

New employment legislation

Failure to comply with new employment laws could see employers facing jail time!

Employment Act 2018 – An overview

How employers can prepare

What is The Employment Act 2018?

The Employment Act 2018

To improve security and predictability of working hours for employees on insecure contracts and those working variable hours

Key Changes


- Written statement within 5 days of commencing employment
- Zero hour contracts prohibited, save in limited circumstances
- Minimum payment for employees who are required to be available for work but not called in
- New concept of "banded hours" introduced
- Strong anti-penalisation provisions for employees

1. 5 Core Terms in 5 Days

- ✓ The full name of employer & employee
- ✓ The address of the employer
- ✓ Where the contract is temporary, the expected duration of the contract or the date of expiry of a fixed-term contract
- ✓ The rate of method of calculating pay and the pay reference period
- ✓ What the employer reasonably expects to be the normal length of the employee's working week

Failure to Comply

- Failure to comply can give rise to a criminal offence
 - Fines of up to €5,000
 - Imprisonment of up to 12 months
- Liability falls to anyone with responsibility
- **Be prepared, put simple documentation in place and ensure that it is rolled out to all employees**



Deep Breaths

Existing legislation:

15 key terms of employment within two months of commencing employment

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New legislation:

Employers now need to be providing 5 of these terms earlier

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Good practice would be to provide a full contract of employment in advance of starting employment

Terms & Conditions of Employment

Terms of Employment
(Information) Act 1994

Name of Employer/Employee	Rate, calculation & frequency of remuneration
Address of Employer	Reference to statement under minimum wage
Place of work	Paid leave
Job Description/details	Sick Pay
Start date & duration	Pension details
Hours of work incl. overtime	Notice on termination
Rest periods and breaks	Details of any collective agreements

Additional Best Practice Clauses

Probation
Pay in lieu of notice
Confidentiality
Post termination restrictions



2. Zero Hour Contracts Banned



3. Minimum Payments

Less than 25% of normal hours provided

Entitlement to lesser of pay for 25% of hours worked or 15 hours

Rate of pay is 3 times minimum wage

Casual Contracts

- Casual contracts acceptable
- Does *Mutuality of Obligation* exist?
 - No obligation to provide work
 - No obligation to accept work

No obligation to provide work

The Company is not obliged to provide work to you and you are not obliged to accept any work offered by the Company. However, the Company will offer you work as and when required. You will be offered work on a "casual as required" basis when the Company's business needs arise. All aspects of this contract must be interpreted in the light of that.

4. Banded Hours

8 Bands	
Band A:	3 to 6 hours
Band B:	6 to 11 hours
Band C:	11 to 16 hours
Band D:	16 to 21 hours
Band E:	21 to 26 hours
Band F:	26 to 31 hours
Band G:	31 to 36 hours
Band H:	Over 36 hours

Grounds for Refusal:

- No evidence to support the employee's claim
- There have been significant adverse changes to the business
- Due to exceptional circumstances, e.g. emergency
- The average hours worked were affected by a temporary situation

Example

- Barry has been employed as a tour operator for last year
- His contract does not specify hour
- On avg. he works 25 hours per week
- He has payslips to show this



Barry requests a Banded Hours contract

Within one month his employer issues him with a new contract of employment

His hours now state that his hours fall within Band E; meaning he will receive between 21 – 26 hours per week

Anti Penalisation

- Penalisation covers:
 - A detriment to terms and conditions of employment
 - Discipline or dismissal
 - Transfers
 - Changing hours
 - Reducing pay
 - Intimidation



Minimum Wage

AGE	CALCULATION	CURRENT RATE
Under 18	70% of minimum wage	€6.86
Aged 18	80% of minimum wage	€7.84
Aged 19	90% of minimum wage	€8.82

How you can prepare

Top Tips

- ✓ Review your current employment contracts
- ✓ Do employee's hours worked match contractual hours?
- ✓ Do management understand their new obligations?
- ✓ Will you be able to provide contracts within 5 days?
- ✓ Review zero-hour contracts / practices - are they justified?