

CONTRACTS OF EMPLOYMENT

LEGISLATION:

The Terms of Employment (Information) Acts 1994–2014 provide that an employer is obliged to provide an employee with a written statement of terms of employment within the first 2 months of the commencement of employment.

WHO SHOULD HAVE ONE?

Anyone who works for an employer for a regular wage or salary automatically has a contract of employment.

While the complete contract does not have to be in writing, an employee must be given a written statement of terms of employment within 2 months of starting work.

WHAT SHOULD BE INCLUDED IN A CONTRACT?

The Terms of Employment (Information) Acts 1994–2014 requires that written terms and conditions of employment or contract of employment contain at least the following points:

- The full name of employer and employee
- The address of the employer
- The place of work
- The title of job or nature of work
- The date the employment started
- If the contract is temporary, the expected duration of the contract
- If the contract of employment is for a fixed term, the details
- Details of rest periods and breaks as required by law
- The rate of pay or method of calculation of pay
- The pay reference period for the purposes of the National Minimum Wage Act 2000
- Pay intervals
- Hours of work
- That the employee has the right to ask the employer for a written statement of his/her average hourly rate of pay as provided for in the National Minimum Wage Act 2000

- Details of paid leave
- Sick pay and pension (if any)
- Period of notice to be given by employer or employee
- Details of any collective agreements that may affect the employee's terms of employment
- Company Retirement Age*

DISCIPLINARY & GRIEVANCE PROCEDURES:

The Workplace Relations Commission has a Code of Practice: Grievance and Disciplinary Procedures which states that employers should have written grievance and disciplinary procedures and they should give employees copies of these at the start of their employment. Under the Unfair Dismissals Acts 1977–2007 employers are required to give the employee in written notice of the procedures to be followed before an employee is dismissed. This must be done within 28 days of entering the contract of employment.

- Lay off / redundancy
- Health & Safety
- Disciplinary
- Grievance
- Dismissal

PROBATIONARY PERIOD:

The contract can include a probationary period and can allow for this period to be extended. The duration of probation or training we recommend is 11 months and should be as detailed as possible in the contract.

PAID LEAVE:

Paid leave can include the below:

- Annual leave
- Public holidays
- Sick pay [if relevant]
- Compassionate Leave
- Force Majeure Leave
- Jury Duty

COMPANY RETIREMENT AGE*

In order to rely upon / implement a retirement age it must be outlined in the contract of employment. For a retirement age to be objectively justified for example using one of the following reasons - succession planning, fairness and sometimes health and safety, case law has determined that the employee must not just be aware of a retirement age in practice, they must have been formally informed via their contract of employment.

CHANGES TO A CONTRACT OF EMPLOYMENT

Changes to the Employees contract of employment can occur due to a change in the law, but otherwise, changes must be agreed between the Employer and the Employee. The requirement for both the Employer's and the Employee's consent to changes in the terms of the contract is part of contract law.

EMPLOYMENT OUTSIDE THE STATE

Where an Employee is required to work outside of the State for a period of not less than one month, the employer is obliged to add the following particulars to the written statement:

- The period of employment outside the State,
- The currency in which the employee is to be paid in respect of that period,
- Any benefits in cash or kind payable to the employee in respect of the employment outside the State,
- Any terms and conditions governing the employee's repatriation.

These details, together with the written statement, must be provided to the employee prior to his/her departure from the State.

NOTIFICATION OF CHANGES IN THE WRITTEN PARTICULARS

An employer is required to notify an employee of the nature and date of any change to the particulars contained in the written statement not later than one month after the change comes into effect.

In the case of a change which results from an employee being required to work outside the State, the employer must notify the employee of such change prior to his/her departure from the State. The requirement to notify the employee of any change in the particulars set out in the written statement does not apply if the change results from a change in legislation, administrative provisions or collective agreements to which the employer has referred the employee in the written statement.

LEGALLY BINDING:

To ensure the contract of employment is legally binding the Company must ensure it is issued with a signature on behalf of the Company.

REFUSAL TO SIGN:

If the employee refuses to sign the issued contract of employment that is not an issue once the Company have a documented paper trail around the same.

If the employee refuses to sign it is very important to make sure a confirmation letter / email is issued to the employee confirming that a contract was issued in line with legislation etc.

REMIT:

If the employee does not receive a contract of employment please note a case can be taken to the Workplace Relations with non-receipt of a contract of employment often winning up to €1,500.

CONTACT THE HR SUITE:

If you have any queries please do not hesitate to contact our office on 066-7102887 and we would be happy to deal with your query.