



# Contracts of Employment - What Must I Include?



## Contracts of Employment

### What Must I Include in a Contract of Employment?

Under the new Employment (Miscellaneous Provisions) Act 2018, all employees are entitled to receive a statement of five key terms of their employment within **one week of starting work**. The core terms that must be provided are:

- 1) The full names of the employer and employee
- 2) The address of the employer
- 3) The expected duration of the contract (where the contract is temporary or fixed term)
- 4) The rate or method of calculating pay and the pay reference period for the purposes of the National Minimum Wage Act 2000 (for example, a week, a fortnight or a month)
- 5) What the employer reasonably expects the normal length of your working day and week to be, in a normal working day and in a normal working week.





A full statement of the remaining terms of employment i.e. contract of employment must be provided **within two months of starting work**, as required by the Terms of Employment (Information) Acts 1994–2014.

This statement must include:

- 1) The place of work
- 2) The title of the job or the nature of the work
- 3) The date the employment started
- 4) Pay intervals (for example, weekly or monthly)
- 5) Any terms or conditions relating to hours of work (including overtime)
- 6) Paid leave (other than sick leave), including annual leave and public holiday entitlement
- 7) Sick pay
- 8) Pension and pension schemes
- 9) Period of notice to be given by employer or employee
- 10) Details of any collective agreements that may affect your terms of employment

## **Maintain Up-To-Date Contracts of Employment**

What many employers forget is that as these terms and conditions change over time, they are obliged to maintain an accurate and up to date contract of employment for each employee.

### **Example Case**

In a Labour Court Hearing in July 2019 [Maano Foods (Dungarvan) Limited. Trading as Domino's Pizza - And - Mr Marcin Zygala], an employee took a claim against their employer for failing to provide them with updated terms after they had been promoted, resulting in a change to their job title and rate of pay.

### **Employer Found in Breach of the Act**

The employer was found to be in breach of the act and €1,528.80 was awarded in compensation to the employee, equivalent to four weeks gross pay. The company appealed this decision on the basis that the employee had suffered no loss as a result of the error. They lost their appeal as the law states it is not necessary for a Complainant under the Act to show that he or she suffered a loss, in order to secure compensation.



However, as the breach was very minor, the adjudicator reduced the compensation to €764.40, equivalent to two weeks' pay.

### **60-70% of Employee Contracts are Out-of-Date**

In our experience of conducting HR audits, circa 60-70% of employee contracts are out of date in employments with relatively stable workforces as terms change annually or more often. Two – four weeks' pay per employee could quickly become costly, in addition to the cost and inconvenience of preparing a defence, organising representation and witnesses attending hearings/appeals.

### **Book a HR Audit today**

Avoid the risk by contacting Aspire HR today to arrange a HR audit on your business or for guidance on drafting contract templates and update letters.

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Please note: © Aspire HR. This document is intended to be a general guide only.

## Appendix

### Employment Contract Sample

Source: WRC (Workplace Relations Commission)

**TERMS OF EMPLOYMENT (INFORMATION) ACT, 1994  
AND 2001**

### **SAMPLE WRITTEN STATEMENT OF 'CORE' TERMS OF EMPLOYMENT**

This form may be used by employers for the purposes of providing an employee with a written statement of particulars of the terms of employment as required by the above Acts and the Employment (Miscellaneous Provisions) Act 2018. [Required from the 4 March 2019 ]

**THIS STATEMENT MUST BE GIVEN WITHIN 5 DAYS  
AFTER STARTING WORK**

**IMPORTANT: Please refer to explanatory notes attached  
before completing the form.**



This statement applies to

**(a) FULL NAME OF EMPLOYEE**

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**(b) FULL NAME OF EMPLOYER**

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(See Note 1)

**(c) ADDRESS OF EMPLOYER**

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(See Note 2)

**(d) IF TEMPORARY CONTRACT** (expected duration of temporary contract)

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**(e) IF FIXED TERM CONTRACT** (date on which contract expires)

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**(f) RATE OF REMUNERATION**

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(See Note 3)



(g) **MINIMUM WAGE PAY REFERENCE PERIOD** (weekly, monthly or otherwise) period used to calculate hourly rate of pay or the National Minimum Wage Act 2000) (See Note 3)

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The employee may, under Section 23 of the National Minimum Wage Act, 2000, request from the employer a written statement of the employee's average hourly rate of pay for any pay reference period falling within the previous 12 months

(h) **APPLICABLE EMPLOYMENT REGULATION ORDER OR SECTORAL EMPLOYMENT ORDER**

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(i) **The NUMBER OF HOURS** (including overtime) **which the employer reasonably expects the employee to work**

Per normal working day \_\_\_\_\_

Per normal working week \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

(Proprietor/Manager/Company Secretary/Human Resources Manager)

## Notes

**Note 1: NAME OF EMPLOYER** — Employers must state their full and correct name. In the case of a limited company, the name of the company as registered with the Companies Registration Office should be given.

**Note 2: ADDRESS OF EMPLOYER** — A number of options are available under this heading. The intention is to ensure that the employee is given the full and accurate address of the employer. The options are as follows:

- The address in the State.
- The address of the principal place of the relevant business in the State (this could be appropriate in the case of a business which has a number of locations).
- The address of the registered office, i.e. address of the company as registered with the Companies Registration Office (within the meaning of the Companies Act 2014)

**Note 3: RATE OF REMUNERATION/MEANS OF CALCULATING REMUNERATION** —

In addition to basic pay, this heading covers any other aspects of remuneration such as Sunday premium, bonus, commission, productivity incentives, etc. (If the employer does not give details of the rate of remuneration, he/she must give details of the method of calculating the remuneration). If appropriate, it could be stated that the rate is as set out in a specified Employment Regulation Order or Sectoral Employment Agreement.

The following payments are regarded as wages:

- Normal basic pay (as well as any overtime);
- Sunday premium
- Shift allowances or other similar payments;
- Any fee, bonus or commission;
- Any holiday, sick or maternity pay;
- Any other return of payment for work (whether made under the contract of employment or otherwise), and;
- Any sum payable to an employee in lieu of notice of termination or employment

## **Sunday Premium**

If not already included in the rate of pay, an employee is entitled to paid time off in lieu or a premium payment for Sunday working. I

If Sunday premium is already included in the rate of pay, the amount attributable to Sunday premium should be clearly specified. An employee is entitled to the premium payment for Sunday working payable to a comparable employee in a collective agreement in force in a similar industry or sector.

This means that the Sunday premium, if not already paid, will be equivalent to the closest applicable collective agreement which applies to the same or similar work under similar circumstances and which provides for a Sunday premium.

The premium can be in the form of:

- An allowance
- Increased rate of pay
- Paid time off
- Combination of the above.



The employer must indicate the pay reference period for the purposes of the National Minimum Wage Act, 2000. Also, the employer must state that the employee may request from the employer a written statement of the employee's average hourly rate of pay for any reference period falling within the previous 12 months as provided in Section 23 of the National Minimum Wage Act, 2000.

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