



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Teagasc Labour Conference

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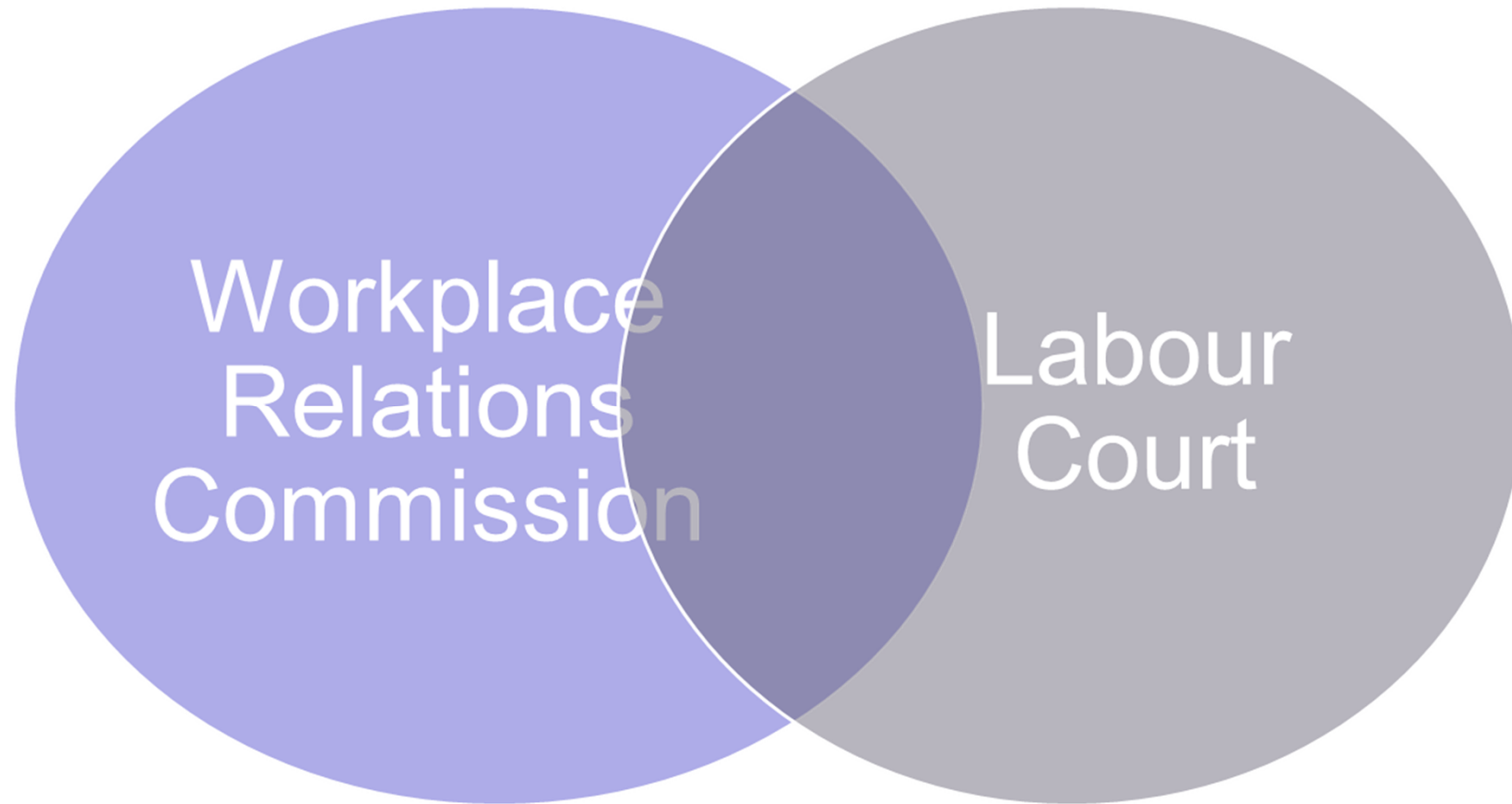
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Workplace Relations Commission – who are we?

- Workplace Relations Act, 2015 – 1st October 2015
- Established the Workplace Relations Commission (WRC)
- Amalgamated – EAT, LRC, Equality Tribunal and NERA



Employment Rights Institutions



WRC

WRC – Functions , Supports & Services

- Promote the improvement and maintenance of good Workplace Relations
 - Provision of information to employees and employers
 - Call centre
 - Website
 - Public events
- Promote and encourage compliance with relevant employment legislation
 - Inspection
 - Enforcement
- Provision of early dispute resolution
 - Mediation
 - Conciliation
 - Facilitation & Advisory services.
- Redress avenues
 - Investigation by an Inspector
 - Hearing by an Adjudicator

WRC – Functions

- Conduct reviews of, and monitor developments, in workplace relations generally
- Conduct or commission relevant research and provide advice, information and the findings of research to Joint Labour Committees and Joint Industrial Councils
- Advise the Minister for Jobs, Enterprise and Innovation in relation to the application of, and compliance with, relevant legislation
- Provide guidance in relation to codes of Practice



Information

- For everyone – 70% employees/25% employers
- 1890 80 80 90 - automated after hours
- Comprehensive website - www.workplacerelations.ie
- Eform for queries
- Decisions and Determinations
- Single online complaint form
- Multilingual information – 14 languages
- Presentations/Exhibitions
- **Employment Permits Information**
- **Non Directive service**

What the WRC did in 2016

- 63,000 telephone queries
- 440,000 website visits
- 4,830 Inspections
 - 2,877 unannounced
 - €1.5M wages recovered
 - 75,000 employees
- 3,017 Adjudication hearings

Getting it right from the Start



Employment Law

- Employment law applies to all employment relationships
- Different conditions, dependent on:
 - Employee age
 - Employee experience
 - Employment sector
 - Job classification

Our aim in this presentation is to provide you with the basics which you need to know and inform you of additional information available.

Employee or Not?

- Employee
 - Employed directly by the farmer or his company
- Contractor
 - In business on their own account
- Agency Worker
- SCOPE SECTION – Department of Social Protection
- Part-time & Fixed Term Working

Agency Workers

- Agency workers
 - Protection of employees (Temporary Agency Work) Act, 2012 – effective 16 May, 2012, pay provisions effective 5 Dec 2011
- Same basic working and employment conditions as those hired directly

Agency Workers

Terms

- Basic Pay
- Working Time
- Rest Periods
- Rest Breaks during the working day
- Night Work
- Overtime
- Annual leave
- Public Holidays
- Access to collective facilities and amenities
- Access to information on vacancies

Pay

- Basic Pay – and any excess pay in respect of the following
- Shift Work
- Piece Work
- Overtime payments
- Unsocial hours worked
- Sunday hours

Paid the above at the same rate

Not Included

Occupational social security schemes, Pensions, Sick pay, Financial participation schemes

Who can Work in Ireland

- EEA nationals
- Swiss nationals
- Persons granted Refugee status
- Persons granted temporary leave to remain on grounds
- Persons with specific immigration permission permitting them to work
- Persons with Working Visa/Work Authorisation
- Spouses, civil partners or dependents of an Irish or EEA national with permission to remain
- Persons granted leave to remain as the parent of an Irish citizen
- **Persons not in the above categories require an employment permit to work in Ireland.**
- **PPS Numbers do not give a right to work**



Ineligible categories – DJEI.ie

- Clerical/Administrative
- General Operatives/Labourers
- Operator and Production Staff
- Domestic Workers
- Work Riders (Horse Racing)
- Retail sales
- Drivers including HGV
- Childcare Workers
- All tourism and catering staff except chefs
- Farmers/Agriculture workers

Keeping Records

By law all employers must keep employment records:

- Key to demonstrating compliance
- Protects employers and employees
- Good business management



Young Persons Working

Age	School Term	Holidays	Times
14	0	35	8am-8pm
15	8	35	8am-8pm
16/17	40	40	6am-10pm

- Employer must see a copy of birth (under 16)
- Get written permission of parent or guardian before employing person under 16
- Provide a summary of the Act to an under 18 within one month of the commencement date
- Obtain a certificate or other evidence of age before employing young person (16 & 17) or child

Employees Basic Rights

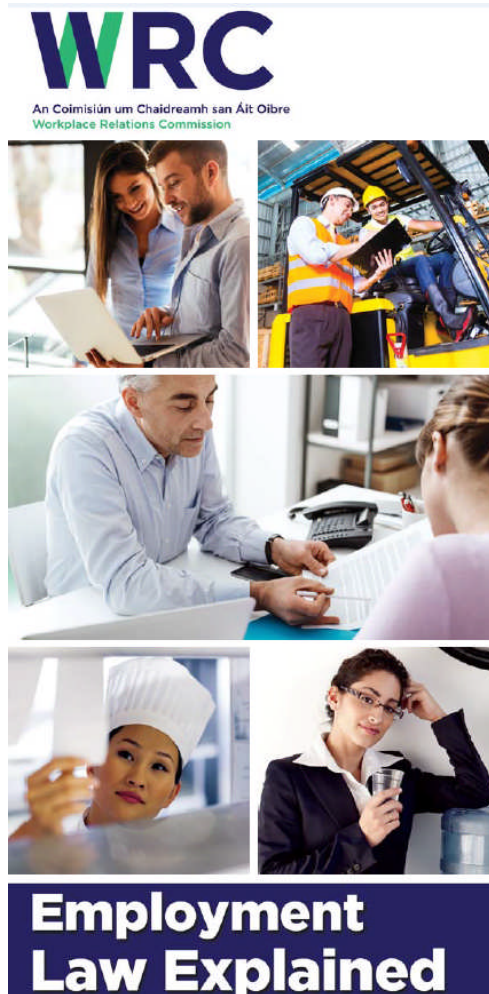
- Written Statement of Terms and Conditions
- Written statement of Pay (Payslip)
- Minimum Wage
- Annual Leave/Holidays – 4 working weeks
- Average 48 hr working week – 6 months
- Sunday Premium
- Breaks/Rest periods – Compensatory rest
- Minimum Notice before dismissal

Statement of Terms of Employment

- Terms and Conditions of Employment are the basis of the employment relationship
- Gives clear understanding to both parties
- Protects employees from exploitation
- Protects employers from false claims
- Sample terms and Conditions – workplacerelations.ie



Include?????



- Name of employer and employee
- Address of employer
- Place of work
- Job title/nature of work
- Date of commencement of employment
- Duration/expiration of contract(if temporary, fixed term or fixed purpose)
- Rate of pay and pay intervals
- Hours of work (overtime/shift patterns/Sunday Work)

WRC

Statement of Terms of Employment

- Rest breaks (including a procedure for complaints)
- Annual Leave – other paid leave
- Sick Leave
- Pension Schemes
- Notice employee is entitled to receive, and obliged to give
- Collective agreements affecting employment
- Details of the employee's right to request and obtain written statement of average hourly rate of pay as per Minimum Wage Acts, 2000 and 2015
- Details of Grievance & Disciplinary Procedures (Good Practice)

Pay & Wages

An employee must be given a payslip with each payment of wages

A deduction can only be made from wages where it:

- is required by law (Tax and Social Insurance)
- is made with the written consent of the employee (Trade Union subscription/Health Insurance)
- is provided for in the written terms and conditions (board and lodgings)

The gross wage and all deductions must be shown on the payslip

National Minimum Wage

(from 1st January 2017)

- National Minimum Wage for an experienced adult worker is €9.25
- 1st Year of Employment over age of 18 is €7.40
- 2nd Year of Employment over age of 18 is €8.33
- U18 Rate is €6.48
- Board and Lodgings are a reckonable element of pay
 - €54.13 for full board and lodgings per week, or €7.73 per day
 - €32.14 for full board only per week, or €4.60 per day
 - €21.85 for lodgings only per week, or €3.14 per day

Working Hours



Maximum hours, Daily & Weekly rest

- Maximum 48 hour working week on average
- Average generally calculated over four months (in some cases 6/12 months)
- Breaks must be given for
 - 15 minutes within 4 ½ hours work
 - 30 minutes within 6 hours work (may include the above)
 - 11 hour daily rest period per 24 hours
 - 24 hour rest period per week following a daily rest period

Sunday Premium

- Format:
 - An allowance, or
 - Increasing the employee's rate of pay, or
 - Paid time off from work, or
 - Combination of two or more of the means referred to in the preceding paragraphs
 - Must be reasonable having regard to all the circumstances
- Where **composite rates** are presented the employer has an obligation [Labour Court DWT 15104] to clearly set out the precise method of compensation in the written statement of Terms and Conditions of Employment.
- The premium cannot be taken into consideration by means of **food provided** [Labour Court DWT 1467].

Public Holidays

- F/T workers immediate entitlement to benefit, part-time when worked a total of 40 hours in the previous 5 weeks.
- Person working is entitled to be paid for the day plus a benefit for the public holiday. Can be different for each public holiday and each employee
- If business closed on the public holiday & employee normally works = then normal day's pay.
- If business is open & employee works = paid time off or an additional day's pay (normal daily hours last worked before the public holiday).
- If an employee is not normally rostered to work, then they will be entitled to one-fifth of their normal weekly wage extra.

Accrual of leave when sick

- Statutory annual leave entitlement accrues during a period of certified sick leave.
- An annual leave carryover period of 15 months after a leave year will apply 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 will apply 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.

Family Leave

- Carers
- Maternity
- Parental
- Paternity (Paternity Leave and Benefit Act 2016)
- Adoptive

Ending the Employment

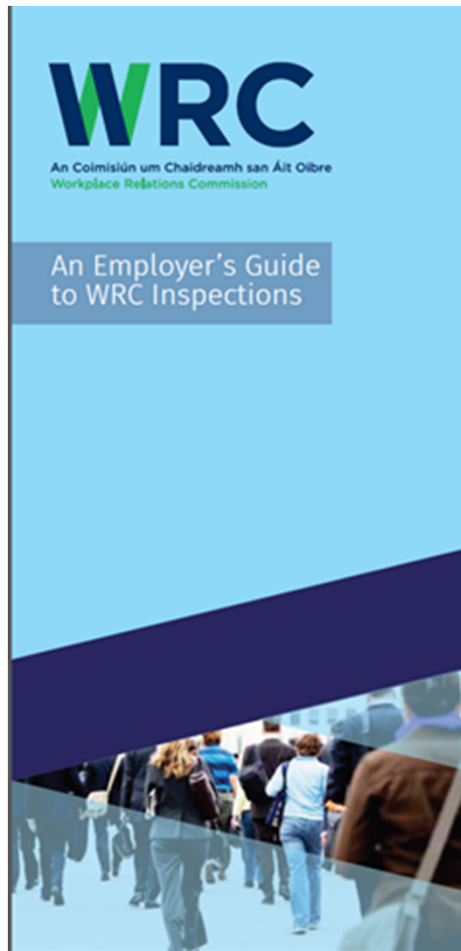
- Dismissal
- Redundancy – 2 years service
- Minimum Notice

Length of Service	Minimum Notice
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

Supports for Problems in the workplace

- Mediation –
 - Early Resolution Service (phone contact)
 - Face to Face (facilitates parties to find a solution)
- Conciliation – (large groups)
- Advisory – (pre-empt)
- Employees can make complaints using the on-line complaint form

Inspections



- Checklist for preparation

Inspection & Enforcement

Regional Offices	Counties	Regional Managers	Team Managers
Carlow	Carlow, Kildare, Offaly , Westmeath, Wicklow, Wexford, Laois, Kilkenny	Fran Power Brendan Hogan	John Doheny Paula Coogan
Dublin	Dublin, Meath, Louth, Monaghan, Cavan.	John Kelly	Mary Kilduff Hillary Saunders
Cork	Cork, Kerry, Waterford, Tipperary South	Brendan Hogan	Mary Coughlan
Shannon	Clare, Limerick, Galway, Tipperary North.	John Kelly	Danny Losty
Sligo	Sligo, Donegal, Leitrim, Mayo, Roscommon, Longford	Bernard Rooney	Brendan Feeney

2016 Statistics

Cases Concluded	4,830
Employers in Breach	1,811
Unpaid Wages Recovered	€1,521,600
Number of Complaints Received	1,019
Prosecutions	110
JIU's (Day & Night)	657

Inspections - Overview

- Inspections will be by appointment or unannounced
- Most unannounced EP visits are done at night
- Records will be examined
- Employers / Employees will be interviewed
- Carry out Joint Inspections and share information with Revenue / Social Protection / GNIB
- Complaints / Anonymous Reports / Risk Profiling
- Campaigns / Special Projects / Streetscapes / Road Stops
- Non-compliance can usually be resolved through communication and cooperation

Records Examined

- Employer registration number with Revenue
- Employee Register - list of all employees and their details
- Terms of Employment for each employee
- Payroll details (gross to net, payslips, hourly rate, Sun Premium)
- Evidence that employer has provided payslips
- Hours of work records (start and finish, overtime & rest breaks)
- Register of employees under 18 years of age
- Annual Leave and Public Holiday details
- Permission to work documentation for Non EEA Nationals
- Details of Board and Lodging, if applicable

Non-Compliance

- Employer requested to rectify any contraventions
- Reasonable time-frame agreed to achieve compliance
- Follow-up to ensure compliance is achieved and maintained
- Failure to rectify contraventions or cooperate will result in penalties under statute being invoked

Notifications / Penalties

- Contravention Letter
- Compliance Notice
- Fixed Penalty Notice
- Prosecution

Prosecution

- Failure to pay NMW
- Failure to keep statutory employment records
- Obstruction, false or misleading information to Inspector
- Failure to comply with a Compliance Notice
- Employment of foreign National without permission (Work Permit/VISA)
- Operating an unregistered employment agency

Fixed Payment Notice

Act	Section	Contravention	Prescribed Payment
Protection of Employment Act, 1977	Section 11	Failure of an employer to initiate consultations with employees' representatives where it is proposed to create collective redundancies.	€2,000
Payment of Wages Act, 1991	Section 4(4)	Failure of the employer to give to the employee a statement of wages or to specify certain particulars in a statement.	€1,500
National Minimum Wage Act, 2000	Section 23	Failure of employer to provide a statement of the average hourly rate of pay or the provision by the employer of false or misleading information to an employee in a statement under subsection knowing it to be false or misleading	€1,500

Fixed Payment Notice

- Inspector must have “reasonable grounds for believing” that an offence has occurred
- 42 days from date of notice to pay
- Prosecution will not be initiated during 42 day period or if payment made during that period
- If not paid matter goes to prosecution before District Court

Compliance Notice

- 18 contraventions – under 5 separate pieces of Legislation
- Notice sets out actions required by employer
- Date to be “specified” for each action but not earlier than 42 days from service of notice
- Appeals to Labour Court within 42 days

Compliance Notice

- Inspector may withdraw notice and / or change specified date
- Labour Court may Affirm, Withdraw or Withdraw and issue directions
- Labour Court decision and/or direction may be appealed to Circuit Court
- Circuit court may Affirm, Annul the LC decision & order withdrawal of Notice or Annul the LC direction
- Failure to comply with a Compliance Notice is an offence
- Notice of Satisfaction - if compliance achieved

Act	Section	Compliance Notice Contravention
Payment of Wages Act, 1991	Section 5	Illegal deduction from wages
Maternity Protection Act, 1994	Section 18	Failure of employer to a) grant leave on health and safety grounds to relevant employees (i.e. those who are pregnant, who have recently given birth or who are breastfeeding) b) issue a certificate of health and safety leave c) pay remuneration for the first 21 days of health and safety leave.
Organisation of Working Time Act, 1997	Section 6(2)	Failure of employer to grant compensatory rest periods.
	Section 11	Failure of employer to grant a daily rest period
	Section 12	Failure of employer to grant rest breaks
	Section 13	Failure of employer to grant a weekly rest period
	Section 14(1)	Failure of employer to compensate employer for Sunday work
	Section 15(1)	Employer permitting employee to work more than maximum working week
	Section 16(2)	Employer permitting a night worker to work more than the permissible hours for a 24 hour period
	Section 17	Failure of employer to notify employee of working hours
	Section 18	Failure of employer to make a payment under Section 18(2) to an employee with zero-based working hours.
	Section 19(1)	Failure of employer to grant annual leave entitlements
	Section 19(1)(A)	Failure of employer to reckon a certified absence due to illness for the purpose of annual leave entitlement
	Section 21	Failure of employer to grant annual public holiday entitlements
	Section 22	Failure of employer to comply with public holiday supplementary provisions
	Section 23(1)	Failure of employer to grant compensation on cessation of employment for the loss of annual leave
Carer's Leave Act, 2001	Section 13(2)	Failure of employer to grant annual leave entitlements to employee on carer's leave
Protection of Employees (Temporary Agency Work) Act, 2012	Section 14	Failure of the hirer, as respects access to collective facilities and amenities at a place of work, to treat an agency worker no less favourably than an employee of the hirer.

Miscellaneous

- Inspections by direction of Labour Court (S.30)
- Inspector report admissible as evidence (S.29)
- Powers to share information (S.31-35)

Information Sharing Official Bodies

- an Garda Siochana
- Revenue Commissioners
- Minister of the Government
- ODCE / HSA
- PSA / RSA
- CCPC / EAT
- Pensions Authority / Ombudsman
- local authorities
- Labour Court
- HIQA
- Any other person charged by law with the detection, investigation or prosecution of offences

Joint Investigation Units

- All WRC Inspectors are JIU officers
- JIU's carried out with
 - Revenue (unannounced site visits / inspections)
 - Customs & Excise (road stops / ports)
 - Social Protection (unannounced site visits / inspections)
 - Gardai (local Immigration Officers / GNIB / GNPB)
 - Road Safety Authority (inspections / road stops)
 - Private Security Agency (information sharing)
 - Local Authorities (information sharing)
 - Marine Task Force (inspections)

Information Sharing

WRC  Revenue

- Unregistered Employers
- Unregistered Employees
- Cash Businesses
- Bogus self-employed
- Excessive Expenses / Cash
- Benefit-in-kind
- Shadow Economy
- Pop-up businesses

Revenue  WRC

- Payments below NMW
- No payslips
- No contracts
- No timesheets
- No Sunday Premium
- No AL / PH's
- Non-EEA nationals
- Au Pairs / Volunteer Workers

www.workplacerelations.ie

or tel:1890 80 80 90

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Public Service Stability Agreement 2018-2020

WRC
An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Workplace Relations Commission
The Workplace Relations Commission (WRC) is an independent, statutory body which was established on 1st October 2015 under the Workplace Relations Act 2015 (No. 16 of 2015).
[Read more](#)

Thank You