

JOINT LABOUR COMMITTEES [JLC'S] UPDATE 2016

Last Updated: July 2017

JOINT LABOUR COMMITTEES [JLC's]:

JLC's determine terms and conditions of employment for workers in particular sectors and are legally binding.

The current list of Joint Labour Committees is as follows:

1	Agricultural workers	Under Discussion
2	Catering (Dublin and Dún Laoghaire)	No Change
3	Catering (Other)	No Change
4	Contract cleaning	Amended
5	Hairdressing	To Be Amended
6	Hotels (Other excluding Cork)	To Be Amended
7	Retail, grocery, and allied trades	No Change
8	Security industry	Amended

JLC's are in place in Ireland since 1946 covering approximately 200,000 workers.

In July 2011, the High Court ruled that the JLC system was unconstitutional in the case of John Grace Fried Chicken Ltd & Others v The Catering Joint Labour Committee & Others. The abolition of the JLC in July 2011 has left retailers on tenterhooks awaiting the recommendations.

When Richard Bruton was appointed as the Minister for Jobs, Enterprise and Innovation his aim was to reform the JLC system. In 2012 the government introduced legislation to facilitate JLC review.

REGULATION ORDERS [ERO's]:

The various agreements on pay and conditions made by Joint Labour Committees (JLCs) are known as Employment Regulation Orders (EROs).

Following a High Court decision, all ERO's ceased to have statutory effect from 7 July 2011.

REGISTERED EMPLOYMENT AGREEMENTS [REA's]:

If a collective agreement relating to the pay or conditions of specified workers has been registered with the Labour Court, it is known as a registered employment agreement (REA).

Following a decision of the Supreme Court, all registered employment agreements ceased to have statutory effect from 9 May 2013.

SECTORAL EMPLOYMENT ORDERS (SEO's):

The Labour Court may recommend that a sectoral employment order (SEO) be made for an economic sector on matters of pay, pension or sick pay scheme.

Following a request from a trade union or employers' organisation, the Labour Court may make a recommendation to the Minister for Jobs, Enterprise and Innovation to make a sectoral employment order (SEO).

Section 13 of the Act defines an economic sector as a *"sector of the economy concerned with a specific economic activity requiring specific qualifications, skills or knowledge"*

INDUSTRIAL RELATIONS (AMENDMENT) ACT 2012:

The Industrial Relations (Amendment) Act 2012 which reformed the Joint Labour Committees' wage-setting mechanisms came into force on 1 August 2012. Under the Act, the Labour Court adopts an Employment Regulation Order (ERO) drawn up by a Joint Labour Committee. The ERO is given statutory effect by the Minister for Jobs, Enterprise and Innovation.

INDUSTRIAL RELATIONS ACT 1946:

Section 41 A of the Industrial Relations Act 1946 provides for JLC Review once every 5 years.

Therefore in October 2013, the Labour Court Report on the JLC was published as the 1st review occurred. 10 JLC's existed at that time.

This review by the Labour Court was then considered by the Minister. Mr Bruton had two options: reject or accept recommendations of the Labour Court for amending Establishment Order for each JLC.

Since the publication of the Report, the Minister for Jobs, Enterprise and Innovation, Richard Bruton has reiterated his commitment to retain and reform JLCs.

REFORM:

On January 29th 2014 Mr Bruton then signed an order giving effect to recommendations from the JLC Review.

The order provides for the abolition of 2 JLC's bringing the number of JLC's to the current 8:

- Dublin Hotels
- Law Clerks

For amendments to be made to the existing Establishment Orders;

- Contract Cleaning
- Hairdressing
- Hotels [Outside Of Dublin And Cork]
- Security.

THE INDUSTRIAL RELATIONS (AMENDMENT) ACT 2015:

The Industrial Relations (Amendment) Act 2015 provides for a system of registered employment agreements and sectoral employment orders.

The Industrial Relations (Amendment) Act 2015 restored the mechanism for registering higher terms and conditions within sectoral groups than statutory minimums.

JLC UPDATES

AGRICULTURAL WORKERS:

Mr Bruton also discussed the JLC governing agriculture which was established under primary legislation and which would require new primary legislation for change to occur. The Department for Jobs, Enterprise and Innovation is liaising with the Department of Agriculture, Food and Marine about this.

CATERING:

The Minister outlined that the scope of the catering JLC's are not being amended. He rejected proposals from the review to alter these.

CONTRACT CLEANING:

The Joint Labour Committee for the Contract Cleaning Industry has formulated proposals for fixing the minimum remuneration and working conditions of workers in relation to whom the Committee operates.

The Order applies to *'workers employed by undertakings engaged in whole or in part on the provision of cleaning and janitorial services in, or on the exterior of, establishments including hospitals, offices, shops, stores, factories, apartment buildings, hotels, airports and similar establishments.'*

There are approximately 30,000 workers covered by the ERO.

Rates of Pay:	All employees will be entitled to receive minimum remuneration of €9.75 per hour. Young person's rates are outlined within the ERO.
Overtime:	<p>Overtime rates shall be paid after 44 hours worked Monday to Sunday.</p> <ul style="list-style-type: none"> • Time and one half for the first four hours and double time thereafter • Sunday overtime to be paid at the rate of double time for all hours worked. <p>Hours of overtime carried out after 40 hours and up to 44 hours per week will be paid at flat rate.</p> <p>Notwithstanding an employer's right to reasonably request an employee to work overtime in particular circumstances, hours of overtime offered will be carried out on a voluntary basis by employees, i.e. workers can opt to carry out the work or not.</p>
Good Friday:	<p>Workers employed prior to 2nd August 2012 will be paid for Good Friday as if it was a public holiday in accordance with the provisions of sections 21 and 22 of the Organisation of Working Time Act 1997 , exclusive of any qualifying number of hours required in that Act.</p> <p>For persons employed from and including 2nd August 2012, Good Friday is to be paid as a normal working day except for those workers who have a contractual entitlement to payment for Good Friday. These workers will continue to be paid for Good Friday as if it was a public holiday in accordance with the provisions of sections</p>

	21 and 22 of the Organisation , exclusive of any qualifying number of hours required in that Act.
Sick Pay:	<p>The following Sick Pay Scheme will apply in each employment.</p> <ul style="list-style-type: none"> • Medical certificate to be submitted on the 3rd day of illness and on a weekly basis thereafter. • No benefit to be paid for the first 5 working days of illness. Benefit will be paid in respect of certified illness only. • Benefit: 20% of basic weekly rate for up to 6 weeks in any one rolling year, subject to the sum of all benefits, i.e. both State and Company benefits (not including occupational injury benefit) not exceeding the individual's personal rate of weekly pay. • Contribution: 0.5% of basic rate of pay for all employees. • Employees may opt into the scheme at any time after their entry into employment. They may opt in or out of the scheme with effect from 1st January each year.
Dismissal:	All employees to be entitled to be accompanied by a colleague or trade union official of his/her choice.
Uniform:	<p>Deductions for uniforms will cease to exist.</p> <p>New employees will have an initial once off charge of €15 to the cost of the uniform supplied by the employer/ This can be made over 3 pay periods.</p> <p>If the employee resigns within the first 6 months of employment a further €10 may be deducted by the employer from any wages due to the employee.</p> <p>Each employer is to have a uniform procedure detailing replacement and return of uniforms at the end of employment. This needs to be communicated to all employees and to the trade union, where such applies.</p>
Rosters:	To be given completed rosters in writing for all hours of work for a minimum period of one week. In exceptional circumstances they must be made available to the employee a minimum of 3 days in advance of commencement.
Death in Service:	<ul style="list-style-type: none"> • Death-in-Service Benefit of €5,000. • Eligibility for an employee is 2 years continuous service in the cleaning industry. • Benefit is applicable from date of commencement of this Order for all qualifying existing employees. • Benefit payable up to the age the state pension becomes payable to the employee.

This ERO took effect from the 1st October 2015.

A publication of a new ERO for the Contract Cleaning Sector dated 18th August 2016 setting out a new pay rate for 2016/2017.

- €9.75 per hour until the hourly rate of €10.05 applies from the 1st December 2016.
- €10.40 per hour – from the 1st December 2017
- €10.80 per hour – from the 1st December 2018

Young person rates are remunerated also. There is provision for the same 70%,80% and 90% for under 18,first year employment over 18 and second year.

More information available on: <http://www.irishstatutebook.ie/eli/2015/si/418/made/en/print>
https://www.workplacerelations.ie/en/news-media/Workplace_Relations_Notices/New_EROs.html

HAIRDRESSING:

There is no current update on the hairdressing ERO.

HOTELS (OTHER EXCLUDING CORK):

There is no current update on the hotel ERO.

RETAIL, GROCERY & ALLIED TRADES:

The Minister stated that he does not intend to alter the scope of the retail and catering JLC’s. Therefore there will be no distinction between symbol groups and independent retail businesses as recommended by the recent Labour Court review.

Despite the strong indications from the Minister that the Grocery and Allied Trades JLC will be retained nothing has been forthcoming which leaves the retail sector in Ireland uncertain as to the future of the JLC in the sector.

SECURITY INDUSTRY:

The JLC for the Security Industry formulated proposals for fixing the minimum remuneration and working conditions of workers in relation to whom the Committee operates.

The Security Industry was the first industry to put forward a new draft Employment Regulation Order (ERO) under the new system outlined in the 2012 Act.

The new ERO has been greatly amended with most policies being changed in some shape or form from those that were in place as of July 2011.

Key changes include:

Rates of Pay:	All employees will be entitled to receive minimum remuneration of €10.75 per hour. This is a significant development given that you required 3 years’ verifiable service under the old ERO to attract such a rate.
Overtime Rates:	Will be paid at time and a half but under these ERO proposals the overtime rate will only be apply where the employee has worked in excess of 48 hours.

Rosters:	To be given completed rosters in writing for all hours of work for a minimum period of one week. In exceptional circumstances they must be made available to the employee a minimum of 3 days in advance of commencement.
Training:	Where training is provided for and paid for by the Company for new entrants and the employee leaves the Company within: Within 3 months – the company can deduct 16 hours pay for training After 3 months up to 6 months – the company can deduct 8 hours pay for training
Public Holiday Entitlements:	The old ERO gave employees would attract double time plus 8 hours for time worked on a public holiday. The new ERO proposes that public holidays will be payable in line with the Organisation of Working Time act 1997.
Death in Service Benefit:	This remains unchanged in general but for the fact that it now applies to all employees up to the age the State pension becomes payable to the employee, whereas previously it was only payable up to the point that the employee turned 65. The Death in service benefit shall apply whether the employee was on duty or not at the time of death.
Personal Attack Benefit:	A non –contributory personal attack benefit will apply after 6 months service in the company to all employee covered by the ERO who are attached in the course of their duty resulting in injury. 6 months service – 10 weeks basic pay less social welfare 18 months service – 15 weeks basic pay less social welfare 30 months service – 20 weeks basic pay less social welfare 42 months service – 26 weeks basic pay less social welfare
The Sick Pay Scheme:	This remains largely unchanged but for the fact that it now states that it is payable to full-time workers “based on a 39 hour week” and then to all part-time employees on a pro rata basis.
Disciplinary & Grievance Procedures:	The new ERO proposes the inclusion of a specific Grievance and Disciplinary Procedure policy which should go a long way towards providing employers with a point of reference for such matters.

It is outlined that the ERO will last for 18 months from the moment it enters into law.

Following a consultation period with the security sector in November 2014, Minister for Business & Employment, Gerald Nash TD signed the commencement order introducing the Employment Regulation Order (ERO).

This ERO took effect from the 1st October 2015.

More information available on: <http://www.irishstatutebook.ie/eli/2015/si/417/made/en/print>

BREACHES OF ERO's:

Where an employer is found in breach of the ERO may be referred to the Workplace Relations Commission for appropriate action. The employer is obliged to keep records of wages and payments for a period of three years as well as posting a notice in the place of employment setting out the

statutory rates of pay and conditions of employment. Where a company is in financial difficulty, it may derogate from the ERO. However, the employee must first consult with the employees. Following that, the Labour Court must satisfy itself that specified criteria have been met. Such derogation may be granted, for up to 24 months.

KEY CONCERNS:

Business in Ireland is just beginning to regain its confidence and we believe that reinstating the JLCs could have a detrimental effect on the labour costs in sectors that need a chance to recover and grow.

- The additional cost for employers possibly on the horizon
- The JLC's are not responsive to changing economic needs
- The JLC's do not promote job creation
- Workers already protected by national primary legislation of which there are 40 pieces including minimum wage legislation

From being deemed unconstitutional to recommending re – instatement, the JLC roundabout continues for employers.

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.