



FAQs on the Transparent and Predictable Working Conditions Regulations of 2022

Department for Industrial and Employment Relations

What is the Transparent and Predictable Working Conditions Regulation of 2022?

The Transparent and Predictable Working Conditions Regulations stems out from the Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. This directive aimed to update the already existing Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship in the context of more flexible and modernised labour market catalysed by the digitalisation era.

Through this regulation new set of obligations on behalf of the employer and rights for the employees have been legislated to capture the ever-evolving nature of the world of work. Thus, setting up a framework which guarantees the minimum standard of working conditions in the modern labour market and world of work.

This regulation has already entered into force and its provisions are applicable by 1st August.

Who is covered by this regulation?

All workers and employers who have an employment relationship or an employment contract as defined by the law, collective agreements or practice in force in each Member State. It is however, important to note that some provisions do not apply to seafarers or sea fishermen.

What are the obligations of the employer?

Employers are obliged to inform the workers of the essential aspects of the employment relationship and make such information available to the worker in writing.

What information should the employer make available to the employees?

The employer needs to make available in writing the basic information of the conditions of employment and all the terms and references of the employment relationship between himself/herself and the employee in accordance with national law. Furthermore, the format of the information can be also in an electronic format as long as such information can be either stored or printed. This shall include

1. the basic information of the employer, such as the name, registration number and registered place of the business of the employer as well as the identification information of the employer.
2. Information on the place of work if applicable, in cases where there is no fixed place of work the employer can designate the workplace of one of the various places or where appropriate the residence of the employer.
3. The title of the job or grade which the worker will be tasked to perform together with a job description.
4. The starting date of employment and in cases where the employment relationship has a fixed term, the employer is required to include the end date or the duration period of the employment relationship.
5. The duration of the probation period
6. Entitlement for paid training.
7. The amount of statutory paid leave as applicable by law, which include vacation leave, parental leave, paternal leave, maternity leave, carer's leave, urgent family leave, bereavement leave, marriage leave, quarantine leave.

8. The conditions for the termination of the employment relationship, such as notice period.
9. The salary package, which needs to be clearly listed together with any other remuneration or component elements.
10. In cases where the working schedule is mostly predictable, the employer must include the weekly work schedule, overtime or any arrangements for shift changes.
11. However, in cases where the nature of the work pattern is entirely or mostly unpredictable the employer must provide:
 - a. number of guaranteed paid hours and the remuneration for additional hours
 - b. reference hours and days when the work may be required
 - c. minimum period of notice before the start of work and the deadline for cancellation
12. In cases where it is the responsibility of the employer, the employer needs to identify the social security institutions receiving the social contributions linked with the employment relationship.
13. Applicability of collective agreement where applicable.

What if the employer engages a person under a contract for service as an outworker?

In such cases the employer needs provide the employee with a signed statement listing:

1. The basic information of the of the employer and business, such as the name, registration number and registered place of business together with a valid legal information of the employee: ID Card Number and address of the employee.
2. Rate to be paid for the work
3. Any special conditions regulating the contract for the service agreement.

At what stage does the employer need to make available the written information to the employee?

The basic information and conditions of the employment relationship such as the basic information of the employer, the place of work, title of the job and job description, starting date of the employment relationship, termination procedures, remuneration and salary package, probationary period, and other work arrangements such as overtime and shift changes needs to be provided by not later than **7 calendar days** from the start of the employment.

The other relevant information as prescribed by the regulation such as entitlement to training, information of paid leave in accordance with law, conditions for termination procedure, applicable collective agreements, social security institutions receiving contribution must be provided to the employee by **not later than 1 month** of the starting date of the employment relationship.

However, in cases where the employee is required to work overseas for a period exceeding four consecutive weeks such information shall be provided by the employer before the employee's departure. In such cases the employer is required to include additional information such as:

1. The country or countries in which the employee will be working in and the duration of the work overseas.
2. The currency to be used for the payment of the remuneration.
3. Any cash benefits or in kind related with the work assignment overseas.
4. Information whether repatriation will be provided and the procedure and terms and conditions for the repatriation.

In the case of posted workers, the employer is obliged to provide a posted worker with information as to the relative remuneration to which the worker is entitled in accordance with the applicable law of the host Member State, where applicable, any allowances specific to posting and any arrangements for reimbursing expenditure on travel, board and lodging and the link to the single official national website developed by the host Member State pursuant to Article 5(2) of Directive 2014/67/EU of the European Parliament and of the Council.

What is the right of the employee in cases where the relevant information of employment is not submitted by the stipulated deadline?

In such cases the employee has the right to submit a complaint to the national authority to request the said employer to provide such information to the employee in question. The national authority has also the faculty to launch an investigation to determine the nature of the breach by the employer. In cases where such breach is determined the employer will be liable to a fine.

What information the employers are required to keep as records of their employees?

The employer is to maintain an updated record for each worker and such records should include:

1. A copy of any written contract of employment or statement or letter of engagement.
2. The basic information of the employee, such as, name, address, legally identification number etc,.
3. The occupation of the worker
4. The starting date of the employment relation ship
5. The nature of the contract, that is, whether the contract was on full-time, part-time, definite, indefinite etc,.
6. A record of the time rates payments both for the ordinary time rates and overtime rates.
7. The periods of daily and weekly rest accorded to the worker, as well as leave arrangements.
8. Total wages paid to the worker.
9. Any changes and updates to the conditions of employment.

What is the responsibility of the employer towards the national authority of employment?

The employer has the obligation and duty to furnish any information in connection with the conditions of employment of the worker where and when required by the national authorities.

Is it possible to modify the condition of employment after the starting date of the employment?

No unless there is a change in the laws, regulations or changes in the collective agreements which regulate the workplace, or the application of Article 42 of the EIRA.

Can the employer engage an employee on zero-hour contract?

No, zero-hour contracts are prohibited. However, there are some exceptional circumstances where such contracts are permissible by law. These are:

1. In cases where the nature of the activity of work to be performed requires the availability of replacement workers on short notice. Nevertheless, also in such conditionality, the zero-hour contract is not the whole-time employment of the said worker.
2. In cases where the worker is a full-time student.

If and where such cases arise and the conditions for such permissibility of the law for zero-hour contract are met, the responsibility and proof as such rest with the employer.

What is the length of the probationary period?

The Probationary period cannot be longer than 6 months. In the case of a contract of a fixed-term duration the probationary period must be proportionate to the duration of the contract.

The duration of a fixed term contract cannot be shorter than six months. However, in cases where the fixed term contract is shorter than six months the employer shall clearly list, the objective reasons for such a shorter duration in the same contract of employment.

A probationary period can be of 12 months if such period is for a contract of employment of a worker in a technical, administrative, executive, or managerial position.

The probationary period and the workers' rights

Any worker together with the employer may agree on working under a contract with a probationary period which is shorter than periods envisaged in the law.

If a worker during the probationary period takes more than two weeks of leave during her/his probation period, such probation shall be considered as suspended which will resume upon re-entry to work. During suspension period of the probation the employer cannot dismiss the employee in question.

Are employees allowed to take up another employment with other employers?

Yes, employees have the right to take up additional employment as long as it is outside of the work schedule established with any employer. In this regard, the employer, is not allowed to prohibit the take up of any other employment of a worker or treated adversely due to such matter.

Are there cases where the employer can prohibit a worker from taking up another employment?

Yes, an employer is allowed to prohibit the take up of a said employee, in cases where there are:

- Objective grounds, such as health and safety.
- The protection of business confidentiality.
- The integrity of the public service.
- Issues of possible conflict of interest which may arise by taking such other employment.

What is the minimum predictability of work?

In cases where the pattern of work of any worker is entirely or mostly unpredictable, the employer can oblige the worker to fulfil the requested tasks to be performed by the said worker only if the following two conditions are met:

1. The work to be performed is within the established and agreed dates and time frame by the employer and employee.
2. The worker is informed well ahead of time on the tasks and the period on which such tasks are to be performed and according to the defined parameters of the regulation.

What are the defined parameters of the regulation on reasonable notice?

In cases of unpredictable pattern of work the employer needs to inform the employee:

- a. At least 30 days before the assignment of work in cases where such assignment has a duration of 6 weeks or more of work.
- b. At least 15 days before the assignment of work in cases where such assignment has a duration of 2 weeks up to 5 weeks of work.
- c. At least 7 days before the assignment of work in cases where such assignment has a duration of 1 week up to 2 weeks of work.
- d. At least 3 days before the assignment of work in cases where such assignment has a duration between 5 to 7 days of work.
- e. At least 1 day before the assignment of work in cases where such assignment has a duration of less than 5 days of work.

Has the employee the right to request more predictable work?

Yes, in cases where the probationary period if any and which probationary period must not exceed 6 months are fulfilled by the employee, the said employee has the right to request the employer to provide more predictable and secure working conditions where available. The employer is also obliged to provide the terms of reply in writing to the employee within 1 month of the request or 3 months in cases of micro, small or medium enterprises.

Who is responsible for providing and paying any training?

In cases where the employer is required to provide training to their employees by national law, EU law or as stipulated in the collective agreement for such employees to perform their work, the responsibility for the provision of the training and the costs of such training shall be borne by the employer.

Who has the right to redress and to dispute resolution?

Any worker, including those workers whose employment relations has ended have the right to dispute resolution and a right to redress in the case of infringements of their rights arising from these regulations. In such cases the DIER which is the national competent authority, would launch an investigation based on the complaint provided by the said worker.

Is the worker of who lodges a complaint protected?

Any action by the employer which aims to victimise or subject any worker or any workers' representative to adverse treatment shall be deemed to be unlawful.

In which cases is a dismissal regarded to be an unfair dismissal?

In cases where the reason of dismissal of a worker is that the worker refused or proposed to refuse to comply with a requirement which the employer imposed or posed to impose which go against these regulations.

The workers have also the right to request the reason of dismissal, in cases where they consider that such dismissal has been affected on the basis of their rightful exercise of these regulations, and in instances where the worker establishes the facts before the Tribunal that such dismissal has been affected on such grounds, the burden of proof will rest on the employer.

What are the consequences of any infringement of these regulations?

If a person is convicted of such infringement such person will be liable of a fine of not less than €450.00



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