

# WRC

An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission



## Employment Rights of Domestic Workers in Ireland

## What is a domestic worker?

A worker under Irish legislation is generally defined as a person who works under a contract of employment<sup>1</sup>. Such a contract may be expressed or implied, oral or in writing.

The ILO Domestic Workers Convention, 2011 (No. 189) defines a domestic worker as any person engaged in domestic work within an employment relationship in or for a household or households. A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not considered a domestic worker.

Domestic work may include cleaning, cooking, laundry, childminding, care for elderly or sick family members, gardening & maintenance, driving and any other duties relating to a household.

### **The domestic work sector is considered particularly vulnerable to exploitation for a number of reasons:**

- ▶ It is viewed as an area of employment opportunity by foreign workers and this can lead to language, cultural and legal (immigration/work permit) issues
- ▶ The isolated nature of domestic work which is carried out in private homes leads to dependence on employers
- ▶ Domestic workers are frequently expected to work longer hours than other workers
- ▶ Pay rates in the sector are generally low
- ▶ There may be a lack of employment records and contracts.

*1 Section 2 of National Minimum Wage Act 2000 defines a contract of employment for the purposes of National Minimum Wage*

## What rights do domestic workers have?

Legally employed domestic workers have the same rights and protections as any other worker under Irish law. In 2007, The Labour Relations Commission, now the Workplace Relations Commission, in consultation with representatives of the Social Partners, produced a [Code of Practice for Protecting Persons Employed in Other People's Homes \(2007\)](#) which sets out the rights of persons employed in private homes.

### **In summary, the employment rights of domestic workers include the following:**

- ▶ To receive a written statement of terms and conditions of employment or a written contract of employment
- ▶ To receive a written statement of pay (Payslip)
- ▶ To be paid at least the National Minimum Wage
- ▶ To avail of Annual Leave and Public holidays
- ▶ To work on average no more than a 48 hour working week
- ▶ To receive a premium for work performed on a Sunday
- ▶ To be given breaks/rest periods
- ▶ To receive minimum notice before dismissal
- ▶ To work in a safe and healthy working environment
- ▶ A right to privacy and to pursue personal leisure activities
- ▶ To be registered as an employee with Revenue and the Department of Social Protection
- ▶ Not to be discriminated against because of gender, family or civil marital status, age, disability, race, sexual orientation, religion or membership of the travelling community
- ▶ Not to have personal documents (such as passports, id, drivers licence, etc) retained by employers
- ▶ Equal rights for part-time, fixed term and agency workers
- ▶ Special protections for young persons in employment
- ▶ Maternity entitlements.

Breaches of legal rights by employers may occur either by intent or by lack of knowledge of legal obligations. However regardless of how such breaches occur they may involve offences which would leave employers open to prosecution.

## What is an employee entitled to be paid?

The National Minimum Wage is the legally fixed minimum rate per hour which must be paid to employees and it varies according to the employees age and experience. **This does not restrict employers and employees agreeing a rate in excess of the statutory minimum rate.** The current rates are as follows:

Age/experience of employee	NMW rate/hour
Under 18	€6.41
Over 18 and in the first year after the date of first employment	€7.32
Over 18 and in the second year after the date of first employment	€8.24
Experienced adult worker	€9.15

**Dividing the gross pay by the total working hours determines the rate per hour paid to an employee. Gross pay can include the following allowances for board and/or lodgings where provided by an employer to an employee:**

- ▶ *Full board and lodging: €54.13 per week or €7.73 per day.*
- ▶ *Full board only: €32.14 per week or €4.60 per day.*
- ▶ *Lodgings only: €21.85 per week or €3.14 per day*

## What are the rules relating to working hours?

The maximum average working week for domestic workers cannot exceed 48 hours. This does not restrict any particular working week to 48 hours, however when averaged over 4 months the weekly hours worked must not exceed 48 hours.

A premium is payable for hours worked on a Sunday. If this not included in the rate of pay an employer must give one or more of the following for Sunday work: an allowance, a pay increase for the Sunday hours worked or paid time off work.

An employee is entitled to a break of 15 minutes after a 4½ hour work period and a break of 30 minutes if more than 6 hours are worked, which can include the first 15-minute break. These breaks do not have to be paid and are not part of working time.

## What records must an employer keep?

All employers are required to keep detailed records in relation to all employees. The employer must keep these records for 3 years. Failure to keep these records is an offence and may lead to prosecution:

- ▶ Employer's registration number with the Revenue Commissioners
- ▶ Employees names, address and PPS numbers
- ▶ Dates of commencement / termination of employment
- ▶ Written terms of employment/contract
- ▶ Records of annual leave and Public holidays taken
- ▶ Hours of work (including start and finish times)
- ▶ Payroll details and payslips
- ▶ A register of any employees under 18 years of age
- ▶ Details of any board and lodgings provided/
- ▶ Employment permits or evidence of specific immigration permission permitting non-EEA nationals to work

These records may be required in the case of an investigation by an Inspector of the Workplace Relations Commission.

## Complaints

Complaints in relation to employment rights and equality should be made to the Workplace Relations Commission. Complaints may result in a hearing by an Adjudicator or an inspection by an inspector of the Workplace Relations Commission (WRC).

Complaints relating to Health & Safety matters in the workplace should be made to the Health and Safety Authority.

## FAQs

### What if there is uncertainty over whether a person is an employee or not?

The question as to whether a person is an employee or not is generally established by reference to the provisions of existing employment legislation and established contract law. The use of designations such as Au Pair or other descriptions of arrangements between consenting parties do not in themselves mean an employment contract does not exist. A person performing a duty for another person in exchange for a payment would strongly suggest the existence of a contractual relationship.

If there is a question as to whether the person is an employee or self-employed, guidance is available in the Code of Practice for Determining Employment or Self-Employment Status of Individuals.

### If I pay my employee €150 per week, how many hours can they work?

To calculate the maximum hours an employee can legally work at the statutory minimum rate and remain in compliance with the National Minimum Wage Act, the gross wage plus the appropriate allowance for board and/or lodgings should be divided by the appropriate National Minimum Wage rate for the employee. Keeping records of hours worked is a legal obligation on employers.

Working in excess of the hours outlined in the table below for each class of employee listed in the table below would be a breach of the National Minimum Wage Act:

Age/experience	Live in & Meals	Meals Only	Live out & no Meals
Under 18	31.8 hrs	28.4 hrs	23.4 hrs
Over 18 and first year after the date of first employment	27.9 hrs	24.9 hrs	20.5 hrs
Over 18 and second year after the date of first employment	24.8 hrs	22.1 hrs	18.2 hrs
Experienced adult worker	22.3 hrs	19.9 hrs	16.4 hrs

This table only deals with permitted working hours at the appropriate minimum rates, this does not restrict employers and employees agreeing a rate of pay in excess of the statutory minimum rate.

### **I would like to talk to someone about my situation but don't want my employer to know?**

Inspectors of the Workplace Relations Commission (WRC) will discuss any complaints from domestic workers on a confidential and if necessary anonymous basis. Any actions which would require the employee to identify themselves to their employer would only take place with the employees consent. Employees may contact the WRC at 1890 80 80 90 or email [inspection@workplacelrelations.ie](mailto:inspection@workplacelrelations.ie)

### **Other useful contacts may include:**

Citizens' Information, which has offices nationwide, provides information on public services and entitlements, can be contacted by telephone on 0761 07 4000 (Monday to Friday, 9am to 8pm) or at [www.citizensinformation.ie/en/](http://www.citizensinformation.ie/en/)

The Irish Congress of Trade Unions have a campaign for better rights for domestic workers and can be contacted by telephone on 01 8897777 or at [www.ictu.ie](http://www.ictu.ie)

Migrant workers organisations such as the Migrant Rights Centre of Ireland (01 889 7570 or [info@mrci.ie](mailto:info@mrci.ie)) who may be able to provide information and assistance.

## Contact details/more information

### Workplace Relations Commission

[www.workplacerelations.ie](http://www.workplacerelations.ie)

Lo-call: 1890 80 80 90

Fax: 059 9178909

Overseas callers should call +353 59 917 8990

### The Health and Safety Authority

[www.hsa.ie](http://www.hsa.ie)

Lo-Call: 1890 289 389 (between 9am and 5pm, Monday to Friday)

Fax: 01 614 7125

Email: [wcu@hsa.ie](mailto:wcu@hsa.ie)

Overseas callers should call +353 1 614 7000