

The European Union (Transparent and Predictable Working Conditions) Regulations 2022

AMC February 2023

The European Union (Transparent and Predictable Working Conditions) Regulations 2022 became law on **16th December 2022**. Whilst most of the provisions in the regulations are already in Irish Employment Law, our members will have to review their policies & contract templates to ensure they comply with the provisions entailed.

What are the changes?

1. Providing Terms & Conditions:

Previously, the Employment (Miscellaneous Provisions) Act 2018 advised that all new employees should be given the below information about their new role within the **first 5 days** of their employment, these include:

- The full names of the employer and employee
- The address of the employer
- The expected duration of the contract
- The rate or method of calculating pay, and the 'pay reference period' (to comply with National Min Wage Act 2020)
- What the employer reasonably expected the normal length of an employee's working day and week to be (for our members Mon – Thurs – 8 hours & Friday 7 hours)

With the new regulation you must also now include the below within the **first 5 days** of their commencement date:

- Where a probationary period applies, its duration and conditions
- The place of work or, where there is no fixed or main place of work, confirm that the employee is employed at various places or is free to determine his or her place of work
- The title, grade, nature or category of work that the employee is employed for, or a brief description of the work

- The date of commencement of the contract of employment
- Any terms and conditions relating to hours of work (including overtime)

Additionally, to this, **within one month** you must also provide:

- Pay intervals (for example, weekly or monthly)
- Details of any paid leave, including annual leave and public holiday entitlements
- Details of any sick pay entitlements
- Details of any pension and pension schemes
- The periods of notice to be given by employer or employee
- Details of any collective agreements that may affect terms of employment

All contracts of employment must be signed by both the company & the new employee. We would recommend that members provide a full contract to their new employees within the 5 days that covers all the provisions above.

2. **Probation Periods:**

Previously companies were allowed to extend an employee's probation period for up to one year if they were unsure on whether the person should pass or fail their probation period. However, this new Directive does not allow for that lengthy extension.

With the new regulations, probationary periods cannot exceed 6 months. They can be longer on an exceptional basis, where it would be in the interest of the employee, but no longer than 12 months, i.e., if your employee was sick / on maternity leave etc.

3. **Dual Employment:**

Members can no longer prohibit employees from taking up additional employment outside of their work schedules nor can they penalise their employees for doing so.

An employer can only restrict an employee from taking up additional employment where the restriction is proportionate and based on objective grounds, such as health & safety, comprises business confidentiality or where there is a conflict of interest.

Employees must still notify their employer if they are taking up dual employment, so that the employer can ensure the provisions of the Organisational Working Time Act are being adhered to. We would recommend that employers state this in their contracts of employment.

4. **Working Abroad**

If there is a requirement for an employee to work abroad, members must, in writing advise the employee of the following:

- The country or countries that the work is to be performed
- The duration of the posting
- Pay and benefits in accordance with the law of the host EU Member State and currency of pay
- The terms and conditions governing the employee's repatriation as well as travel, board and lodging expenses and
- The link to the official national website developed by the host EU Member State relating to the posting of workers

5. **Right to request more predictable & secure work**

Employees who have more than 6 months service have the right to request a form of employment that provides more predictable and secure working.

Members must reply in writing within one month advising on the outcome of the request.

6. **Training**

Members who wish for their employees to obtain training specific to their role, must provide it free of charge. They also must ensure its during work hours, and if that's not feasible it will be counted as working time.

7. **Refusing Working Hours**

If an employer fails to meet the requirement to notify the employee of their working hours a minimum of 24 hours before their first day, or where applicable, the proposed day in each week that the employee is required to work, an employee has the right to refuse to work during these working hours. The employee is protected from penalisation for this refusal to work.

8. Collective Agreements

The SEO's that are currently in place do not interfere with any of the above however where an employee is party to either a collective agreement approved of by the Labour Court or a registered employment agreement, the provisions on probationary periods, the right to seek additional employment, the right to request transfer to employment with more predictable and secure working conditions and work-related training will not apply.

Finally,

There is a lot of content in the information above, therefore the IR Department are on hand to answer any queries you may have. We can also review your current policies, contract templates or handbooks to ensure that your company is complying with the new legislation. Should you wish to contact the IR Department, please see contact details below:

Jean Winters – IR Director – jwinters@cif.ie 01 – 406 6011

Lisa Conroy – IR Executive – lconroy@cif.ie 01-406 6089

Michelle Tully – IR Executive – mtully@cif.ie 0-406 2066



President: J. Conway Director General: T. Parlon. Director General Designate: H. Fitzpatrick
Directors: D. Carey, S Downey, M. Kearns, J. Molloy, C. O'Connell, P. Sheridan, M. Smith J. Winters