



Number 5 of 1994

TERMS OF EMPLOYMENT (INFORMATION) ACT 1994

REVISED

Updated to 14 October 2020

This Revised Act is an administrative consolidation of the *Terms of Employment (Information) Act 1994*. 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 the *Regulated Professions (Health and Social Care) (Amendment) Act 2020* (16/2020), enacted 14 October 2020, and all statutory instruments up to and including the *Employment Affairs and Employment Law (Transfer of Departmental Administration and Ministerial Functions) Order 2020* (S.I. No. 438 of 2020), made 13 October 2020, 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

Terms of Employment (Information) Acts 1994 to 2014: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Local Government Reform Act 2014* (1/2014), s. 1(21)). The Acts in the group are:

- *Terms of Employment (Information) Act 1994* (5/1994)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it relates to the *Terms of Employment (Information) Act 1994*
- *Industrial Relations (Amendment) Act 2012* (32/2012), s. 18
- *Local Government Reform Act 2014* (1/2014), s. 1(21) and the amendment to the *Terms of Employment (Information) Act 1994* provided for in s. 5(6) and sch. 2 part 6 (Note: it appears that the reference to s. 5(6) is intended to be to s. 5(8))

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Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked.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 1972, 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. Exclusions.
3. Written statement of terms of employment.
4. Employment outside State.
5. Notification of changes.
6. Existing contracts of employment.
- 6A. Directions by inspector to employer.
- 6B. Offences.
- 6C. Protection against penalisation.
7. Complaint to adjudication officer under section 41 of Workplace Relations Act 2015
8. Decision of Labour Court on appeal from decision referred to in section 7
9. Enforcement of determinations of Tribunal.
10. Evidence of failure to attend before or give evidence or produce documents to Tribunal.
11. Laying of orders and regulations before Houses of Oireachtas.
12. Expenses of Minister.
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AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF DIRECTIVE NO. 91/533/EEC OF 14 OCTOBER, 1991 OF THE COUNCIL OF THE EUROPEAN COMMUNITIES ON AN EMPLOYER'S OBLIGATION TO INFORM EMPLOYEES OF THE CONDITIONS APPLICABLE TO THE CONTRACT OR EMPLOYMENT RELATIONSHIP, TO AMEND THE MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT, 1973, AND TO PROVIDE FOR RELATED MATTERS. [5th April, 1994]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“the Act of 1973” means the Minimum Notice and Terms of Employment Act, 1973;

F1[‘Commission’ means the Workplace Relations Commission;]

F2[‘contract of employment’ means—

(a) a contract of service or apprenticeship, or

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of either the Employment Agency Act 1971 or the Protection of Employees (Temporary Agency Work) Act 2012 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 and if express, whether it is oral or in writing;]

“the Council Directive” means Council Directive No. 91/533/EEC of 14 October, 1991⁽¹⁾;

“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 purposes of this Act, 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 Government, as the case may be, and an officer or servant of a local authority for the purposes of the F3[Local Government Act 2001

⁽¹⁾O.J. No. L 288, 18.10.91, p. 32.

(as amended by the Local Government Reform Act 2014)], a harbour authority, a health board or F4[an education and training board] shall be deemed to be an employee employed by the authority F4[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 subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment” is liable to pay the wages of the individual concerned in respect of the work or service concerned shall be deemed to be the individual’s employer;

F5[‘employment regulation order’ means an employment regulation order within the meaning of Part IV of the Industrial Relations Act 1946;]

“the Minister” means the Minister for Enterprise and Employment;

F5[‘registered employment agreement’ means a registered employment agreement within the meaning of Part III of the Industrial Relations Act 1946.]

“the Tribunal” means the Employment Appeals Tribunal.

(2) A word or expression that is used in this Act and is also used in the Council Directive has, unless the contrary intention appears, the meaning in this Act that it has in the Council Directive.

(3) In this Act—

- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act,
- (b) 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,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Exclusions.

2.—F6[(1) This Act, other than *section 3(1A)*, shall not apply to employment in which the employee has been in the continuous service of the employer for less than 1 month.]

(2) Where the exclusion of a class or classes of employment from any provision of this Act is justified by objective considerations, the Minister may, after consultation with representatives of employers and of employees within that class or classes of employment, by order declare that that provision shall not apply to that class or those classes of employment and this Act shall have effect in accordance with the provisions of any such order for the time being in force.

(3) The First Schedule to the Act of 1973 shall apply for the purpose of ascertaining for the purposes of this Act the period of service of an employee and whether that service has been continuous with the following modifications and with any other necessary modifications—

- (a) the reference to 21 hours shall be construed as a reference to 8 hours,
- (b) the references to an employee shall be construed as references to an employee within the meaning of this Act.

(4) The Minister may by order amend or revoke an order under this section, including an order under this subsection.

Written statement of terms of employment.

3.—(1) An employer shall, not later than 2 months after the commencement of an employee's employment with the employer, give or cause to be given to the employee a statement in writing containing the following particulars of the terms of the employee's employment, that is to say—

(a) F7[...]

(b) F7[...]

(c) the place of work or, where there is no fixed or main place of work, a statement specifying that the employee is required or permitted to work at various places,

(d) the title of the job or nature of the work for which the employee is employed,

(e) the date of commencement of the employee's contract of employment,

(f) F7[...]

F8[(fa) a reference to any registered employment agreement or employment regulation order which applies to the employee and confirmation of where the employee may obtain a copy of such agreement or order,]

F9[(g) F7[...]

(ga) that 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 as provided in that section,]

(h) the length of the intervals between the times at which remuneration is paid, whether a week, a month or any other interval,

(i) any terms or conditions relating to hours of work (including overtime),

(j) any terms or conditions relating to paid leave (other than paid sick leave),

(k) any terms or conditions relating to—

(i) incapacity for work due to sickness or injury and paid sick leave, and

(ii) pensions and pension schemes,

(l) the period of notice which the employee is required to give and entitled to receive (whether by or under statute or under the terms of the employee's contract of employment) to determine the employee's contract of employment or, where this cannot be indicated when the information is given, the method for determining such periods of notice,

(m) a reference to any collective agreements which directly affect the terms and conditions of the employee's employment including, where the employer is not a party to such agreements, particulars of the bodies or institutions by whom they were made.

F10[(1A) Without prejudice to subsection (1), an employer shall, not later than 5 days after the commencement of an employee's employment with the employer, give or cause to be given to the employee a statement in writing containing the following particulars of the terms of the employee's employment, that is to say:

(a) the full names of the employer and the employee;

(b) the address of the employer in the State or, where appropriate, the address of the principal place of the relevant business of the employer in the State or the registered office (within the meaning of the Companies Act 2014);

- (c) in the case of a temporary contract of employment, the expected duration thereof or, if the contract of employment is for a fixed term, the date on which the contract expires;
- (d) the rate or method of calculation of the employee's remuneration and the pay reference period for the purposes of the National Minimum Wage Act 2000;
- (e) the number of hours which the employer reasonably expects the employee to work—
 - (i) per normal working day, and
 - (ii) per normal working week.]

F10[(1B) Where a statement under *subsection (1A)* contains an error or omission, the statement shall be regarded as complying with the provisions of that subsection 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.]

F11[(2) Each statement referred to in *subsection (1)* and *(1A)* shall be given to an employee notwithstanding that the employee's employment ends before the end of the period within which the statement is required to be given.]

(3) The particulars specified in F11[*paragraph (d) of subsection (1A) or paragraphs (h), (i), (j), (k) and (l) of the said subsection (1)*], may be given to the employee in the form of a reference to provisions of statutes or instruments made under statute or of any other laws or of any administrative provisions or collective agreements, governing those particulars which the employee has reasonable opportunities of reading during the course of the employee's employment or which are reasonably accessible to the employee in some other way.

(4) A statement furnished by an employer under F11[*subsection (1) or (1A)*] shall be signed and dated by or on behalf of the employer.

(5) A copy of F11[a statement furnished under this section] shall be retained by the employer during the period of the employee's employment and for a period of 1 year thereafter.

(6) (a) The Minister may by order require employers to give or cause to be given to employees within a specified time a statement in writing containing such particulars of the terms of their employment (other than those referred to in F11[*subsection (1) or (1A)*]) as may be specified in the order and employers shall comply with the provisions of such an order.

(b) The Minister may by order amend or revoke an order under this subsection, including an order under this paragraph.

(7) This section (other than *subsection (6)*) shall not apply or have effect as respects contracts of employment entered into before the commencement of this Act.

Employment
outside State.

4.—(1) Where, after the commencement of this Act, an employee is required to work outside the State for a period of not less than 1 month, the employer concerned shall give or cause to be given to the employee, prior to the departure of the employee from the State, a statement F12[*containing the particulars specified in subsections (1) and (1A) of section 3*] and there shall be added to the statement the following particulars, that is to say—

- (a) the period of employment outside the State,
- (b) the currency in which the employee is to be remunerated in respect of that period,
- (c) any benefits in cash or kind for the employee attendant on the employment outside the State,

(d) the terms and conditions, where appropriate, governing the employee's repatriation.

(2) The particulars referred to in *paragraphs (b) and (c) of subsection (1)* may be given in the form of a reference to provisions of statutes or instruments made under statute or of any other laws or of any administrative provisions or collective agreements, governing such particulars.

Notification of changes.

5.—(1) Subject to *subsection (2)*, whenever a change is made or occurs in any of the particulars of the statement furnished by an employer under *section 3, 4 or 6*, the employer shall notify the employee in writing of the nature and date of the change as soon as may be thereafter, but not later than—

(a) 1 month after the change takes effect, or

(b) where the change is consequent on the employee being required to work outside the State for a period of more than 1 month, the time of the employee's departure.

(2) *Subsection (1)* does not apply in relation to a change occurring in provisions of statutes or instruments made under statute F13[, other than a registered employment agreement or employment regulation order,] or of any other laws or of any administrative provisions or collective agreements referred to in the statement given under *section 3 or 4*.

Existing contracts of employment.

6.—(1) Where, before the commencement of this Act, an employee has entered into a contract of employment with an employer, then, the employer shall, if so requested by the employee, furnish to the employee a statement F14[containing the particulars specified in *subsections (1) and (1A) of section 3*] and, if so requested by the employee, there shall be added to the statement the particulars specified in *section 4*.

(2) An employer shall, within 2 months after the employer has been required to do so under *subsection (1)* furnish to the employee concerned a written statement in accordance with that subsection.

F15[Directions by inspector to employer.

6A.— (1) Where it appears to an inspector that an employer has contravened *section 3, 4, 5 or 6* the inspector may, where he or she considers it appropriate, give a direction to the employer to comply with the provision concerned within such period as is specified in the direction.

F16[(2) In this section 'inspector' has the same meaning as it has in the Workplace Relations Act 2015.]]

F17[Offences

6B.(1) An employer who, without reasonable cause, fails to provide an employee with a statement required by *section 3(1A)*, within one month of the date of the commencement of that employee's employment, shall be guilty of an offence.

(2) An employer who deliberately provides false or misleading information to an employee, or who is reckless as to whether or not false or misleading information is provided, as part of the statement required by *section 3(1A)*, shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or to both.

(4) 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 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 shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Summary proceedings for an offence under this section may be brought and prosecuted by the Commission.

(6) Where a person is convicted of an offence under this section the court shall order the person to pay to the Commission the costs and expenses, measured by the court, incurred by the Commission in relation to the investigation, detection and prosecution of the offence unless the court is satisfied that there are special and substantial reasons for not so doing.

(7) In proceedings for an offence under this section, it shall be a defence for the accused to prove that he or she exercised due diligence and took reasonable precautions to ensure that this Act was complied with by the accused and by any person under the control of the accused.

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

F18[Protection
against
penalisation

6C. (1) An employer shall not penalise or threaten penalisation of an employee for—

- (a) invoking any right conferred on him or her by this Act,
- (b) having in good faith opposed by lawful means an act that is unlawful under this Act,
- (c) giving evidence in any proceedings under this Act, or
- (d) giving notice of his or her intention to do any of the things referred to in the preceding paragraphs.

(2) *Subsection (1)* does not apply to the making of a complaint that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(3) In proceedings under Part 4 of the Workplace Relations Act 2015 in relation to a complaint that *subsection (1)* has been contravened, it shall be presumed until the contrary is proved that the employee concerned has acted reasonably and in good faith in forming the opinion and making the communication concerned.

(4) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2015, relief may not be granted to the employee in respect of that penalisation both under this Act and under those Acts.

(5) In this section ‘penalisation’ means any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—

- (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015), or the threat of suspension, lay-off or dismissal,
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (d) imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty), and

(e) coercion or intimidation.]

F19[Complaint to adjudication officer under section 41 of Workplace Relations Act 2015]

F19[7.—(1) An employee shall not be entitled to present a complaint under section 41 of the Workplace Relations Act 2015 in respect of a contravention of *section 3, 4, 5 or 6*, if the employer concerned has—

- (a) complied with a direction under *section 6A* given in relation to the contravention F20[before, on or after the commencement of section 8 of the Workplace Relations Act 2015], or
- (b) been given a direction under that section in relation to the contravention and the period specified in the direction within which he or she is required to comply with the direction has not yet expired.

F21[(1A) An employee shall not be entitled to present a complaint under Part 4 of the Workplace Relations Act 2015 in respect of a contravention of *section 3(1A)*—

- (a) unless the employee has been in the continuous service of the employer for more than 1 month, or
- (b) if the employer concerned has been prosecuted for an offence under this Act in relation to the same contravention.]

(2) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of F22[*sections 3, 4, 5, 6 or 6C*] shall do one or more of the following, namely—

- (a) declare that the complaint was or, as the case may be, was not well founded,
- (b) either—
 - (i) confirm all or any of the particulars contained or referred to in any statement furnished by the employer under F22[*section 3, 4, 5, 6 or 6C*], or
 - (ii) alter or add to any such statement for the purpose of correcting any inaccuracy or omission in the statement and the statement as so altered or added to shall be deemed to have been given to the employee by the employer,
- (c) require the employer to give or cause to be given to the employee concerned a written statement containing such particulars as may be specified by the adjudication officer,
- (d) F21[in relation to a complaint of a contravention under *change section 3, 4, 5, or 6*, and without prejudice to any order made under *paragraph (e)*] order the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances, but not exceeding 4 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.]

F21[(e) in relation to a complaint of a contravention under *section 6C*, and without prejudice to any order made under *paragraph (d)*, order the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances, but not exceeding 4 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.]

F23[Decision of Labour Court on appeal from decision referred to in section 7]	F23[8. —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 <i>section 7</i> , shall affirm, vary or set aside the decision of the adjudication officer.]
Enforcement of determinations of Tribunal.	9. —F24[...]
Evidence of failure to attend before or give evidence or produce documents to Tribunal.	10. —F25[...]
Laying of orders and regulations before Houses of Oireachtas.	11. —Every order or 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 order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.
Expenses of Minister.	12. —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.
Repeals.	13. —Sections 9 and 10 of the Act of 1973 are hereby repealed.
Short title and commencement.	14. —(1) This Act may be cited as the Terms of Employment (Information) Act, 1994. (2) This Act shall come into operation on such day as the Minister may appoint by order.

ACTS REFERRED TO

Civil Service Regulation Act, 1956	1956, No. 46
Companies Act, 1963	1963, No. 33
Courts Act, 1981	1981, No. 11
Employment Agency Act, 1971	1971, No. 27
Local Government Act, 1941	1941, No. 23
Minimum Notice and Terms of Employment Act, 1973	1973, No. 4
Redundancy Payments Act, 1967	1967, No. 21
Unfair Dismissals Act, 1977	1977, No. 10