



Number 25 of 1991

PAYMENT OF WAGES ACT 1991

REVISED

Updated to 1 September 2017

This Revised Act is an administrative consolidation of the *Payment of Wages Act 1991*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *National Shared Services Office Act 2017 (26/2017)*, enacted 26 July 2017, and all statutory instruments up to and including *Education Support Centres (Appointment and Secondment of Directors) Regulations 2017 (S.I. No. 394 of 2017)*, made 1 September 2017, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1993, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Modes of payment of wages.
3. Repeal of Truck Acts, 1831 to 1896, and related enactments.
4. Statements of wages and deductions from wages.
5. Regulation of certain deductions made and payments received by employers.
6. Complaint to adjudication officer under section 41 of Workplace Relations Act 2015
7. Decision of Labour Court on appeal from decision referred to in *section 6*
8. Enforcement of decisions of rights commissioner and determinations of Tribunal.
9. Powers of authorised officers.
10. Provisions in relation to offences.
11. Voidance of certain provisions in agreements.
12. Laying of regulations before Houses of Oireachtas.
13. Expenses of Minister.
14. Short title and commencement.

SCHEDULE

Enactments Repealed

ACTS REFERRED TO

Bills of Exchange Act, 1882	1882, c. 61
Central Bank Act, 1971	1971, No. 24
Civil Service Regulation Act, 1956	1956, No. 46

[No. 25.]

Payment of Wages Act 1991

[1991.]

County Works (Ireland) Act, 1846	1846, c. 2
Hosiery Manufacture (Wages) Act, 1874	1874, c. 48
Industrial Relations Act, 1990	1990, No. 19
Local Government Act, 1941	1941, No. 23
Payment of Wages Act, 1979	1979, No. 40
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Redundancy Payments Act, 1967	1967, No. 21
Truck Act, 1743	1743, c. 8
Truck Act, 1831	1831, c. 37
Truck Act, 1896	1896, c. 44
Truck Amendment Act, 1887	1887, c. 46
Trustee Savings Banks Act, 1989	1989, No. 21



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AN ACT TO PROVIDE FURTHER PROTECTION FOR EMPLOYEES IN RELATION TO THE PAYMENT OF WAGES, TO FACILITATE THE PAYMENT OF WAGES OTHERWISE THAN IN CASH, FOR THAT PURPOSE TO REPEAL THE TRUCK ACTS, 1831 TO 1896, AND RELATED ENACTMENTS AND TO PROVIDE FOR CONNECTED MATTERS. [23rd July, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation. 1.—(1) In this Act—

“cash” means cash that is legal tender;

“contract of employment” means—

(a) a contract of service or of apprenticeship, and

(b) any other contract whereby an individual agrees with another person 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) whose status by virtue of the contract is not that of a client or customer of any profession or business undertaking carried on by the individual, and the person who is liable to pay the wages of the individual in respect of the work or service shall be deemed for the purposes of this Act to be his employer,

whether the contract is express or implied and if express, whether it is oral or in writing;

“employee” means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer; and for the purpose of this definition, a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces) or otherwise as a civil servant, within the meaning of the Civil Service Regulation Act, 1956, shall be deemed to be an employee employed by the State or the Government, as the case may be, and an officer or servant of a local authority for the purposes of the [Local Government Act 2001 (as amended by the Local Government Reform Act 2014)], a harbour authority, a health board or [a member of staff of an education and training board] shall be deemed to be an employee employed by the authority [or board], as the case may be;

“employer”, in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment;

“the Minister” means the Minister for Labour;

“strike” and “industrial action” have the meanings assigned to them by the Industrial Relations Act, 1990;

“the Tribunal” means the Employment Appeals Tribunal;

“wages”, in relation to an employee, means any sums payable to the employee by the employer in connection with his employment, including—

- (a) any fee, bonus or commission, or any holiday, sick or maternity pay, or any other emolument, referable to his employment, whether payable under his contract of employment or otherwise, and
- (b) any sum payable to the employee upon the termination by the employer of his contract of employment without his having given to the employee the appropriate prior notice of the termination, being a sum paid in lieu of the giving of such notice:

Provided however that the following payments shall not be regarded as wages for the purposes of this definition:

- (i) any payment in respect of expenses incurred by the employee in carrying out his employment,
- (ii) any payment by way of a pension, allowance or gratuity in connection with the death, or the retirement or resignation from his employment, of the employee or as compensation for loss of office,
- (iii) any payment referable to the employee's redundancy,
- (iv) any payment to the employee otherwise than in his capacity as an employee,
- (v) any payment in kind or benefit in kind.

(2) Except in *section 5 (5) (f)*, a reference in this Act to an employer receiving a payment from an employee is a reference to his receiving such a payment in his capacity as the employee's employer.

(3) In this Act, a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended.

(4) In this Act, a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Modes of payment of wages.

2.—(1) Wages may be paid by and only by one or more of the following modes:

- (a) a cheque, draft or other bill of exchange within the meaning of the Bills of Exchange Act, 1882,
- (b) a document issued by a person who maintains an account with the Central Bank of Ireland or a holder of a licence under section 9 of the Central Bank Act, 1971, which, though not such a bill of exchange as aforesaid, is intended to enable a person to obtain payment from that bank or that holder of the amount specified in the document,
- (c) a draft payable on demand drawn by a holder of such a licence as aforesaid upon himself, whether payable at the head office or some other office of the bank to which the licence relates,
- (d) a postal, money or paying order, or a warrant, or any other like document, issued by or drawn on An Post or a document issued by an officer of a Minister of the Government that is intended to enable a person to obtain

payment from that Minister of the Government of the sum specified in the document,

- (e) a document issued by a person who maintains an account with a trustee savings bank within the meaning of the Trustee Savings Banks Act, 1989, that is intended to enable a person to obtain payment from the bank of the sum specified in the document,
- (f) a credit transfer or another mode of payment whereby an amount is credited to an account specified by the employee concerned,
- (g) cash,
- (h) any other mode of payment standing specified for the time being by regulations made by the Minister after consultation with the Minister for Finance.

(2) Where wages fall to be paid to an employee by a mode other than cash at a time when, owing to a strike or other industrial action affecting a financial institution, cash is not readily available to the employee, the employer concerned shall, if the employee consents, pay the wages by another mode (other than cash) specified in *subsection (1)* and, if the employee does not so consent, pay them in cash.

(3) An employer who pays wages to an employee otherwise than by a mode specified in *subsection (1)* or contravenes *subsection (2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Repeal of Truck Acts, 1831 to 1896, and related enactments.

3.—(1) The enactments specified in *column (2)* of the *Schedule* to this Act are hereby repealed to the extent specified in *column (3)* of that Schedule.

(2) Notwithstanding any provision of this Act—

- (a) where, immediately before the commencement of this Act, an employee's wages were being paid to him in cash, the employer shall, while the employee is in the employment concerned, continue to pay those wages to him in cash unless any other mode of payment specified in *section 2* is agreed upon by the employer or an organisation representative of employers (of which the employer is a member) and the employee or an organisation representative of employees (of which the employee is a member), and
- (b) where, immediately before such commencement, an employee's wages were being paid to him, pursuant to *section 3* of the Payment of Wages Act, 1979, by an instrument or mode of payment to which that section applied, then, if after such commencement, the agreement or other arrangement authorising payment of the wages by the instrument or mode aforesaid is terminated in a manner specified in that section, the employer shall pay those wages to him in cash unless any other mode of payment specified in *section 2* is agreed upon as aforesaid.

(3) An employer who contravenes *subsection (2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Statements of wages and deductions from wages.

4.—(1) An employer shall give or cause to be given to an employee a statement in writing specifying clearly the gross amount of the wages payable to the employee and the nature and amount of any deduction therefrom and the employer shall take such reasonable steps as are necessary to ensure that both the matter to which the statement relates and the statement are treated confidentially by the employer and his agents and by any other employees.

(2) A statement under this section shall be given to the employee concerned—

- (a) if the relevant payment is made by a mode specified in *section 2 (1) (f)*, as soon as may be thereafter,

(b) if the payment is made by a mode of payment specified in regulations under *section 2 (1) (h)*, at such time as may be specified in the regulations,

(c) if the payment is made by any other mode of payment, at the time of the payment.

(3) Where a statement under this section contains an error or omission, the statement shall be regarded as complying with the provisions of this section if it is shown that the error or omission was made by way of a clerical mistake or was otherwise made accidentally and in good faith.

(4) An employer who contravenes *subsection (1) or (2)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Regulation of certain deductions made and payments received by employers.

5.—(1) An employer shall not make a deduction from the wages of an employee (or receive any payment from an employee) unless—

(a) the deduction (or payment) is required or authorised to be made by virtue of any statute or any instrument made under statute,

(b) the deduction (or payment) is required or authorised to be made by virtue of a term of the employee's contract of employment included in the contract before, and in force at the time of, the deduction or payment, or

(c) in the case of a deduction, the employee has given his prior consent in writing to it.

(2) An employer shall not make a deduction from the wages of an employee in respect of—

(a) any act or omission of the employee, or

(b) any goods or services supplied to or provided for the employee by the employer the supply or provision of which is necessary to the employment,

unless—

(i) the deduction is required or authorised to be made by virtue of a term (whether express or implied and, if express, whether oral or in writing) of the contract of employment made between the employer and the employee, and

(ii) the deduction is of an amount that is fair and reasonable having regard to all the circumstances (including the amount of the wages of the employee), and

(iii) before the time of the act or omission or the provision of the goods or services, the employee has been furnished with—

(I) in case the term referred to in *subparagraph (i)* is in writing, a copy thereof,

(II) in any other case, notice in writing of the existence and effect of the term,

and

(iv) in case the deduction is in respect of an act or omission of the employee, the employee has been furnished, at least one week before the making of the deduction, with particulars in writing of the act or omission and the amount of the deduction, and

(v) in case the deduction is in respect of compensation for loss or damage sustained by the employer as a result of an act or omission of the

employee, the deduction is of an amount not exceeding the amount of the loss or the cost of the damage, and

(vi) in case the deduction is in respect of goods or services supplied or provided as aforesaid, the deduction is of an amount not exceeding the cost to the employer of the goods or services, and

(vii) the deduction or, if the total amount payable to the employer by the employee in respect of the act or omission or the goods or services is to be so paid by means of more than one deduction from the wages of the employee, the first such deduction is made not later than 6 months after the act or omission becomes known to the employer or, as the case may be, after the provision of the goods or services.

(3) (a) An employer shall not receive a payment from an employee in respect of a matter referred to in *subsection (2)* unless, if the payment were a deduction, it would comply with that subsection.

(b) Where an employer receives a payment in accordance with *paragraph (a)* he shall forthwith give a receipt for the payment to the employee.

(4) A term of a contract of employment or other agreement whereby goods or services are supplied to or provided for an employee by an employer in consideration of the making of a deduction by the employer from the wages of the employee or the making of a payment to the employer by the employee shall not be enforceable by the employer unless the supply or provision and the deduction or payment complies with *subsection (2)*.

(5) Nothing in this section applies to—

(a) a deduction made by an employer from the wages of an employee, or any payment received from an employee by an employer, where—

(i) the purpose of the deduction or payment is the reimbursement of the employer in respect of—

(I) any overpayment of wages, or

(II) any overpayment in respect of expenses incurred by the employee in carrying out his employment,

made (for any reason) by the employer to the employee, and

(ii) the amount of the deduction or payment does not exceed the amount of the overpayment,

or

(b) a deduction made by an employer from the wages of an employee, or any payment received from an employee by an employer, in consequence of any disciplinary proceedings if those proceedings were held by virtue of a statutory provision, or

(c) a deduction made by an employer from the wages of an employee in pursuance of a requirement imposed on the employer by virtue of any statutory provision to deduct and pay to a public authority, being a Minister of the Government, the Revenue Commissioners or a local authority for the purposes of the [Local Government Act 2001 (as amended by the Local Government Reform Act 2014)], amounts determined by that authority as being due to it from the employee, if the deduction is made in accordance with the relevant determination of that authority, or

(d) a deduction made by an employer from the wages of an employee in pursuance of any arrangements—

(i) which are in accordance with a term of a contract made between the employer and the employee to whose inclusion in the contract the employee has given his prior consent in writing, or

(ii) to which the employee has otherwise given his prior consent in writing,

and under which the employer deducts and pays to a third person amounts, being amounts in relation to which he has received a notice in writing from that person stating that they are amounts due to him from the employee, if the deduction is made in accordance with the notice and the amount thereof is paid to the third person not later than the date on which it is required by the notice to be so paid, or

(e) a deduction made by an employer from the wages of an employee, or any payment received from an employee by his employer, where the employee has taken part in a strike or other industrial action and the deduction is made or the payment has been required by the employer on account of the employee's having taken part in that strike or other industrial action, or

(f) a deduction made by an employer from the wages of an employee with his prior consent in writing, or any payment received from an employee by an employer, where the purpose of the deduction or payment is the satisfaction (whether wholly or in part) of an order of a court or tribunal requiring the payment of any amount by the employee to the employer, or

(g) a deduction made by an employer from the wages of an employee where the purpose of the deduction is the satisfaction (whether wholly or in part) of an order of a court or tribunal requiring the payment of any amount by the employer to the court or tribunal or a third party out of the wages of the employee.

(6) Where—

(a) the total amount of any wages that are paid on any occasion by an employer to an employee is less than the total amount of wages that is properly payable by him to the employee on that occasion (after making any deductions therefrom that fall to be made and are in accordance with this Act), or

(b) none of the wages that are properly payable to an employee by an employer on any occasion (after making any such deductions as aforesaid) are paid to the employee,

then, except in so far as the deficiency or non-payment is attributable to an error of computation, the amount of the deficiency or non-payment shall be treated as a deduction made by the employer from the wages of the employee on the occasion.

[Complaint to adjudication officer under section 41 of Workplace Relations Act 2015]

6.[(1) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015, in relation to a complaint of a contravention of *section 5* as respects a deduction made by an employer from the wages of an employee or the receipt from an employee by an employer of a payment, that the complaint is, in whole or in part, well founded as respects the deduction or payment shall include a direction to the employer to pay to the employee compensation of such amount (if any) as he considers reasonable in the circumstances not exceeding—

(a) the net amount of the wages (after the making of any lawful deduction therefrom) that—

(i) in case the complaint related to a deduction, would have been paid to the employee in respect of the week immediately preceding the date of the deduction if the deduction had not been made, or

(ii) in case the complaint related to a payment, were paid to the employee in respect of the week immediately preceding the date of payment,

or

(b) if the amount of the deduction or payment is greater than the amount referred to in *paragraph (a)*, twice the former amount.

(2) (a) An adjudication officer shall not give a decision referred to in *subsection (1)* in relation to a deduction or payment referred to in that subsection at any time after the commencement of the hearing of proceedings in a court brought by the employee concerned in respect of the deduction or payment.

(b) An employee shall not be entitled to recover any amount in proceedings in a court in respect of such a deduction or payment as aforesaid at any time after an adjudication officer has given a decision referred to in *subsection (1)* in relation to the deduction or payment.]

[Decision of Labour Court on appeal from decision referred to in *section 6*]

7.—[A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *section 6*, shall affirm, vary or set aside the decision of the adjudication officer.]

Enforcement of decisions of rights commissioner and determinations of Tribunal.

8.—[...]

Powers of authorised officers.

9.—[...]

Provisions in relation to offences.

10.—(1) Proceedings for an offence under this Act may be brought and prosecuted by the Minister.

(2) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

Voidance of certain provisions in agreements.

11.—A provision in an agreement (whether a contract of employment or not and whether made before or after the commencement of this Act) shall be void in so far as it purports to preclude or limit the application of, or is inconsistent with, any provision of this Act.

Laying of regulations before Houses of Oireachtas.

12.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses of Minister.

13.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title and commencement.

14.—(1) This Act may be cited as the Payment of Wages Act, 1991.
(2) This Act shall come into operation on such day as the Minister may appoint by order.

Section 3.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number & Year (1)	Short Title (2)	Extent of Repeal (3)
17 Geo. 2, c. 8	Truck Act, 1743	Sections 6 and 7
1 & 2 Will. 4, c. 37	Truck Act, 1831	The whole Act
9 Vict., c. 2	County Works (Ireland) Act, 1846	Section 20
37 & 38 Vict., c. 48	Hosiery Manufacture (Wages) Act, 1874	The whole Act
50 & 51 Vict., c. 46	Truck Amendment Act, 1887	The whole Act
59 & 60 Vict., c. 44	Truck Act, 1896	The whole Act
No. 40 of 1979	Payment of Wages Act, 1979	The whole Act