave on safety and health grounds, for prenatal or postnatal care, during a period of absence from work to attend ante-natal classes, or absence from work for breastfeeding, even if suspension/termination expires after expiration of those leaves. The dismissal would be considered unfair if it is due to

availing of right under legislation to maternity leave, adoptive leave, carer's leave, parental leave or force majeure leave.

Who Are Breastfeeding) Regulations 2004  
§3-4

**Source:** §23-24 of the Maternity Protection Act and §6 of the Unfair Dismissals Act

## Right to Return to Same Position

A female employee, or the father of a child whose mother has died, has the right to return to the same job under the contract of employment she or he was employed under before going on maternity leave, or leave on safety and health grounds. However, if it is not reasonably practicable for the employer, or his or her successor, to permit the woman (or the father) to return to the same job, suitable alternative employment, under a new contract of employment, must be offered.

**Source:** §22, 25-28 and 40 of the Maternity Protection Act

## Breastfeeding/ Nursing Breaks

An employee who is breastfeeding shall be entitled, without loss of pay, at the option of her employer to either 1 hour off from her work each day for the purpose of breastfeeding or a reduction of her working hours by 1 hour each day up to 26 weeks after confinement. The breastfeeding break may be taken in the form of one break of 60 minutes, two breaks of 30 minutes each, three breaks of 20 minutes each, or in such other manner as to number and duration of breaks as may be agreed by her and her employer.

**Source:** §15B of the Maternity Protection amendment Act 2004; S.I. No. 654/2004 - Maternity Protection (Protection of Mothers

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**Ireland has ratified both the Conventions 81 and 155.**

### ***Summary of Provisions under ILO Conventions***

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

## Regulations on health and safety:

- Safety Health and Welfare at Work Act 2005
- Safety, Health and Welfare at Work (General Applications) Regulations 2007

## Employer Cares

According to section 8 of the Safety Health and Welfare at Work Act 2005, every employer is required to ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees. An employer's duties include:

- Managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk;
- The design, provision and maintenance of plant and machinery or any other articles that are safe and without risk to health;
- Ensure the safety and the prevention of risk to health at work of his or her employees relating to the use of any article or substance or the exposure to noise, vibration or ionising or other radiations or any other physical agent.

The Act also imposes a duty on employees to take precautions for their own safety, to co-operate with safety rules, and to report any defects or safety hazards.

### Source:

[http://www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/health\\_and\\_safety/health\\_safety\\_work.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/health_and_safety/health_safety_work.html))

## Free Protection

Employer must provide safety equipment to his workers and implements the necessary protection in accordance to the working conditions. In case where risks cannot be eliminated or adequately controlled, it is employer's duty to provide and maintain such suitable protective clothing and equipment as is necessary to ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees.

Employer is also required to ensure that personal protective equipment (PPE) is provided for the use of employees where risks to health and safety of workers at the workplace can't be avoided or limited by technical means of collective protection or other measures of work organization. Employer has to ensure that the PPE is maintained at all times in good working order and in a satisfactory hygienic condition by means of storage, maintenance, repair or replacement.

**Source:** S.8 of the Safety Health and Welfare at Work Act 2005; S.I. No. 299/2007 - Safety, Health and Welfare at Work (General Application)

## Training

Employers are required to provide the information, instruction, training and supervision necessary to ensure, so far as is reasonably practicable, the safety, health, and welfare at work of his or her employees. Adequate safety, health and welfare training includes, in particular, information and instructions relating to the specific task to be performed by the employee and the measures to be taken in an emergency. These should be provided in a form, manner



and language that is likely to be understood by the employee concerned and during the time off from their work and without loss of remuneration. The above training has to be provided to the employees (a) on recruitment; (b) in the event of the transfer of an employee or change of task assigned to an employee; (c) on the introduction of new work equipment, systems of work or changes in existing work equipment or systems of work, and (d) on the introduction of new technology.

Under 2022 amendments, if an employer is obligated by law or a collective agreement to provide training for an employee, the training must be:

- a. provided at no cost to the employee,
- b. considered as working time, and
- c. ideally conducted during regular working hours.

**Source:** S.10 of the Safety Health and Welfare at Work Act; §6G of the Terms of Employment (Information) Act 1994

## Labour Inspection System

Irish labour inspection system entails two major inspection bodies, namely the Health and Safety Authority (HSA), which enforces occupational safety and health related legislation, and National Employment Rights Authority (NERA), which enforces legislation in relation to general working conditions. The NERA inspectors monitor and enforce compliance with certain employment conditions for all categories of workers and are responsible for enforcing the Industrial Relations Act, Protection of Young Workers Act, Organisation of Working time Act, Parental Leave Act, Carers Leave Act, and the Employees (Provision of Information and Consultation) Act.

The HSA inspectors, on the other hand, enforce all relevant statutory provisions set out in safety, health and welfare legislation; promote, encourage and advise employers and employees in relation to health and safety training, promote and encourage measures aimed at the prevention of accidents, dangerous occurrences and personal injury at work; provide information and advice on matters relating to safety, health and welfare and promote the implementation of best practice methodologies and processes.

**Source:** Ireland Labour Inspection Country Profile by ILO

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## **ILO Conventions**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**Ireland has ratified the Convention 102 and 121 only.**

### ***Summary of Provisions under ILO Conventions***

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## Regulations on sick leave & Employment Injury Benefits:

- Unfair Dismissals Act, Last amended 2007

### Income

The Sick Leave Act of 2022 was recently signed into law. An employee will initially be entitled to three statutory sick leave days per year, although the Act states that the number of leave days can be extended by a ministerial decree. It was reported that the leave days shall be extended to five days in 2024, seven days in 2025, and ten days in 2026. Employers will have to pay a statutory sick leave payment for each statutory sick leave day. The Minister for Enterprise, Trade, and Employment will set the daily rate of the mandatory sick leave payment in regulations. The regulations may stipulate the percentage rate of an employee's salary, up to a daily limit, at which statutory sick leave is granted.

### Earlier Information

An employee has no legal entitlement to sick pay; it is at the discretion of the employer. If an employee is sick during the period of annual leave and can prove to employer through a medical certificate that he or she was sick or injured, then the leave taken during this period will not count as annual leave. Since there is no provision in law on sick leave and sick pay, it is at the discretion of employer to devise his own policy on the matter. Employer is required to provide information to the worker on the terms and conditions relating to incapacity for work due to sickness or injury. If a worker has no entitlement to sick leave and sick in his employment particulars, he/she

may apply for illness benefit if he/she has required social insurance contributions.

If a worker is getting sick pay from employer, he is required to sign over any illness benefit to the employer as long he is getting sick pay from work. Worker has to apply for illness benefit within 7 days of becoming ill. No payment is made for the first 6 days of illness (from 06 January 2014). The sickness/illness benefit is paid for a maximum of 02 years (624 payment days) when a worker has 260 weeks of PRSI contributions paid. If a worker has between 104 to 259 weeks of PRSI contributions paid, he/she can claim the benefit for up to 52 weeks (312 payment days).

### Source:

[www.welfare.ie/en/Pages/345\\_Illness-Benefit.aspx](http://www.welfare.ie/en/Pages/345_Illness-Benefit.aspx); §5-7 of the Sick Leave Act, 2022

### Medical Care

In Ireland any person, regardless of nationality, who is accepted by the Health Service Executive (HSE) as being ordinarily resident in Ireland is entitled to either full eligibility (Category 1, i.e. medical card holders) or limited eligibility (Category 2) for health services. Category 1 consists of people who, in the opinion of the HSE, are unable to afford general practitioner services for themselves and their dependents. The medical services available category 01 include general practitioner services, specialist services in out-patient clinics, certain dental, ophthalmic and aural services and appliances, prescribed drugs, medicines and medical and surgical appliances, maternity care and infant welfare services, maternity cash grant for each new born child and attendance. The medical services available to Category 02 include all in-patient hospital services in

public wards, specialist services in outpatient clinics, maternity care and infant welfare services, including the services of a family doctor during pregnancy and family doctor services for mother and infant up to six weeks after the birth, a refund of expenditure on drugs and medicines above a specified limit, drugs and medicines for the treatment of certain specified illnesses under the Long-Term Illness Scheme.

**Source:**

[http://ec.europa.eu/employment\\_social/empl\\_portal/SSRinEU/Your%20social%20security%20rights%20in%20Ireland\\_en.pdf](http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Ireland_en.pdf); [http://www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/disability\\_and\\_illness/medical\\_care\\_scheme.html](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/disability_and_illness/medical_care_scheme.html)

## Job Security

There is no legislation governing sick leave in Ireland. No job security provisions are found in Unfair Dismissals Act. Any terms or conditions relating to incapacity for work due to illness or injury is required to be included in employment contract. The employment contract shall also place a limit on sick leave or sick pay (one month in a 12-month period). Clear rules governing sick leave and sick pay have to be incorporated in the employment contract. An employee who is ill is entitled not to attend work however they may be required by their employer to provide a medical certificate verifying the same. Long absences from work due to sickness may be a ground for dismissal.

**Source:**

[www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/leave\\_and\\_holidays/sick\\_leave.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/leave_and_holidays/sick_leave.html)

## Disability / Work Injury Benefit

Occupational injuries benefits are payable to insured people who are injured at work or who contract certain occupational diseases (56 occupational diseases have been prescribed in this regard). Accidents while travelling between home and work are covered. There are no specific qualifying conditions prescribed for accessing benefits in respect of accidents at work. However, a period of exposure to risk is prescribed for certain occupational diseases like deafness, tuberculosis and pneumoconiosis. The work injury benefits include Injury Benefit, Disablement Benefit, Incapacity Supplement, Medical Care and Death Benefits.

Injury Benefit is paid while you remain unfit for work. It is payable from the fourth day of incapacity up to a maximum period of 26 weeks (156 days) commencing with the date of the accident or the onset of the occupational disease. If you are still incapable of work after 26 weeks, you may be entitled to Illness Benefit.

Disablement benefit is payable if, as a result of an occupational accident or disease, worker is suffering from a loss of physical or mental ability, An Incapacity Supplement is payable to people who are in receipt of disablement Benefit, if they are considered to be permanently incapable of work as a result of an occupational accident or disease, and who do not qualify for other social welfare payments such as Illness Benefit.

Payment is made under the disablement benefit when the level of disablement is assessed at 15% or more. When the level of disablement is assessed at less than 20%, the benefit is paid as a lump sum referred to

as Disablement Gratuity. The size of this lump sum benefit depends on the degree of disablement and how long the worker is reasonably expected to remain disabled.

When the level of disablement is assessed at 20% or more, the benefit is paid by weekly or monthly pension also referred to as Disablement pension. Seriously disabled workers (more than 50% disablement) are also eligible for constant attendance allowance for a period of at least 06 months.

A worker with total permanent disability is paid weekly pension at the rate of €224. If a worker has 20-90% disablement, the personal pension varies from €44.80 to €201.60. The constant attendance allowance weekly rate is €210. The incapacity supplement is different for workers under 66 years of age (€193) and over 66 years (€212.30).

Death Benefits may be paid where an insured person dies as a result of an occupational accident or disease. It may also be payable to the dependent(s) of a person who, at the time of death, was receiving Disablement Pension assessed at 50% or more, regardless of the cause of death. Death Benefits comprise Widow's/Widower's or Surviving Civil Partner's Pension, Orphan's Pension, Dependent Parent's Pensions and Funeral Grant. A widow, widower (disabled) or a surviving civil partner get €223.50 (under 66 years) or €242.70 (over 66 years) per week. A dependent's supplement (€29.80) is also paid for each dependent child. Orphan's pension is €179.80 a week for each child under the age of 18 years (22 years for full time students). Dependent parents also receive a pension. There is also a provision for once-off lump sum payment of funeral grant (€850).

**Source:**

<http://www.welfare.ie/en/Pages/Death-Benefit.aspx>;

[http://www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/disability\\_and\\_illness/disablement\\_benefit.html](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/disability_and_illness/disablement_benefit.html)

# 09/13 SOCIAL SECURITY

## ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Ireland has ratified the Convention 102 and 121 only.**

### ***Summary of Provisions under ILO Conventions***

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.



## Regulations on social security:

- Social Welfare and Pensions Act No. 47 of 2015

## Pension Rights

There is no statutory retirement age in Ireland. Normal Retirement age for Men and Women in Ireland is 65. In general, an insured person aged between 65 and 66 is regarded as retired as long as they do not have earnings of € 38 per week or more as an employee or income of € 3,174.35 or more per year from self-employment. State Pension (Transition) may be payable from age 65 to 66 to people who have retired from full-time employment and who satisfy the PRSI contribution conditions. The amount of State Pension (Transition) is €230.30 per week (maximum). If the average number of annual contribution weeks registered is more than 24, but less than 48, a reduced pension is payable. The worker must have paid 520 contributions at the appropriate rate. The State Pension (Transition) will no longer be paid from 1 January 2014.

State Pension (Contributory) is payable from pension age (66 years) onwards to any insured person who satisfies certain PRSI contribution conditions. The qualifying age will rise to 67 in 2021 and 68 in 2028. A worker can receive this pension if he/she continues working. It cannot be paid in addition to State Pension (Transition). State Pension (Contributory) is also € 238.30 per week (maximum). If the average number of annual contribution weeks registered is more than 10, but less than 48, a reduced pension is payable. The worker must have paid 520 contributions at the appropriate rate. People aged 66 or over who do not qualify for the State Pension

(Contributory) may be entitled to State Pension (Non-Contributory), subject to a habitual residence and a means test.

Supplements are paid for qualified adults and children. An additional allowance of € 9.00 per week is payable where the pensioner is living alone. The amount of State Pension (Non-Contributory) is € 227 for workers aged 66 but under 80 (€237 for those older than 80 years)

### Source:

[www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/older\\_and\\_retired\\_people/http://www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/extra\\_social\\_welfare\\_benefits/living\\_alone\\_allowance.html](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/older_and_retired_people/http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/extra_social_welfare_benefits/living_alone_allowance.html)

## Dependents' / Survivors' Benefit

Contributory Widow's Pension and Orphan's Allowance is mainly covered in survivors' benefits. The contributory conditions need to be met to become eligible for these benefits. Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension is payable as long as the recipient remains a widow/widower, or does not live with a new partner. The amount of the pension varies according to the age of the surviving spouse and divorced spouse:

- under age 66: €198.50 per week;
- over age 66 (but under 80 years): €238.30 per week;
- aged 80 years and over: €248.30

An additional allowance of €9 per week is payable where the survivor is living alone. An increase of € 29.80 per week is payable for each qualified child under 18 years of age (or under 22 years of age if the child is in



full-time education). This increase may be combined with family benefits.

Orphan children having lost both parents are entitled to Guardian's Payment (Contributory) of € 176 per week if the orphan is under 18 years of age (or under 22 years of age if in full-time education). Orphans without entitlement to Guardian's Payment (Contributory) may receive Guardian's Payment (Non-contributory) subject to a habitual residence and means test. Other benefits include a once-off Funeral Grant of € 850.

**Source:**

[www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/death\\_related\\_benefits/](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/death_related_benefits/)

## Unemployment Benefits

The Department of Social Protection operates a system of social welfare for the unemployed. The Department offers weekly unemployment benefits based on insurance contributions, as well as weekly means-tested unemployment assistance. An unemployed person may be entitled to job seekers allowance or job seekers benefit. Job seekers allowance (available to the unemployed who don't qualify for a job seeker's benefit or have used all their entitlement to the benefit) is a means tested payment and the maximum weekly amount is €193 for unemployed aged 26 or over (the allowance is €102.70 for workers aged 18-24 without children and €147.80 for workers aged 25 without children). Job seekers benefit is dependent on an employee's PRSI and average weekly earnings. The maximum weekly amount available is €193 while the minimum

amount per week is €86.70. Jobseeker's Benefit is not paid for the first 3 days of unemployment. The duration of job seekers' benefit is reduced by 03 months from April 2013. The workers with 260 PRSI contributions are eligible for 09 months of benefit while workers with less than 260 PRSI contributions are eligible for 06 months of job seeker's benefit.

**Source:**

[www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/unemployed\\_people/](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/unemployed_people/)

## Invalidity Benefits

The invalidity Pension is payable to insured persons who are permanently incapable of work and who satisfy the contribution conditions:

- Not less than 260 weekly contributions; and
- Not less than 48 weekly contributions must have been paid in the last tax year.

Normally, before qualifying for invalidity pension, an insured person will have been receiving a flat rate illness benefit for at least 12 months. Payment may continue after age 66, but only if the recipient is not awarded an old age pension. The invalidity benefit is equal to EUR 198.50 per week for people aged under 66. If the disabled person has a dependent adult partner, an additional amount of EUR 141.70 per week will be granted.

**Source:**

[www.welfare.ie/en/Pages/Invalidity-Pension.aspx](http://www.welfare.ie/en/Pages/Invalidity-Pension.aspx)

# 10/13 FAIR TREATMENT

## **ILO Conventions**

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**Ireland has ratified the Conventions 100 and 111.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

## Regulations on fair treatment:

- Employment Equality Act, 1998-2015

## Equal Pay

The employer must comply with the principle of equality between men and women who do the same job. Employer has to ensure that there is no gender discrimination in relation to conditions of employment, access to employment, training or experience in relation to employment, promotion or recruitment or classification of posts. The employment equality legislation (Equality Acts 1998-2015) provide for equal pay for like work. Like work is defined as work that is same, similar or work of equal value. The equal remuneration term also has to be part of the employment contract. A worker can claim equal pay on the following nine (09) grounds: gender, civil status, family status, sexual orientation, religion, age, disability, race, membership of the Traveller community. If a worker brings equal pay claim before the Equality Tribunal, an order for equal pay and up to three years' arrears may be ordered.

**Source:** §6, 8, 19, 26 and 82 of the Employment Equality Act 1998-2015

## Sexual Harassment

Harassment is any form of unwanted conduct related to any of the discriminatory grounds. Sexual harassment is any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature. The test of whether conduct amounts to harassment is a subjective one. If the conduct has the purpose or effect of violating a person's

dignity and creating an intimidating, hostile, degrading, humiliating, or offensive environment, then it is considered harassment for which the employer is responsible. Employers must take all reasonable steps to ensure a workplace free from harassment and sexual harassment either by preventative or reactive measures. Employers are vicariously liable for harassment carried out by their employees in the course of their employment, whether the employer knew about the actions complained of or not. The only defense is for an employer to show that it took such steps as were reasonably practicable to prevent such actions. In that regard, Codes of Practice exist to guide employers on what measures or procedures to establish for the prevention of physical and verbal bullying and harassment in the workplace. An employer will be liable for harassment by its employees, clients, customers or other business contacts, if the employer does not take reasonable steps to prevent it.

Under Section 2 of the Health, Safety and Welfare at Work Act 2005, employers have a duty to manage and conduct work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health and welfare of an employee at risk. A victim of sexual harassment has a menu of three recourses:

- i. The victim may bring a claim to the Equality Tribunal or Circuit Court under Employment Equality Acts. Under these Acts, employer can be vicariously held responsible for harassment committed by employees. If a complaint is made to the Equality Tribunal, the victim may be awarded compensation of two years' salary (104 weeks of salary) or

- £10,000 if the complainant is not in receipt of remuneration. The victim can also make a complaint to the Circuit Court whose jurisdiction to award compensation is unlimited;
- ii. The victim may bring a claim against employer or harasser or both for seeking damages and other remedies for breach of contract, negligence, infliction of harm, etc. under Common law. A victim of harassment is entitled to damages for any foreseeable loss (loss of earnings) or injury (psychological or emotional). Court may also award punitive or aggravated damages; and
  - iii. The victim may file a complaint before the Health and Safety Authority under Health, Safety and Welfare at Work Act 2005 indicating that the employer has failed in its duty towards the worker. Penalties for noncompliance with the provisions of above act may result in fines up to €300,000 and/or imprisonment term up to 02 years.

**Source:** S.14A, 15, and 82 of the Employment Equality Acts 1998-2015; S. 78 of the Health, Safety and Welfare at Work Act 2005

## Non-Discrimination

The Employment Equality Acts prohibit discrimination by an employer on the grounds of Gender (man, woman, transsexual), Marital/Civil status (single, married, separated, divorced, widowed people, civil partners and former civil partners), Family status (parent of minor children under 18, parent of a person with disability or resident primary carer), Sexual orientation (gay, lesbian, bisexuals, heterosexual), Religion (religious beliefs, background, outlook or none), Age (not

applicable to persons under 16 years), Disability (people with physical, intellectual, emotional cognitive, or learning disabilities and a range of medical conditions), Race (race, skin colour, nationality or ethnic origin), and Membership of the Traveller community. The Employment Equality Acts apply to all employees irrespective of their length of service. Employees may bring a complaint to the Equality Tribunal whose decision may be appealed to the Labour Court. The Employment Equality Acts prohibit discrimination in relation to conditions of employment, access to employment, training or experience in relation to employment, promotion or recruitment or classification of posts.

The Protection of Employees (Part-Time Work) Act 2001 requires that part-time employees must not be treated less favourably than full-time employees.

The Protection of Employees (Fixed-Term Work) Act 2003 ensures that fixed-term employees must not be treated less favourably than comparable permanent employees and that an employer cannot continually renew fixed-term contracts.

The Unfair Dismissals Acts 1977 to 2007 (section 06) further provide that a dismissal is automatically considered if it is prompted by any of the following reasons: membership or proposed membership of a trade union or engaging in trade union activities, whether within permitted times during work or outside of working hours; religious or political opinions; legal proceedings against an employer where an employee is a party or a witness, race, colour, sexual orientation, age or membership of the Traveller community, pregnancy, giving birth or breastfeeding or any matters connected with pregnancy or

birth, availing of rights under legislation to maternity leave, adoptive leave, parental leave, force majeure leave, carer's leave; and unfair selection for redundancy.

If a complaint is made to the Equality Tribunal, it can order equal treatment and award compensation of two years' salary (104 weeks of salary). If a worker is fired on any of the above grounds, the Tribunal can order for reinstatement or re-engagement accompanied by compensation.

**Source:** §6, 8, 26 and 82 of the Employment Equality Acts

## Equal Choice of Profession

Women can work in the same industries as men as no restrictive provisions could be located in the laws.

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Ireland has ratified the Conventions 138 and 182.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

- Protection of Young Persons (Employment) Act, 1996

### Minimum Age for Employment

The Protection of Young Persons (Employment) Act defines a child as "a person who is under 16 years of age or the school-leaving age, whichever is the higher"; and defines a young person as "a person who has reached 16 years of age or the school-leaving age (whichever is higher) but is less than 18 years of age". In general, the Act prohibits the employment of children under 16 years. Employers may, however, take on 14 and 15 year olds, on light work during the school holidays, provided there is a minimum three week break from work during the summer; or part-time during the school term (over 15 years old only, and for a maximum of 8 hours in the week); or as part of an approved work experience or education programme where the work is not harmful to their safety, health or development. Children (i.e. under 16 years of age) can also be employed in cultural, artistic, sports or advertising work which does not interfere with their attendance at school, vocational guidance or training programmes or capacity to benefit from the instruction received. Young workers are prohibited to perform more than 8 hours of work per day and 40 hours per week.

During the school term, a 14-year-old cannot be employed while a 15-year-old can be employed for 08 hours a week. During holidays/summer term, the weekly working hours are 35 hours for both 14 and 15 year olds. Under the work experience program, the weekly working hours are 40 hours a week.

Children under 16 can't be required to work at night (20:00 to 08:00). Before employing a young person or child, an employer must ask for a copy of the birth certificate or other evidence of age and, before employing under 16s, an employer must get the written permission of a parent (or guardian).

**Source:** S.3-6 of the Protection of Young Persons (Employment) Act 1996

### Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. Minors under 18 may not be engaged in work that is likely to be harmful to the safety, health and development of the children and the work that is harmful to their attendance at school, their participation in vocational guidance and training programmes approved by the competent authority or their capacity to benefit from the instructions received. Night work is also prohibited for young persons (22:00 to 06:00). The maximum working hours for 16 and 17 year olds are 08 hours a day and 40 hours a week.

An employer must keep a register of record, with the following details in relation to every employee aged under 18; (i) full name, (ii) date of birth, (iii) starting and finishing times for work, and (iv) wage rate and total wages paid to each employee.

**Source:** §5-10 of the Protection of (Protection of Young Persons (Employment) Act 1996

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**Ireland has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.



## Regulations on forced labour:

- Criminal Law (Human Trafficking) Act 2008, amended in 2013

## Prohibition on Forced and Compulsory Labour

The main legislation in Ireland on Forced Labour is Criminal Law (Human Trafficking) Act 2008 and its further amendment in 2013. The Act(s) prohibit sexual and labour exploitation among other exploitative practices. Labour exploitation is

- (a) subjecting the person to forced labour (including forcing him or her to beg);
- (b) forcing the person to render services to another person; or
- (c) enslavement of the person or subjecting him or her to servitude or a similar condition or state.

The forced labour provisions are equally applicable to children. Forced labour means “a work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself/herself voluntarily. The Acts prescribe long imprisonment terms and fine at the discretion of court for trafficking a person to exploit his/her labour.

Section 23 of the Employment Permits Act 2006 makes it an offence for employers to retain workers’ passports, identity papers, qualification documents, driving licences or to make deductions from their wages to pay recruitment fees, travelling expenses or other fees related to obtaining a job in Ireland.

## Freedom to Change Jobs and Right to Quit

There is no provision in Irish Legislature which restrict the workers to change or quit job. If a worker decides to terminate the employment he/she may resign by giving notice to the employer as specified in the employee’s contract of employment.

**Source:** §4-8 Minimum Notice and Terms of Employment Act 1973

## Inhumane Working Conditions

The maximum average weekly working hours (including overtime) over a 4-month period cannot exceed 48 hours.

# 13/13 TRADE UNION

## ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

**Ireland has ratified both Conventions 87 & 98.**

### *Summary of Provisions under ILO Conventions*

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

## Regulations on trade unions:

- Unfair Dismissals Act 1977, Last amended 2007
- Industrial Relations Act 1990

## Freedom to Join and Form a Union

Employees in Ireland have a right set down in the Constitution to join a Trade Union (Art. 40). A trade union can provide an important source of information and protection in relation to employment matters, as well as negotiating with the employer for better pay and conditions. The Irish Congress of Trade Unions is the single umbrella organisation for trade unions in Ireland, representing a range of interests of employees.

The workers can be required to join as a pre-condition for employment and remain a member of the union to keep the job. However, if a worker is already working and is required at a later stage to join a union to keep his job, this would be considered unconstitutional.

Dismissal for trade union activity or membership is automatically unfair and an employee dismissed in such circumstances can bring an unfair dismissal claim.

## Freedom of Collective Bargaining

There is no legal obligation on an employer to negotiate with a union on behalf of an employee member, unless previously agreed.

Some employees are covered by other agreements regarding their employment. These agreements deal with the pay and working conditions of the employees

concerned and may be included in an employee's employment contract.

- The various agreements on pay and conditions made by Joint Labour Committees, as provided under section 44-55 of Industrial Relations Act of 1990 are known as Employment Regulation Orders (EROs).
- Agreements which result from negotiations between trade unions and employers are called Collective Agreements.
- If a Collective Agreement has been registered with the Labour Court it is known as a Registered Employment Agreement (REA).

Following a High Court decision, all Employment Regulation Orders passed by JLCs ceased to have statutory effect from 7 July 2011. Similarly, all Registered Employment Agreements, registered with Labour Court, ceased to have statutory effect from 9 May 2013 following a Supreme Court decision.

Under the Industrial Relations Amendment Act 2015, collective bargaining is accepted as workers' right. It amends the earlier law with regard to collective bargaining and the power of Labour Court to issue legally binding (employment) orders for workplaces which do not have collective bargaining arrangements even if they are engaging in negotiations with staff groups.

Workplace Relations Commission, established under the Workplace Relations Act 2015, is the only statutory body to which all industrial relations, employment law and employment equality disputes and complaints are now referred. Appeals can be made to the Labour Court in all cases. Under this law, there are now two bodies to deal with complaints and disputes regarding individual employment rights

and collective rights/industrial relations disputes. Earlier, there were four bodies namely the National Employment Rights Authority, Labour Relations Commission including Rights Commissioners, Employment Appeals Tribunal including Equality Tribunal, and Labour Court.

The National Economic and Social Council (NESC) in Ireland was established in 1973 to advise the Prime Minister on strategic policy issues relating to sustainable economic, social and environmental development in the country.

The members of the Council are representatives of business and employers' organisations, trade unions, agricultural and farming organisations, community and voluntary organisations, and environmental organisations as well as heads of Government departments and independent experts. The members are appointed by the Prime Minister for a three-year term. The Council meets on a quarterly basis.

**Source:**

[www.citizensinformation.ie/en/employment/in/employment\\_rights\\_and\\_conditions/industrial\\_relations\\_and\\_trade\\_unions/employment\\_regulation\\_orders\\_and\\_registered\\_employment\\_agreements.html](http://www.citizensinformation.ie/en/employment/in/employment_rights_and_conditions/industrial_relations_and_trade_unions/employment_regulation_orders_and_registered_employment_agreements.html)

## Right to Strike

Workers in Ireland don't have the statutory right to Industrial action (work to rule, picket, overtime ban or strike) however law does protect the workers taking industrial action. Under part 2 of the Industrial Relations Act, following immunities are provided to workers taking part in peaceful industrial action:

- i. Immunity (to all) from criminal or civil proceedings for conspiracy to do a particular act if such act is done punishable as a crime;
- ii. Immunity (to members and officials of authorized trade union) from prosecution when taking part in peaceful picketing; and
- iii. Immunity (to members and officials of authorized trade union) from prosecution for inducement or threats to break the employment contract.

An employer may dismiss a worker engaged in strike (any industrial action) however this dismissal would be considered unfair if:

- i. One or more of the other employees taking part in the action were not dismissed; Or
- ii. One or more of the other employees who were dismissed, were later reinstated or re-engaged and the employee was not.

**Source:** §5 of Unfair Dismissals Act 1977

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

Check

DecentWorkCheck Ireland is a product of WageIndicator.org  
and [www.mywage.org/ireland](http://www.mywage.org/ireland)



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





# DECENTWORKCHECK.ORG

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |





## 07/13 Health & Safety

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |









## 08/13 Sick Leave & Employment Injury Benefits

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

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Nationality/Place of Birth	😊	<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste	😊	<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status	😊	<input type="checkbox"/>	<input type="checkbox"/>
Age	😊	<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS	😊	<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities	😊	<input type="checkbox"/>	<input type="checkbox"/>
Language	😞	<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)	😊	<input type="checkbox"/>	<input type="checkbox"/>
Marital Status	😊	<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance	😞	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity	😊	<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden	😊	<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour	😊	<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week	😞	<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

46. I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace	😞	<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>



# DECENTWORKCHECK.ORG

## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Ireland scored 38 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.