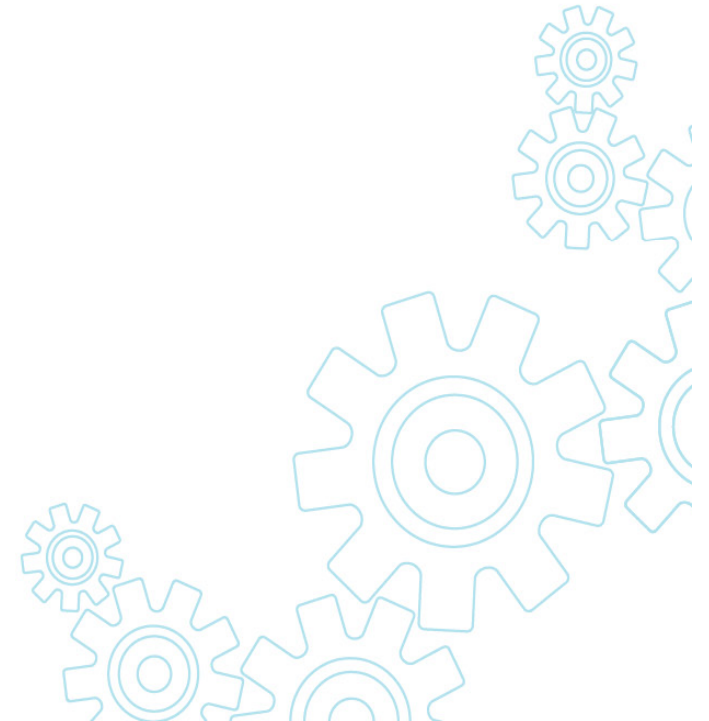




# Employment Law

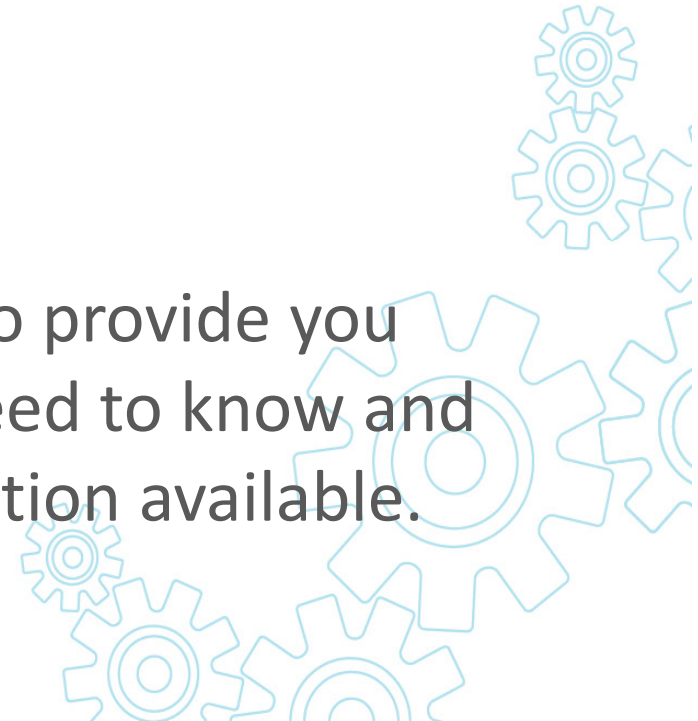
- Fundamental to the proper functioning of the workplace
- Protects employers and employees
- Benefits to compliance
- Consequences for non-compliance



# The Employment Relationship

- Employment law applies to all employment relationships
- Different conditions, dependent on:
  - Employee age
  - Employee experience
  - Employment sector
  - Job classification

Our aim in this presentation is to provide you with the the basics which you need to know and inform you of additional information available.



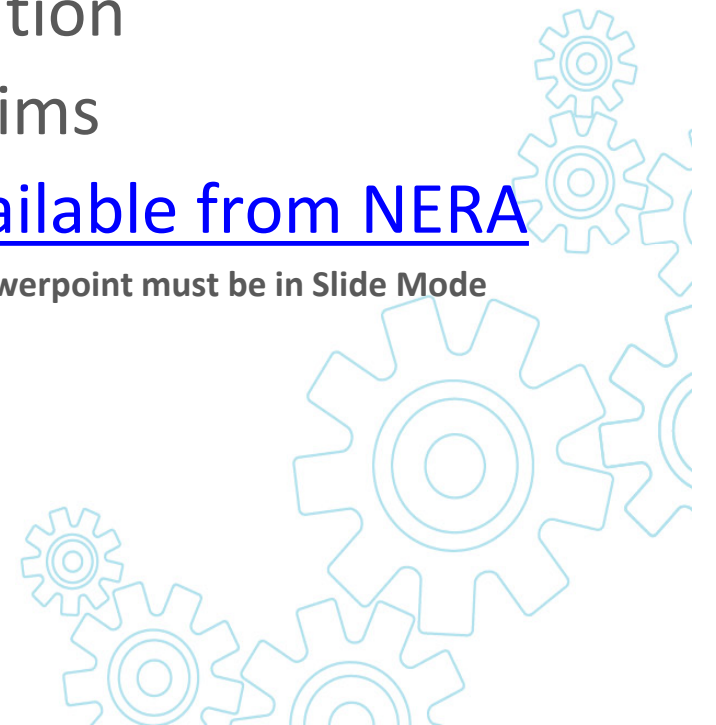
# Getting it right from the start

# Written Terms & Conditions of Employment

## A Legal requirement

- Terms and Conditions of Employment are the basis of the employment relationship
- Gives clear understanding to both parties
- Protects employees from exploitation
- Protects employers from false claims
- [Sample Terms of Employment available from NERA](#)

(Click on link above to Download sample document. Please note: Powerpoint must be in Slide Mode and connected to Internet )



## Details to be Included in Terms & Conditions

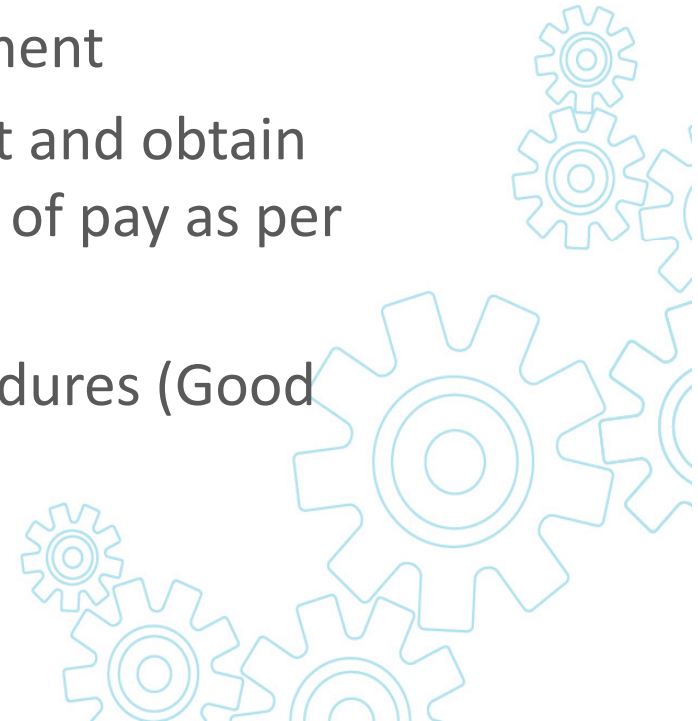
- Name of employer and employee
- Address of employer
- Place of work
- Job title/nature of work
- Date of commencement of employment
- Duration/expiration of contract  
(if temporary, fixed term or fixed purpose)
- Rate of pay and pay intervals
- Hours of work (overtime/shift patterns/Sunday Work)



## Details to be Included in Terms & Conditions

- Rest breaks (including a procedure for complaints)
- Annual Leave – other paid leave
- Sick Leave
- Pension Schemes
- Notice employee is entitled to receive, and obliged to give
- Collective agreements affecting employment
- Details of the employee's right to request and obtain written statement of average hourly rate of pay as per Minimum Wage Act, 2000
- Details of Grievance & Disciplinary Procedures (Good Practice)

Terms of Employment (Information) Acts 1994 & 2001.







# Paying employees the correct wages and in the correct manner

National Minimum Wage Act, 1990. Payment of Wages Act, 1991.

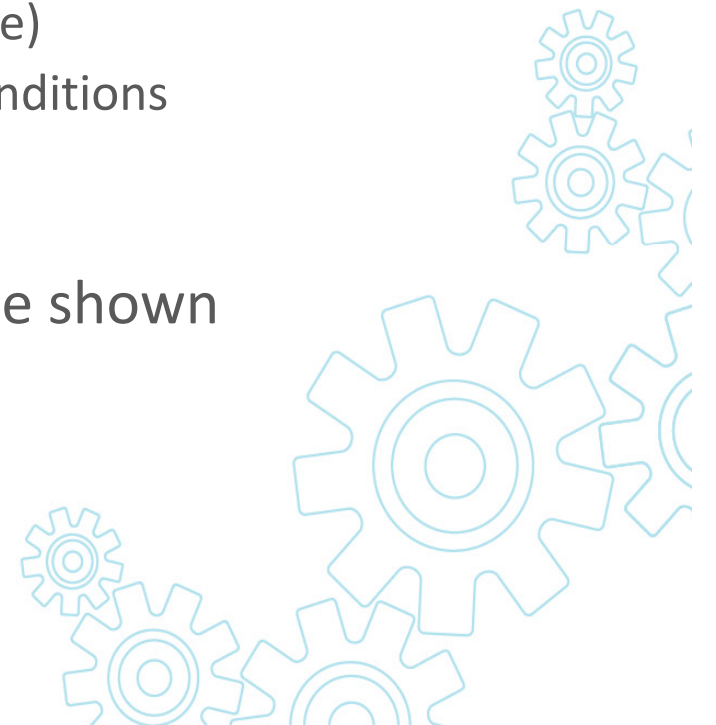
# Statement of Earnings (Payslip)

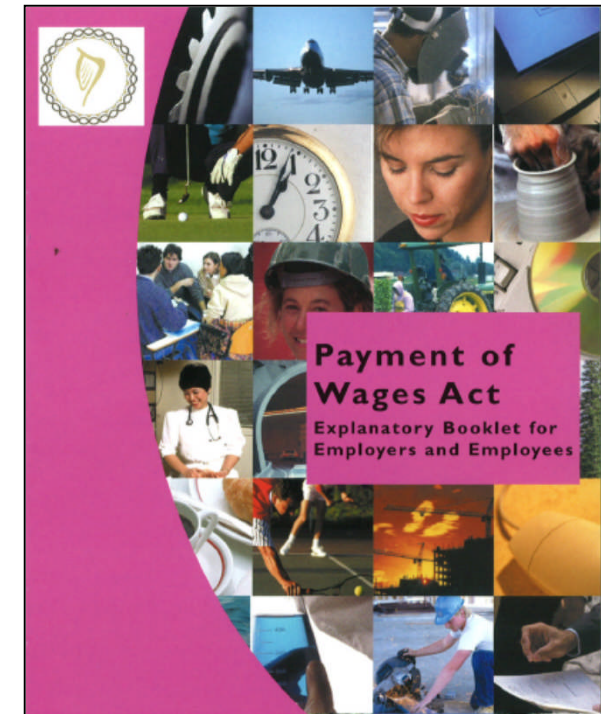
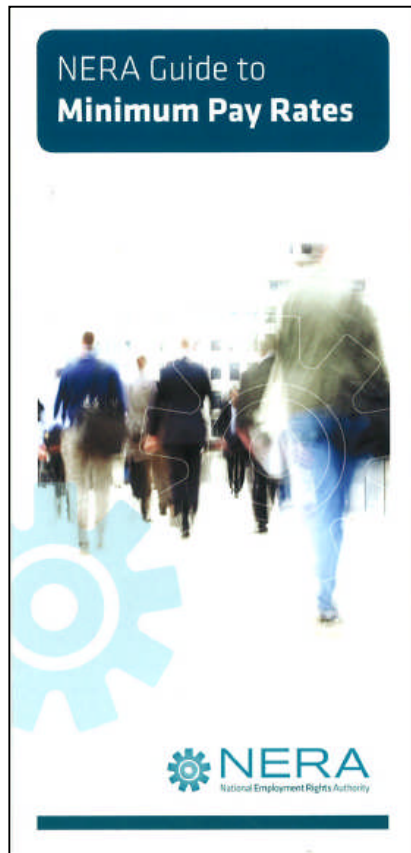
An employee must be given a payslip with each payment of wages

A deduction can only be made from wages where it:

- is required by law (Tax and Social Insurance)
- is made with the written consent of the employee (Trade Union subscription/Health Insurance)
- is provided for in the written terms and conditions (board and lodgings)

The gross wage and all deductions must be shown on the payslip





Click on Booklets to Download  
(Please note: Powerpoint must be in Slide Mode and connected to Internet)

National Minimum Wage Act, 1990. Payment of Wages Act, 1991.



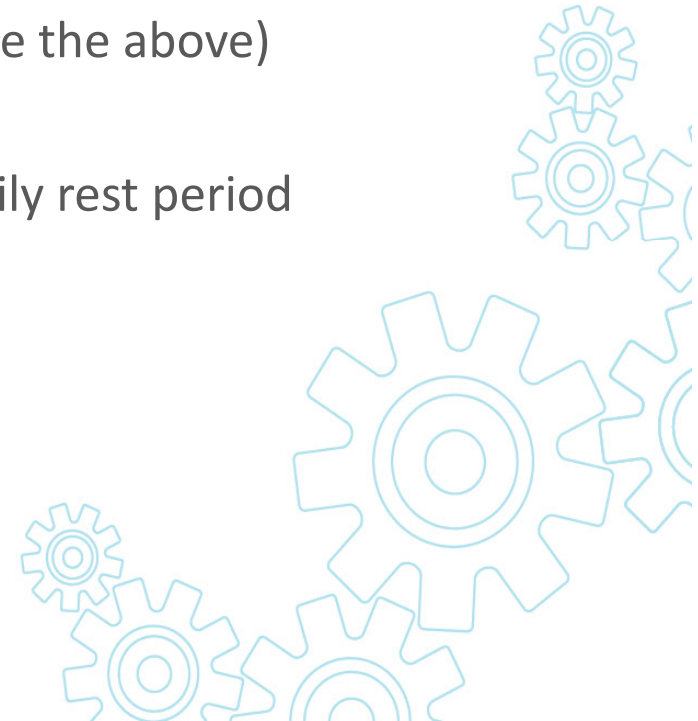
# Working hours, leave and public holidays

Organisation of Working Time Act, 1997.



# Maximum working hours & breaks

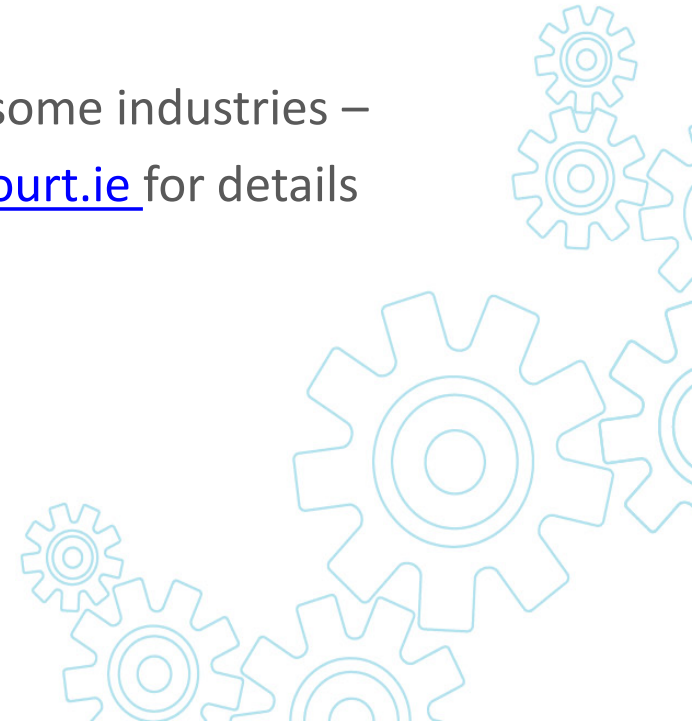
- Maximum 48 hour working week on average
- Sunday work is subject to a premium
- Average generally calculated over four months (in some cases 6/12 months)
- Breaks must be given for
  - 15 minutes within 4 ½ hours work
  - 30 minutes within 6 hours work (may include the above)
  - 11 hour daily rest period per 24 hours
  - 24 hour rest period per week following a daily rest period



# Leave

- All employees are entitled to paid holidays
- Entitlements are based on time worked
- Three methods of calculation dependent on hours worked:
  - 4 working weeks in a leave year
  - One third of a working week per calendar month
  - 8% of hours worked (subject to a maximum of 4 working weeks)
- The law sets different holiday entitlements for some industries – visit the [Labour Court Website at www.labourcourt.ie](http://www.labourcourt.ie) for details
- Carers' leave
- Maternity and parental leave

[Organisation of Working Time Act, 1997.](#)



# Public Holidays

- There are nine public holidays each year
- Employees must be given either:
  - A paid day off on the day
  - A paid day off within a month
  - An extra day of holiday
  - An extra day of pay

## Public Holidays

1st of January

St. Patrick's Day (17th March)

Easter Monday

First Monday in May

First Monday in June

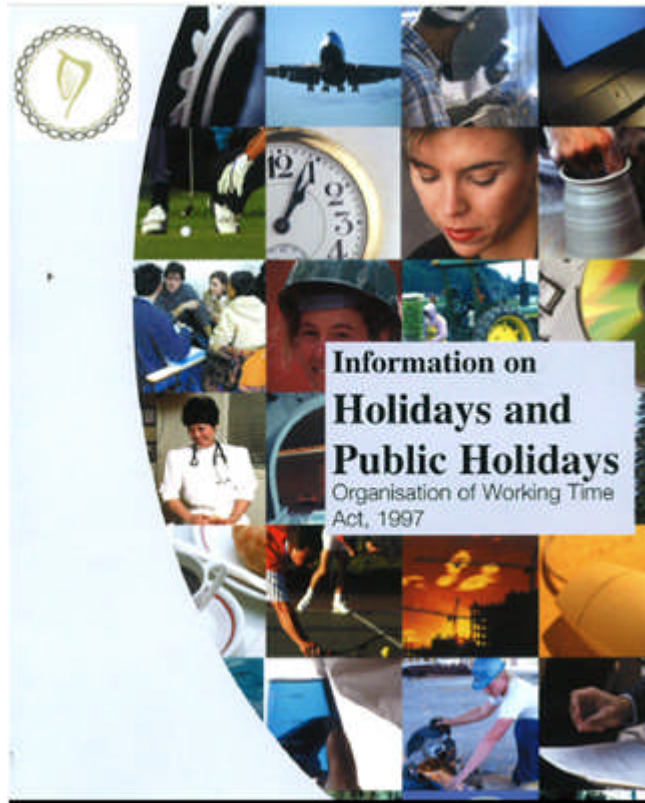
First Monday in August

Last Monday in October

Christmas Day (25th December)

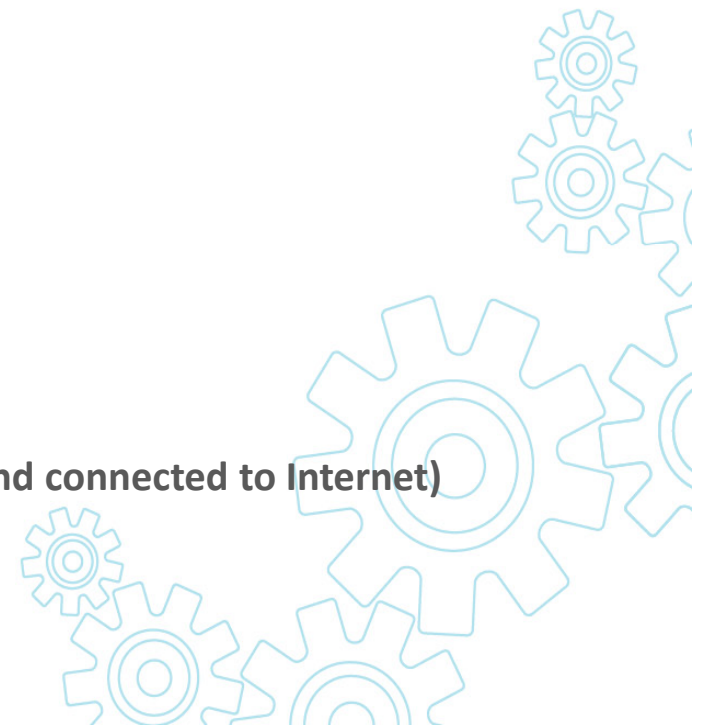
St. Stephen's Day (26th December)





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[Organisation of Working Time Act, 1997.](#)





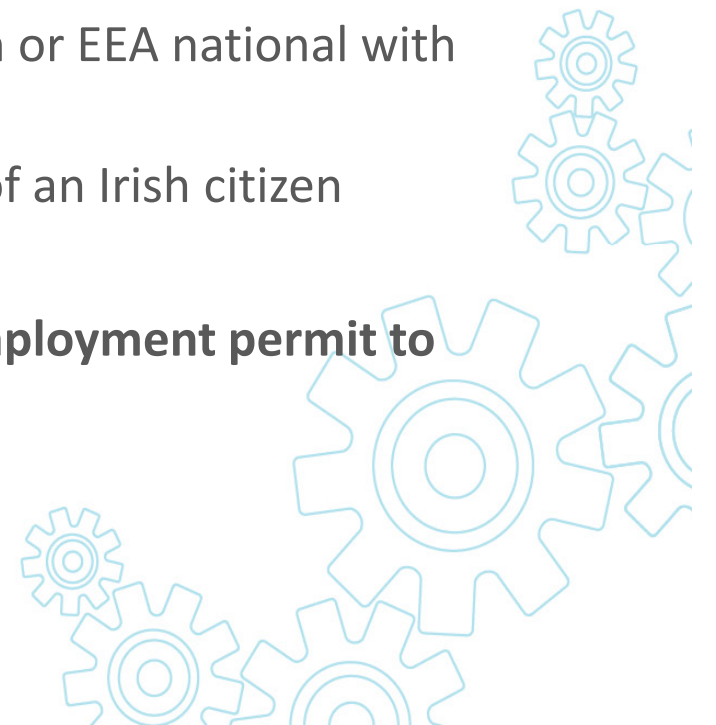
# Employment Permits

Employment Permits Acts, 2003 & 2006

# Who can work in Ireland?

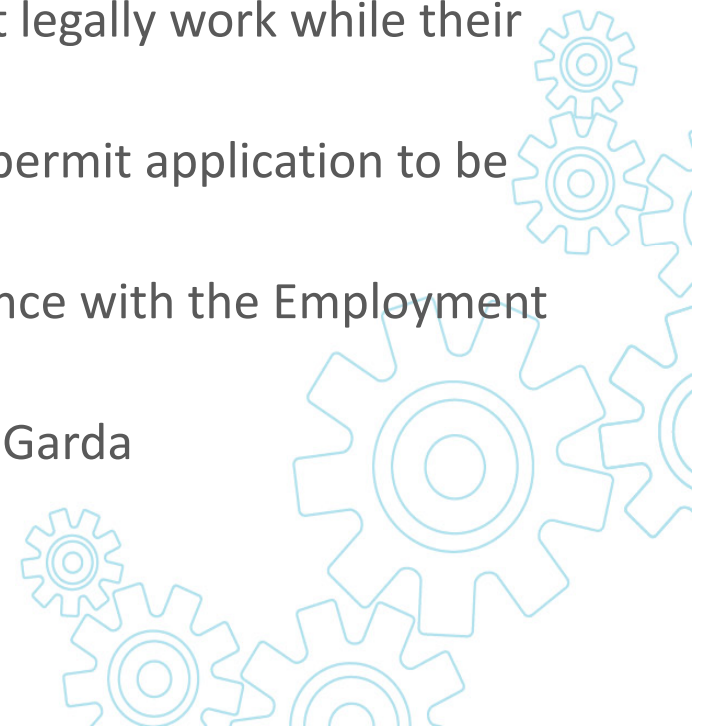
- EEA nationals
- Swiss nationals
- Persons granted Refugee status
- Persons granted temporary leave to remain on humanitarian grounds
- Persons with specific immigration permission permitting them to work
- Persons with Working Visa/Work Authorisation
- Spouses, civil partners or dependents of an Irish or EEA national with permission to remain
- Persons granted leave to remain as the parent of an Irish citizen

**Persons not in the above categories require an employment permit to work in Ireland.**



# You need to know

- A PPS number doesn't automatically mean a foreign national can work in Ireland
- Working without a valid employment permit is a criminal offence for both the employer and employee
- Employment permits are only granted for certain categories of work
- People working illegally are more vulnerable to exploitation and abuse
- People applying for asylum seeker status cannot legally work while their application is under consideration
- A person cannot work while waiting for a work permit application to be processed
- NERA carries out inspections to ensure compliance with the Employment Permits Acts
- Any immigration matters will be referred to the Garda



# Employments ineligible for permits

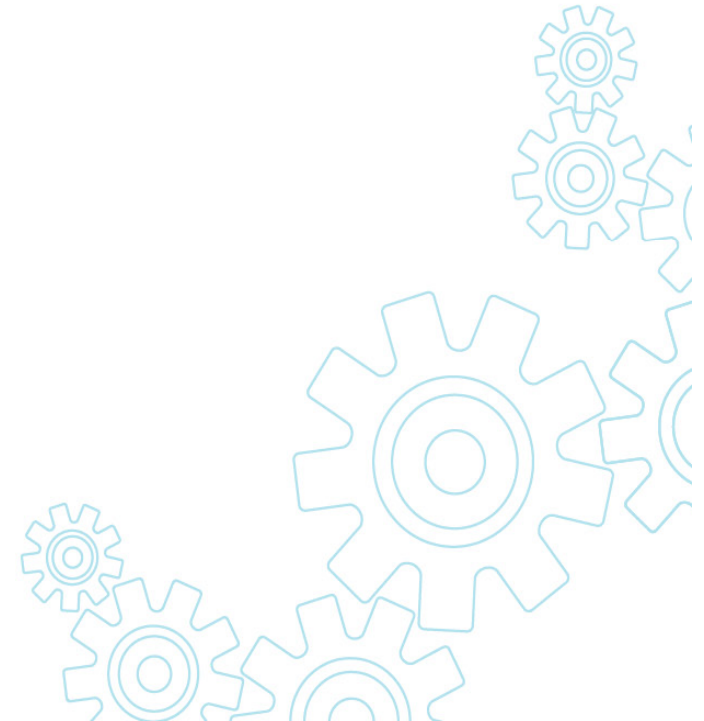
- Clerical/Administrative
- General Operatives/Labourers
- Operator and Production Staff
- Domestic Workers
- Work Riders (Horse Racing)
- Retail sales
- Drivers including HGV
- Childcare Workers
- All tourism and catering staff except chefs

Employments which are highly skilled and salary over €30,000 may apply for Green Card permit



# Employment Permits 2013

- 453 breaches of Act
- 48 prosecutions
- Over 100 prosecutions pending



# Employing young people

Protection of Young Persons (Employment) Act, 1996.

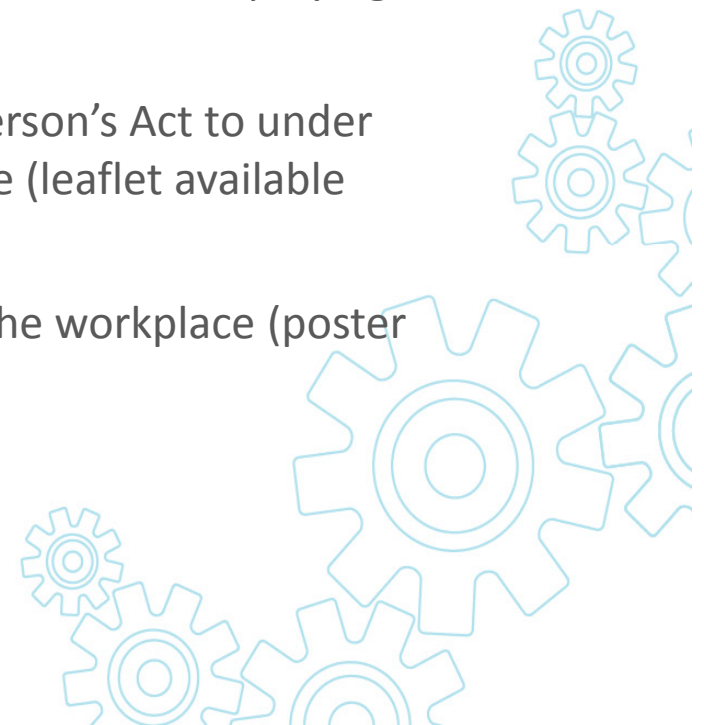


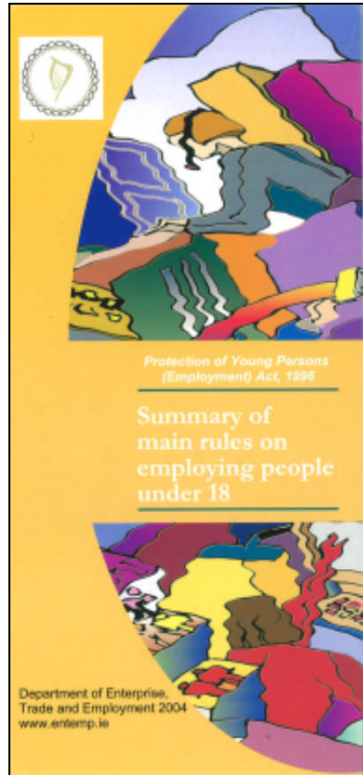
# Employing Young People

Specific rules apply to hours and times that people under 18 are permitted to work

In addition, an employer must:

- See a copy of a birth Certificate or other evidence of age before employing a person under 18
- Get the written permission of a parent or guardian before employing a person under 16
- Provide a summary of the Protection of Young Person's Act to under 18's within one month of the commencement date (leaflet available from NERA)
- Display an official summary of the legislation in the workplace (poster available from NERA)
- Keep a register of employees under 18

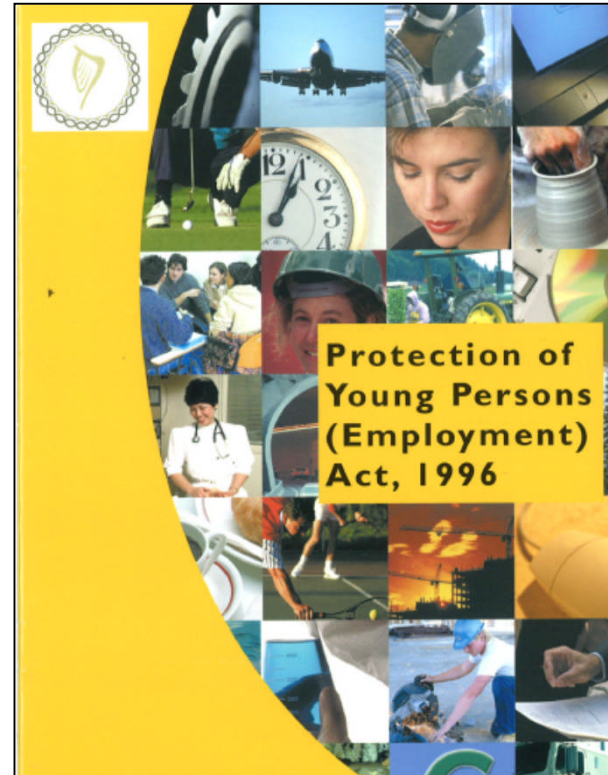




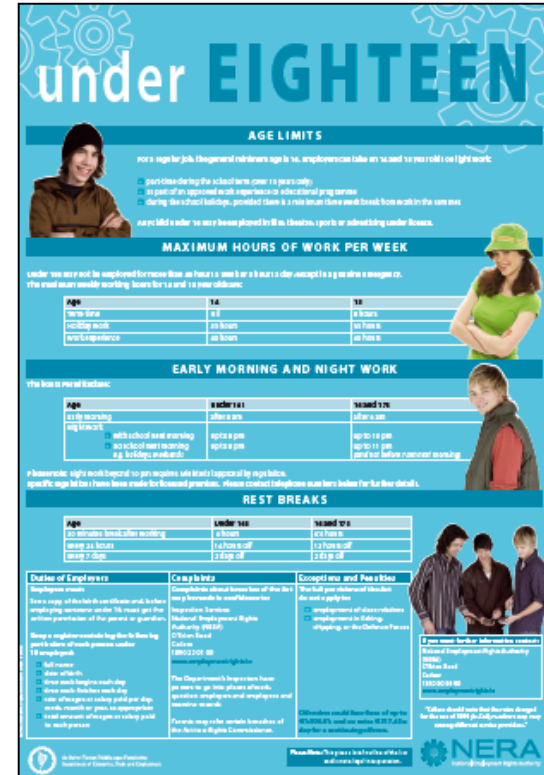
**Protection of Young Persons (Employment) Act, 1996**

Summary of main rules on employing people under 18

Department of Enterprise, Trade and Employment 2004  
www.entaemp.ie



**Protection of Young Persons (Employment) Act, 1996**



**under EIGHTEEN**

**AGE LIMITS**

For a regular job, the general minimum age is 16, unless you are 15 and so you're on light work:

- 15 years during the school term (over 13 years only)
- As part of an approved work experience or educational programme
- During the school holidays, provided there is a risk assessment done from work in the summer

For an odd job, you may be employed by 16 or 17 years old or advised by your Leader.

**MAXIMUM HOURS OF WORK PER WEEK**

Under 16s are not to be employed for more than 4 hours a week or 8 hours a day (except for a regular evening job). The most hours are 7 hours for 14 and 15 year olds:

Age	YA	16
Time limit	4 hours	8 hours
School days	2.5 hours	3.5 hours
Work experience	2.5 hours	3.5 hours

**EARLY MORNING AND NIGHT WORK**

Age	Under 16s	Under 17s
Any working	After 6 am	After 6 am
Any hours	With school leave working No school leave working eg. holidays available	After 6 am After 6 am After 6 am
Hours	After 6 am	After 6 am

**REST BREAKS**

Age	Under 16s	Under 17s
20 minutes, break after working	2.5 hours	3.5 hours
20 minutes, break after working	2.5 hours	3.5 hours
20 minutes, break after working	2.5 hours	3.5 hours

**Duties of Employers**

Employers must:

- Obtain a copy of the health certificate and, before employing, ensure under 18s meet all the written provisions of the person's or guardian's (where applicable) consent.
- Supply a register (available by law to be kept in the workplace) which must include:

  - Full names
  - Date of birth
  - When work began each day
  - When work finished each day
  - When off-work or when taking paid or unpaid leave
  - When absent or when taking paid or unpaid leave
  - When absent or when taking paid or unpaid leave

**Carrying out**

Employers must have a copy of the Act in the workplace to read to the young person. The Department's inspectors have the power to do this if the employer does not have a copy. The Department's inspectors have the power to do this if the employer does not have a copy.

**Consequences and Penalties**

The full provisions of the Act are in the Act. The Department's inspectors have the power to do this if the employer does not have a copy.


Click on Booklets or poster to Download  
(Please note: Powerpoint must be in Slide Mode and connected to Internet)

Protection of Young Persons (Employment) Act, 1996.



# Record keeping

Industrial Relations Act, 1946. Industrial Relations Act 1969. Industrial Relations Act, 1990.  
Organisation of Working Time Act, 1997. National Minimum Wage Act, 2000.  
Payment of Wages Act, 2000. Protection of Young Persons (Employment) Act, 1996.



# Record Keeping

By law all employers must keep employment records:

- Key to demonstrating compliance
- Protects employers and employees
- Good business management

- Records to be kept include:

- Employee details
- Payroll details including deductions
- Hours of work
- Written terms of employment

- Evidence payslips are given
- Job classification
- Annual leave and public holidays
- Register of employees under 18

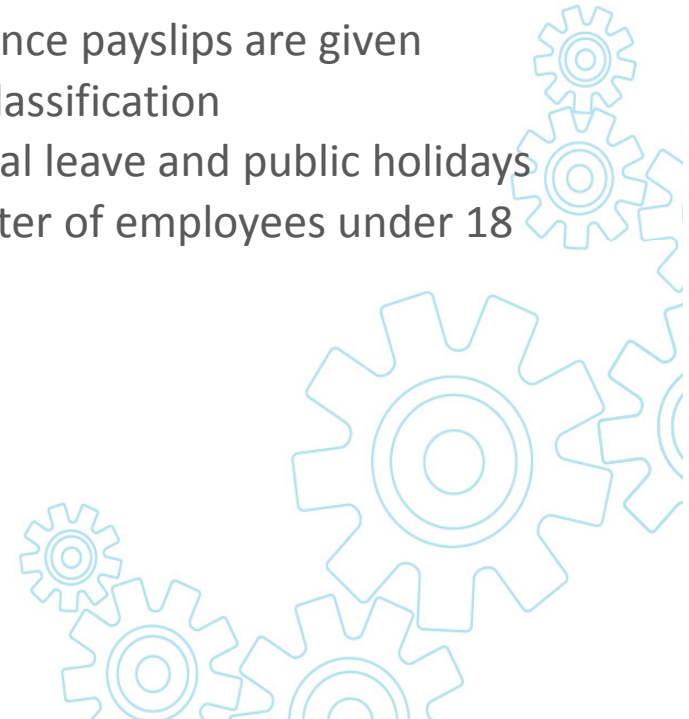
Industrial Relations Act 1946, 1969, 1990.

Protection of Young Persons (Employment) Act, 1996

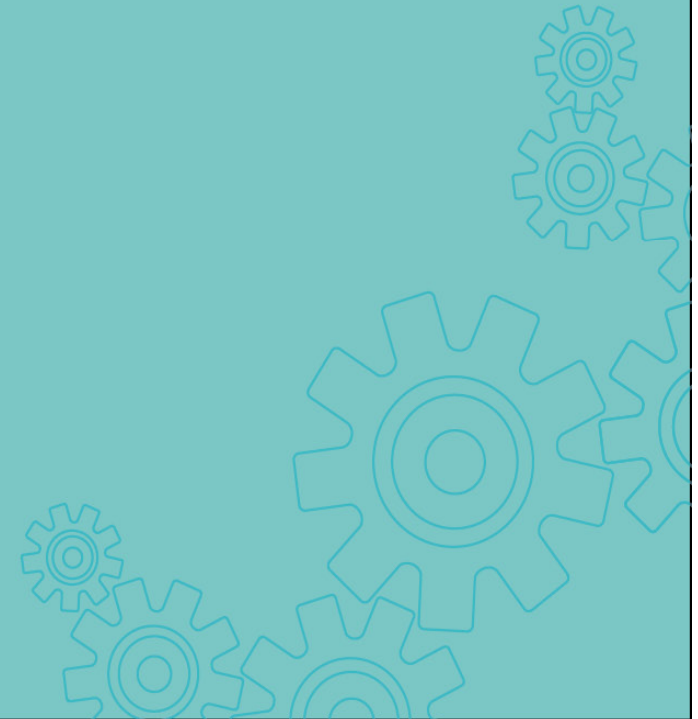
Organisation of Working Time Act, 1997

National Minimum Wage Act, 2000

Payment of Wages Act, 1991

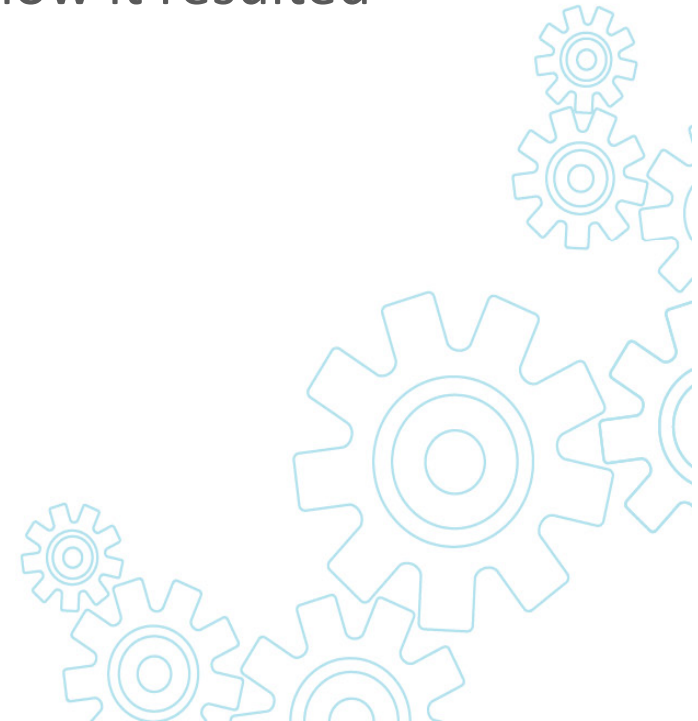


# Ending the employment relationship



# Ending an Employment Relationship

- Minimum notice periods apply after 13 weeks work
  - Employer must give 1-8 week's notice dependent on length of employment
  - Employee must give 1 week's notice
- To justify a dismissal an employer must show it resulted from:
  - Lack of capability, competence or qualifications
  - Conduct
  - Contravention of another law
  - Other substantial grounds
  - Redundancy

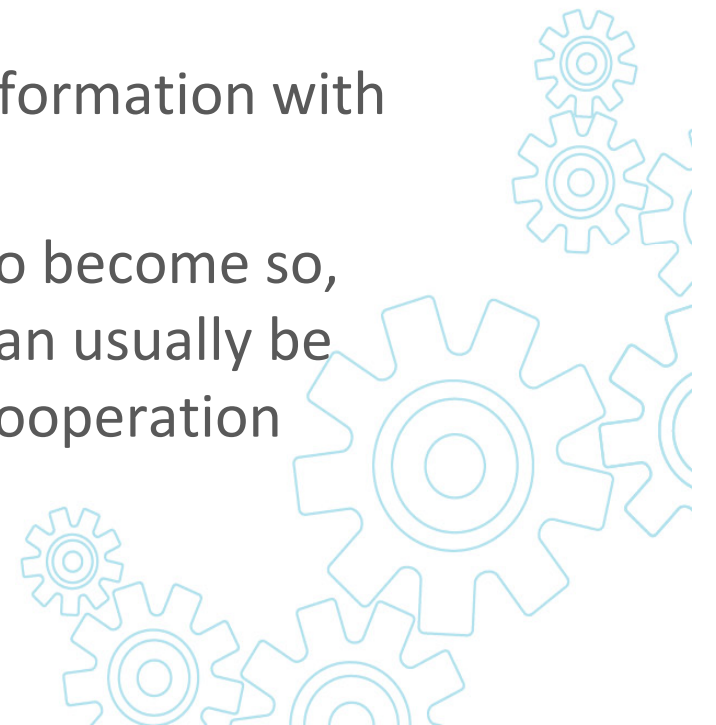


# The inspection process



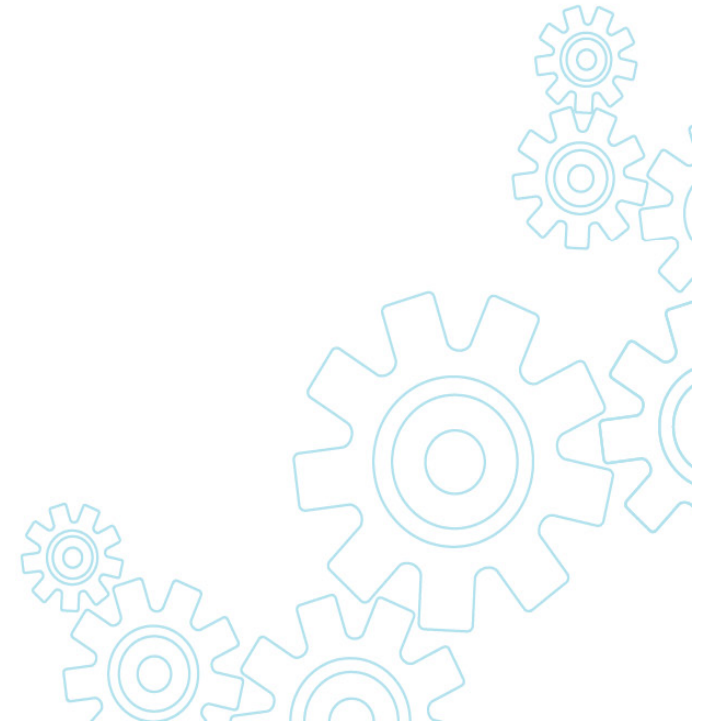
# Inspections

- Inspections may be by appointment or unannounced
- Inspectors carry warrant card
- Records will be examined
- Employer will be interviewed
- Employees will be interviewed
- Carry out Joint Inspections and share information with Revenue and Social Protection
- Compliant employers, or those willing to become so, have nothing to fear, non-compliance can usually be resolved through communication and cooperation



## Inspector powers

- Provided for in each Act
- Entry to workplace
- View, take/copy records
- Interview persons
- Exchange information
- Offence to obstruct/mislead Inspector



## Dealing with Non-Compliance

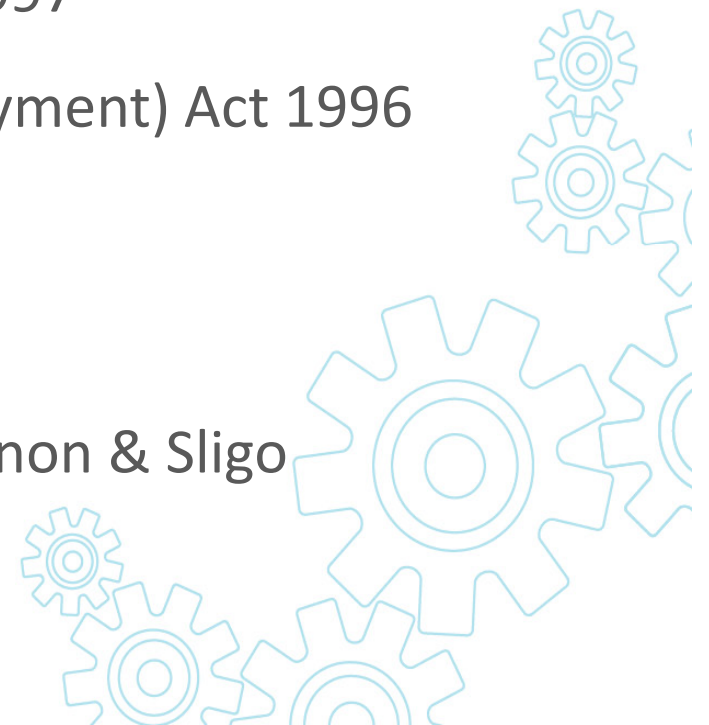
- Request employer to rectify any breaches
- Provide reasonable time-frame to become compliant
- Follow-up to ensure compliance is achieved and maintained
- Escalate to prosecution if employer does not rectify breaches or cooperate





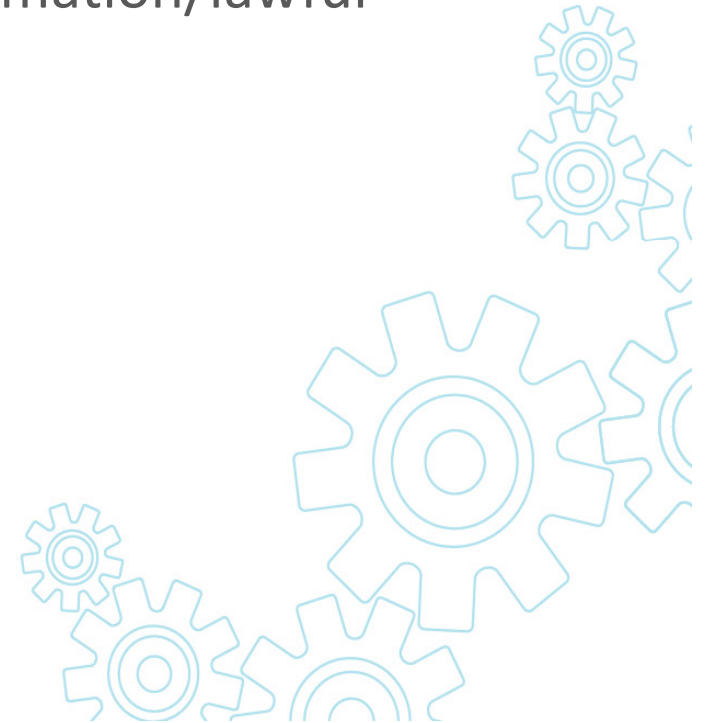
# Inspections

- Enforcing statutory legal rights & obligations:
  - National Minimum Wage Act 2000
  - Payment of Wages Act 1991
  - Organisation of Working Time Act 1997
  - Protection of Young Persons (Employment) Act 1996
  - Employment Permits Acts
- 56 inspectors
- 5 locations: Carlow, Dublin, Cork, Shannon & Sligo



## Main offences

- Failure to pay NMW
- Employment Permits
- Failure to keep/produce records
- Inspector: obstruct/mislead/false information/lawful request



# Contraventions

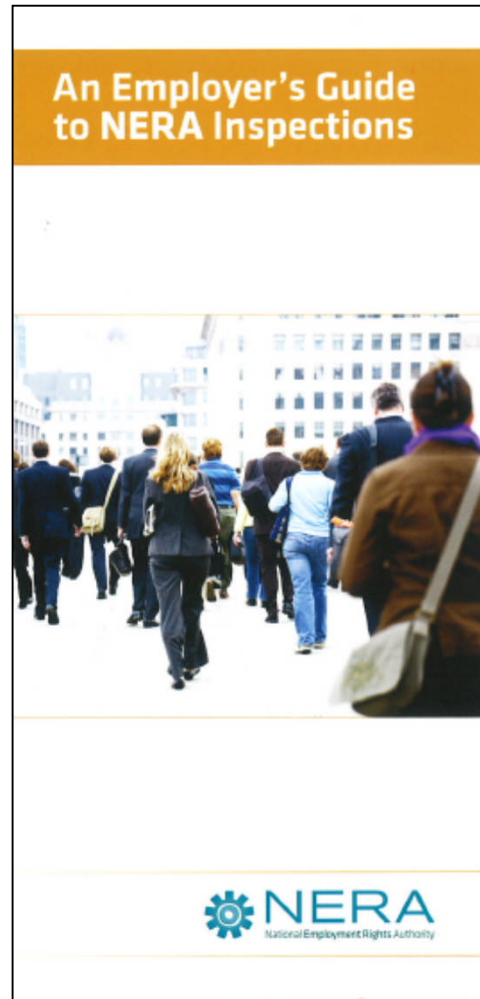
- Redress through Rights Commissioner
- Mostly under OWTA
  - Public Holidays Benefit
  - Annual leave
  - Sunday Premium
  - Terms & Conditions
- Inspector will seek to resolve issues/inform employees



## Inspections 2013

- 5,546 Inspections (917 complaints)
- €824,052 Unpaid wages
- 84 prosecutions (1.5%) – Prosecutions published
- €109,800 fines / €41,226 wage arrears
- Escalate to prosecution if employer does not rectify breaches or cooperate

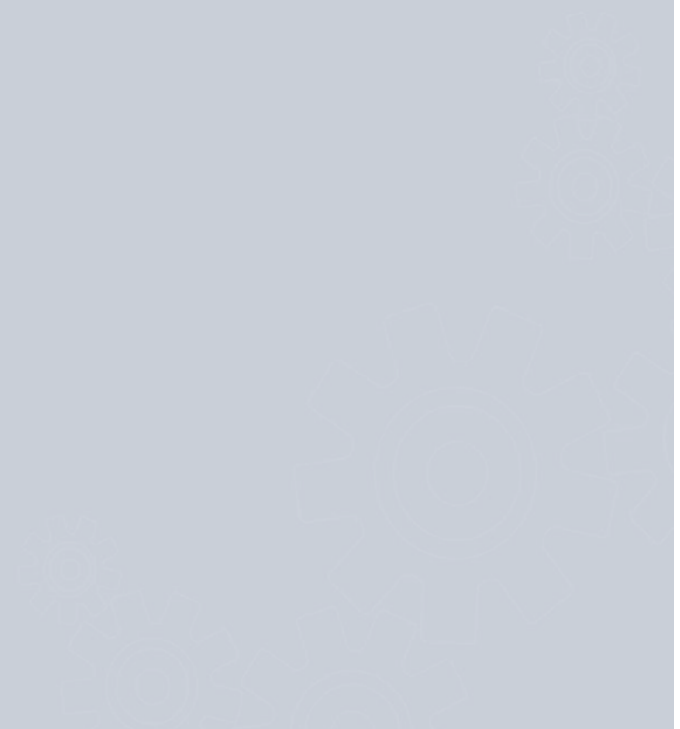




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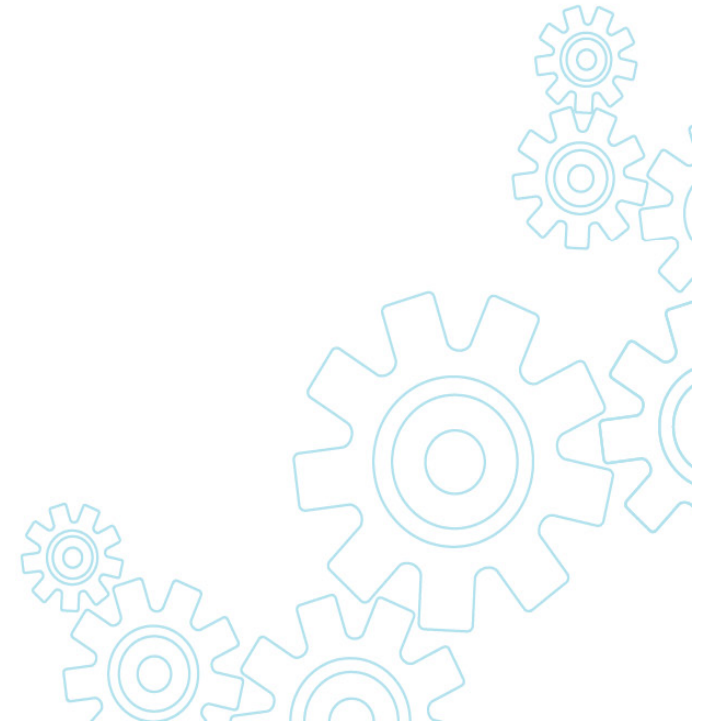


# Workplace Relations Bill



# Reform

- Deliver a world class workplace relations service
- Employment rights framework that serves the needs of employers and employees
- Provides maximum value for money



## Progress to date

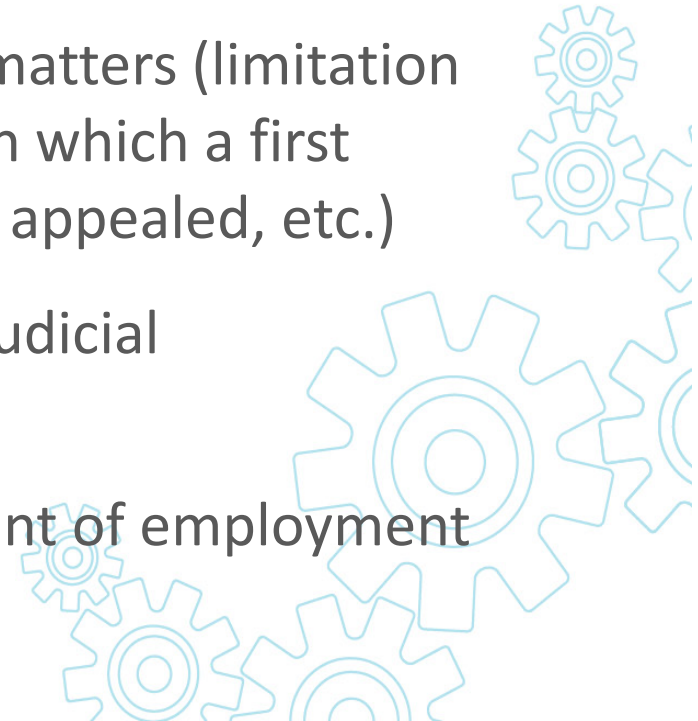
- One website
- One application form
- One point of contact
- Equality Tribunal into DJEI
- Workplace Relations Bill publication 2014
- Early Resolution Service
- Interim management structures





## Workplace Relations Bill

- Establish WRC carrying out functions of NERA, Equality Tribunal, LRC and the EAT
- Labour Court appellant body for decisions of WRC
- Wind down NERA, the Equality Tribunal, EAT & LRC
- Standardisation of certain procedural matters (limitation periods; the length of the period within which a first instance adjudicator's decision may be appealed, etc.)
- Effective and efficient process for the judicial enforcement of awards
- Enhanced measures for the enforcement of employment rights legislation

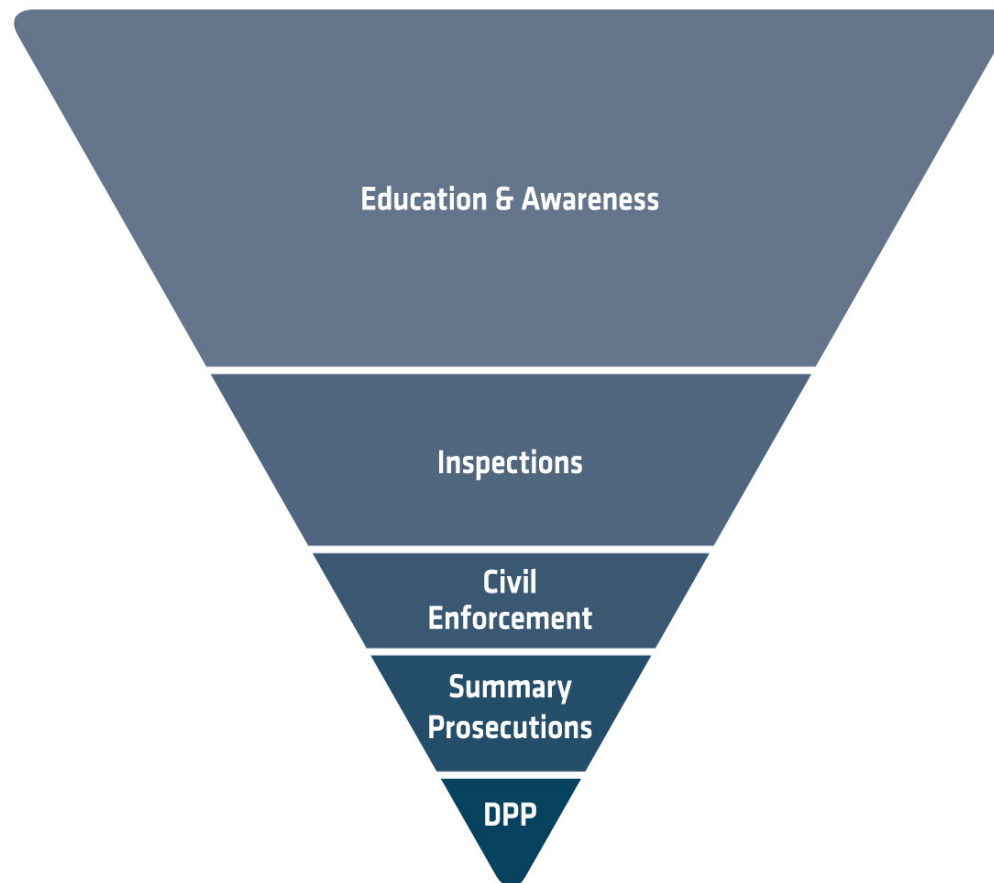


# How NERA can help



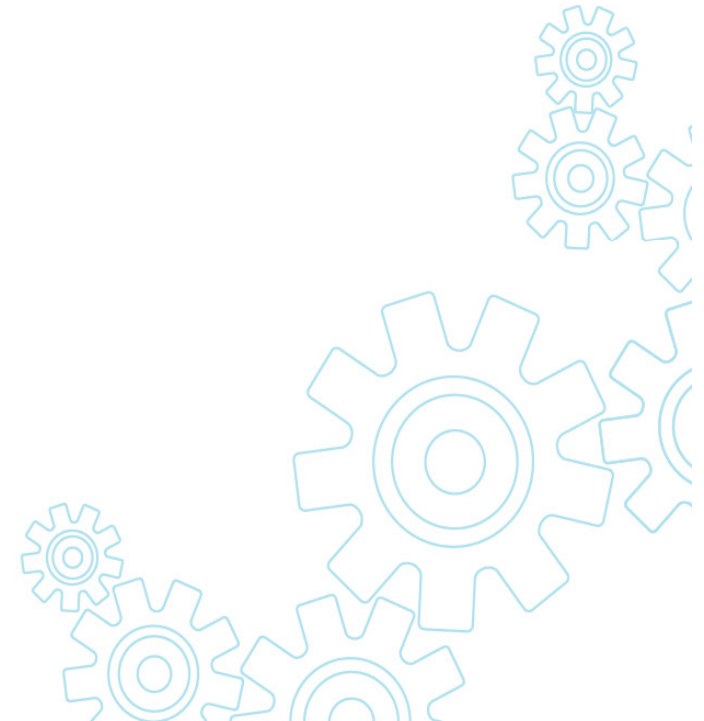
# How NERA Can Help

A resource for employers & employees to achieve compliance through:



## Information 2013

- Information provided to 62,039 people
- 54,044 direct calls
- 7,342 recorded information
- 7,995 eforms
- 1.14M web page impressions



## Providing Information

- Lo-Call 1890 80 80 90
  - NERA staff available 9:30am to 5pm, including lunch
  - 24 hour recorded information option
- Eform
- Publications
- Awareness Campaigns
- [NERA website - www.employmentrights.ie](http://www.employmentrights.ie)
- [WRCS website – www.workplacerelations.ie](http://www.workplacerelations.ie)



[Decisions & Determinations >](#)

## Welcome to Workplace Relations

[Publications & Forms >](#)[Welcome](#)[Equality](#)[Contact Details](#)[Reform news](#)

### Twitter Relations

Tweets by [@JobsEnterInnov](#)

[> Read more](#)

### Contact Details

Contact Details and location maps for the various Workplace Relations bodies

[> Read more](#)



**NERA**

National Employment Rights Authority

***Achieving a national culture of  
employment rights compliance***