

2019

PEOPLE BEFORE PROFIT

FACTSHEET: YOUR RIGHTS AT WORK

ABOUT PEOPLE BEFORE PROFIT

People Before Profit was created to fight for a fairer, more equal society. We value the welfare of communities above wealth creation for the few.

People Before Profit see the mobilisation of people in workplaces and communities as the key to bringing about change. We believe change can be won by fighting for our interests collectively.

Join us to help build a society that works for the many, not the few.

OUR TDS



BRÍD SMITH






RICHARD BOYD BARRETT



GINO KENNY

CONTACT US

 087 283 9964  www.pbp.ie

 info@peoplebeforeprofit.ie

INTRODUCTION

People Before Profit have produced this factsheet to highlight rights at work. Many don't know that they are entitled to a contract, a pay slip, holidays and rest periods.

But this is not surprising. Research in Ireland suggests that all forms of precarious employment are increasing and this is having a disproportionate effect on young people.¹ The National Youth Council says that that **38% of people aged between 18 and 29 years are on temporary contracts and a 'staggering 82 per cent' said that precarious work was the only work available.**²

This is accompanied by high levels of low pay in Ireland. Part-time and temporary workers are more likely to be low paid and half of those under 30 earn less than the living wage.³ Cuts to social welfare for young people are forcing many of them into jobs they would otherwise not accept. It also means they feel they cannot challenge their employer.

Further, there is significant exploitation of migrant workers with many concentrated in low-paid precarious jobs, deepening the isolation and inequality migrant workers experience. A 2015 report by the Migrant Rights Centre showed 44% received less than the minimum wage, almost half had no contract and two thirds were required to work extra hours without pay.⁴

This Factsheet seeks to show that you do have rights and you should demand them. Because you have legal rights does not mean you always get them. In 2017 alone inspections by the Workplace Relations Commission led to the recovery of €1.8 million in unpaid wages. It also shows that Irish workers as a whole have much less rights than those in other developed countries.

The best guarantee of your rights is to be in a union which will help you pursue your legal rights. This factsheet also shows that there are many more rights we should have. We need to fight for these rights. The best way to do so is to get organised. Without an active and militant union movement we won't win further rights or protect those that we already have.

5 RIGHTS YOU DO HAVE

1. Your conditions of work

You should be told, in writing, the conditions under which you are being employed. The Terms of Employment Acts requires employers to provide written terms and conditions within 5 days of you starting work.

2. Dismissal

You do have protection from dismissal. You are entitled to Minimum Notice if you are being let go: 1 week after 13 weeks in the job, 2 weeks after 2 years and 4 weeks after 5 years.

The Unfair Dismissals Act protects you against unfair dismissals.

- It usually applies after a year in the job and stops your employer from dismissing you for the following reasons: religious or political opinions; being a traveller; race, colour, sexual orientation, age; taking legal action against your employer; availing of rights under legislation to maternity leave, adoptive leave, paternity leave, carer's leave, parental leave or force majeure leave.
- From day one in the job, you have legal protection against dismissal for being in a union or being pregnant or engaging in whistleblowing.

3. Wages

You have the right to a minimum wage of €9.80 if you are aged 20 or over. Lower rates apply to those younger than 20. The rate is €6.86 for those under 18s; €7.84 for 18-year-olds; and €8.82 for workers aged 19.

You are also entitled to a pay slip each time you are paid that states gross pay and any deductions. The only deductions allowed are for PAYE, PRSI and USC and deductions agreed by you or stated in your contract. The employer cannot take money for other purposes out of your pay without your consent.

4. Working time

The Organisation of Working Time Act, sets out the average maximum working week cannot exceed 48 hours. You are entitled to a break of 15 minutes after 4.5 hours work.

In general, you should also get 11 consecutive hours of rest in any period of 24 hours and a day off every 7 days.

Under new legislation, which came into force in March 2019, zero-hour contracts are prohibited in most cases. You must receive minimum payments if called into work but sent home without work.

When your current employment contract does not accurately reflect the average hours that you actually work, you are entitled to a banded contract which reflects the reality of the hours you work.

5. Holidays and leave

If you work on a public holiday, you are entitled to a paid day off within a month or an additional day off or an additional day's pay.

Full-time workers are entitled to 4 weeks annual leave a year: part time workers get leave proportional to amount of time they work.

Other forms of leave include maternity leave (see below), paternity and parental leave, currently unpaid and force majeure leave when you have a family emergency. From November 2019, parents will be entitled to 2 weeks paid parental leave but only at the flat rate payment of €245 per week.

5 RIGHTS YOU SHOULD HAVE BUT DON'T

1. A living wage

The living wage is a measure of income to afford workers a socially acceptable standard of living. It takes into account the costs of housing, transport, childcare and basic goods and services: work should pay enough to allow workers to have a basic but decent standard of living.

For Ireland, the living wage rate for a single adult was estimated at €11.90 per hour in 2018: 25% higher than the minimum wage in 2018. The Nevin Institute has estimated that 26% of employees, 355,000, earn less than the living wage.⁵ Due to the high cost of housing a recent EU report estimated that the living wage rate for a single adult in Dublin would be €14.45 per hour, while for a single adult with one child this would climb to €17.15.⁶

Women are more likely than men to be below the living wage. Women earn on average 14% less than men.⁷

2. Sick pay

There is no legal requirement on private sector employers to pay their employees sick pay. In 2015, the Illness Benefit payment waiting period was changed from 3 days to 6: you have to be off work for 6 days to be eligible for payment.

3. Retirement age

There is no general automatic retirement age in Ireland. The state pension age is now paid at age 66, and this will rise to 67 in 2021 and to 68 in 2028.

4. Overtime

While the standard working week was defined as 39 hours in 1987 there is no general rule or law that says overtime should be paid after working 39 hours in 1 week.

5. Union recognition

Your employer does not have to recognise or deal with your union. Ireland has one of the most restrictive collective bargaining legislations compared to other European countries and even further afield.⁸

HOW DOES IRELAND COMPARE?

Not very well. We provide comparisons below which show that Irish workers' rights are less than those in other EU and OECD countries.

Low levels of protection

The OECD uses a number of statistics to measure the extent of labour market regulation.⁹ These OECD indicators of employment protection measure the strictness of regulation on dismissals and the use of temporary contracts. They show clearly that Ireland ranks very poorly compared to other developed countries. We are almost bottom of the league for EU countries.

	OECD Ranking* (34 Countries)	EU Ranking (24 countries)
Protection of permanent workers against individual and collective dismissals	27th	21st
Protection of permanent workers against (individual) dismissal	28th	22nd
Regulation of temporary forms of employment	27th	21st

*Data is from 2013 in most cases

Data from the OECD¹⁰ shows the percentage of workers covered by collective bargaining (CB) and again shows that many Irish workers get no protection with only one third covered. The EU average, especially for the more developed EU 15, is 71%. Ireland ranks 16th of the 22 EU countries in the table below, and 19th of 31 OECD countries for which data is available.

This is not surprising given that the proportion of workers in unions has fallen from 33% in 2005 to 24% in 2018.¹¹ This is partially accounted for by the failure of the state to provide legal protection for the right to bargain.

Country (EU 22)	% Covered by CB*
1. France	98.5
2 Austria	98.0
3. Belgium	96.0
4. Sweden	90.0
5. Finland	89.3
6. Denmark	84.0
7. Italy	80.0
8. Netherlands	78.6
9. Spain	73.1
10. Portugal	72.3
11. Slovenia	65.0
12. Germany	56.0
13. Luxembourg	55.0
14. Czech Republic	46.3
15. Greece	40.0
16. Ireland	33.5
17. United Kingdom	26.3
18. Slovak Republic	24.4
19. Hungary	22.8
20. Estonia	18.6
21. Latvia	13.8
22. Lithuania	7.1

*Data is generally for 2015 and 2016

So it's not surprising that, when Oxfam¹² comes to measure progress towards reducing inequality across the world, Ireland fares very poorly in relation to one of Oxfam's key measures: Labour Rights and Minimum Wages. Comparing Ireland with other high income and OECD countries we are ranked 24th of 35 countries.

Compared to others

People Before Profit asked the Oireachtas Library and Research Services to provide a briefing paper on comparative workers' rights in 5 EU countries including Ireland. The other countries are Germany, Sweden, Finland and France. These countries were picked as they are all regarded as having high levels of worker protection through legal provision and collective bargaining. The tables below summarise the information provided:

Issue	Ireland	France	Germany	Sweden	Finland
Holidays legal minimum (days)	20	25	24, but generally 30 through Collective Agreements.	25	24 to 30
Public holidays	9	10	11	11	12
Retirement age	None. Pension paid at 66 currently.	60 and 62 for those born before 1955. 62 for those born after 1955.	67. Under certain conditions, all workers can retire between 63 and 65 and women can retire at 60.	Normal retirement age is 65, but workers can get a pension from 61.	General retirement age is 65, and early retirement can be granted at 63 with a reduced pension.

It can be seen that Irish workers have less leave and have to work longer than those in the countries selected. Holiday entitlements, including public holidays are in most cases 6 to 7 days less here. That's over 1 week's work per year. Workers are also expected to work for more years.

When it comes to looking at actual hours worked, we clearly work longer. Drawing on data from a larger number of countries, Michael Taft of SIPTU has found that only in the UK and the Netherlands do full time private sector workers work more hours. We work more than 2.7 weeks a year longer than comparable countries. We also get 2.3 weeks fewer paid public holidays, annual holiday leave, etc.¹³

The second table looks at Sick Pay and paid Maternity Leave. Workers in the private sector must wait for 6 days (the average in the EU is 3) before being paid anything in state benefit. There is evidence that suggests that the average number of days lost per employee is less than 6 days per year,¹⁴ meaning many workers are expected to cover sick leave out of their own pockets. Further, only Ireland, Malta and the United Kingdom apply a flat rate amount in state benefit. Replacement levels (the amount of your earnings covered) by the benefits in Ireland is estimated at **around 36%, the third lowest in the EU.**¹⁵ This compares badly with the other countries in the table.

Ireland is one of a small number – 5 – of EU countries where sick pay is not ‘state-mandated’. In most states, employers continue to pay a salary for a period. In some of the countries where there is no state mandate, rates of sick pay are determined through collective bargaining, but in Ireland, payment is ‘at the discretion of the employer in accordance with the employee’s contract’.¹⁶

Issue	Ireland	France	Germany	Sweden	Finland
Sickness benefit	No legal requirement on employers to pay sick pay. Illness Benefit paid after 6 days. Maximum rate is now €203 for those earning over €300.	Full pay available paid through National Health Insurance.	Full pay paid for 6 weeks. 70% of gross salary thereafter from health insurance.	14 days paid at 80%. After 14 days sickness benefit paid through Social Insurance.	300 days at up to 70% of income.
Maternity leave (paid)	26 weeks with no obligation on employer to pay. Maternity benefit (currently €245 per week) depends on Social Insurance contributions.	16 weeks fully paid through National Health Insurance unless a sectoral agreement obliges the employer to pay.	8 weeks of prenatal leave fully paid plus 14 months of Parental Leave at 67% of net earnings paid through Social Insurance.	13 months Paid at 80% of earnings through Social Insurance.	21 weeks paid at 90% for 11 weeks and 70% thereafter through Social Insurance or employer. Can take an extra 18 days from parental leave paid at 70%.

Maternity leave in Ireland is paid for a relatively long period of time making it appear that we compare well with other countries. But when you look at the level of pay, and this can clearly be seen above, we do not do so well.

Irish women are not legally entitled to any period of what the Leave Network describes as 'well-paid' maternity leave. Their research shows Irish women get among the longest periods of maternity leave, and paid maternity leave, in Europe but also found that the **legally-mandated minimum amount they get paid during that leave, falls below 66% of normal earnings, and places Ireland at the bottom of the European league in this respect.**¹⁷

The OECD provides data for 2016 looking at maternity pay as a percentage of average pay. What is remarkable about this is that 12 countries, mainly EU members pay 100% of average earnings. 28 of 34 countries pay over 50%. **Only 3 countries – the UK, USA and Ireland – pay 35% or less.**¹⁸

Significant costs are being transferred to Irish workers who get sick or pregnant. Employers are not obliged to pay workers who take leave for these reasons. It is somewhat ironic then that Ireland's rate of employer PRSI, their contribution to the social insurance fund, is way below the EU average: just above a quarter that paid in France and one third that paid in Sweden.¹⁹ In 2012, revenue raised from employers PRSI amounted to 8% of GDP compared to an EU average of 20%.²⁰

WHERE DO WE STAND? HIGH PRODUCTIVITY WITH LOW PAY

While workers have some rights which have been hard fought for, Irish workers' rights lag behind those in other countries. Ireland has a low level of employment regulation and low levels of protection of payment for employees who are sick or who having children. Irish workers work long hours yet many are low paid.

In recent publications, TASC²¹ shows that with a quarter of workers on low pay, Ireland has the third highest incidence of low pay (earning less than 66% of gross median earnings) in the EU and is 10% above the rate in the EU 15. Ireland also has a high level of low pay among women: more than a quarter are in low-paying jobs.

The existence of this low pay coincides with below-average labour costs. Labour cost growth has remained modest in recent years and below the growth experienced in both the UK and the EU.²² In its 2018 Competitiveness Scorecard, the National Competitiveness Council shows that 'Irish productivity growth rates and levels have been above the OECD average since the recession... Ireland had the highest output per hour worked among OECD member states in 2016... On average over the period 2006-2016, Ireland's productivity growth rate (4.6%) has been well above most Member States and the OECD total (0.9%)'.²³ In 2019, it is able to state that 'Ireland continues to perform well in the 3 most influential competitiveness indicators'.²⁴

The reality is that employers are getting away with not meeting basic obligations to workers and the state is quite happy to let them do so. The state is effectively subsidising low paid work. According to the latest CSO data 5.4% of those who are employed are living at risk of poverty – about 110,000 workers. Over time, poverty figures for the working poor have shown little movement.²⁵

That said, the in-work poverty rate in Ireland is low by European standards. The reason for the discrepancy between levels of low pay and in work poverty is that the Irish state supplements the income of the low-paid through a variety of transfers such as family income and child supports, and jobseekers' allowance for part-time workers. The state, in effect, subsidises a low-pay economy.²⁶ At the same time it cuts social welfare for young people forcing them into these low-paid and precarious jobs.

IT'S TIME FOR CHANGE

People Before Profit is committed to campaigning for change which puts the needs of workers before the profits of the few. Workers have a right to secure employment, with decent pay and conditions with real protection from arbitrary dismissal. Their living standards must be protected when they are sick or having children or affected by other contingencies in life.

We need to build an active and militant union movement which will actively recruit young people and defend their rights at work. The trends towards precarious employment can be halted through strong workplace organisation and collective bargaining which embraces all categories of workers.

PBP will campaign for and support all proposals which improve workers' rights. Specifically, we will campaign on the following demands:

- 1.** Mandatory union recognition and repeal of the 1990 Industrial Relations Act;
- 2.** A living wage with mandatory provision for overtime;
- 3.** Equal pay;
- 4.** Full employment rights for migrant workers, including undocumented workers;
- 5.** Protection of the standard employment contract to ensure workers on these contracts remain at low risk from precariousness;
- 6.** Protection from dismissal from day one in the job;
- 7.** A financial penalty for companies over-reliant on temporary contracts;²⁷
- 8.** Increased enforcement of employment rights including Employment Regulation Orders and Sectoral Employment Agreements: end bogus self-employment;
- 9.** Increases in employers PRSI to fund adequate sick pay, maternity and paternity pay as well as parental leave;
- 10.** The state pension to be paid at 60. Mandatory provision for pension schemes in all jobs.

Endnotes

- 1 ICTU (2017) 'Insecure and Uncertain': Precarious Work in the Republic of Ireland & Northern Ireland Winter 2017, and TASC (2018) Living with uncertainty: the social implications of Precarious Work. 2018.
- 2 See Brian Hutton 'Tasc report finds 44% of Irish workers are "precariously employed"' Irish Times, 8 Nov, 2018.
- 3 Michael Collins (2015) Low Pay: Some Insights, NERI Research in Brief. December 2015 (no 29).
- 4 Migrants Rights Centre Ireland (2015) All Work and Low Pay: The Experience of Migrants Working in Ireland.
- 5 Collins (2015).
- 6 See 'EU report suggests living wage in Ireland is €11.90 per hour, 25% higher than existing minimum wage' Irish Examiner, 30 November, 2018.
- 7 Colin Gleeson (2018). 'Women in Ireland earn 13.9% less than men, says EU' Irish Times, 27 Jun, 2018.
- 8 Sinead Pembroke (2018) Precarious Work, Precarious Live. TASC: Dublin. p.12.
- 9 <https://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm> [Accessed 18 April 2019].
- 10 <https://stats.oecd.org/Index.aspx?DataSetCode=CBC> [Accessed 18 April 2019].
- 11 See <https://www.cso.ie/en/statistics/labourmarket/labourforcesurveytimeseries/> [Accessed 18 April 2019].
- 12 Development Finance International and Oxfam (2018) The Commitment to Reducing Inequality Index 2018. October 2018.
- 13 Micheal Taft (2019) 'This Over-Worked Working Life' Notes On The Front, 21 March, 2019. The countries used for comparison are the UK, Netherlands, Austria, Sweden, Germany, France, Denmark, Finland and Belgium.
- 14 See IBEC (2011) Employee Absenteeism: A Guide to Managing Absence. IBEC: Dublin.
- 15 Spasova S., Bouget D. and Vanhercke B. (2016) Sick pay and sickness benefit schemes in the European Union, Background report for the Social Protection Committee's In-depth Review on sickness benefits (17 October 2016), European Social Policy Network (ESPN), Brussels, European Commission.
- 16 Spasova et al. (2016) p.11.
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- 18 See https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf (Accessed 18 April 2019).
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- 20 Micheal Taft (2015) 'The French Elephant in the Room' Notes On The Front, 11 February, 2015.
- 21 Robert Sweeny (2019). The State We Are In: Inequality in Ireland Today, TASC. Dublin and Tasc (2018) 'Submission on the National Minimum Wage'. Dublin Feb 2018.
- 22 National Competitiveness Council (2018) Ireland's Competitiveness Scorecard 2018. July 2018.
- 23 NCC (2018) p.12.
- 24 <http://www.competitiveness.ie/Publications/2019/ICS-Press-Release.pdf> [Accessed 5 August 2019].
- 25 Social Justice Ireland (2019) Poverty Focus 2019.
- 26 Sweeny (2019).
- 27 See Pembroke (2018) p.53.



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