

HOMES AND WORKPLACES

THE
RIGHTS OF
DOMESTIC
WORKERS



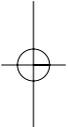
HOMES AND WORKPLACES

*The Rights of
Domestic Workers*

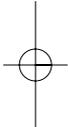




Foreword



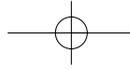
Domestic workers are among the most vulnerable workers in Ireland today, particularly migrant domestic workers. This situation is unacceptable and is caused by a combination of factors including; the exploitative practices of some recruitment agencies, a lack of awareness by employers of their responsibilities, bad employer practices, isolation and a lack of information.



Congress is trying to address this situation. We are informing domestic workers of their rights, encouraging them to join unions and to get involved in campaigning for improvements.

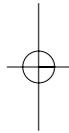
This leaflet is part of our campaign and sets out the basic rights of workers and explains the obligations employers have to their domestic workers.

David Begg, General Secretary

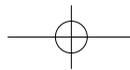
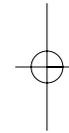


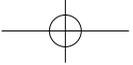
Who are domestic workers?

Domestic workers are hired to work in a private home. They do such things as house keeping, or providing care, supervision or personal assistance to children or people who are elderly, ill or have a disability. Domestic workers can work part time or full time and can live in or outside their employer's home.



A sitter who provides occasional short term care, supervision or personal assistance to children is not generally considered to be a domestic worker. Care assistants and home helps are covered by separate agreements negotiated by their unions.

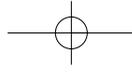




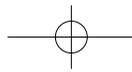
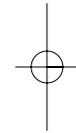
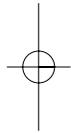
Improving the rights of domestic workers

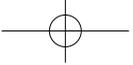
Domestic workers have the same rights as other employees in workplaces in Ireland. Domestic workers are protected by all employment legislation but sometimes find it difficult to get their employer to recognise them as employees and to enjoy their full rights and entitlements.

To assist domestic workers, their unions and their employers, we have prepared this summary which outlines the key issues that should be included in a **written employment agreement between the domestic worker and their employer.**



Where you see the words '*must*' or '*must not*' this means there is a law to enforce the requirement. This summary is meant as a guide and if you believe you are being denied your rights you should contact your union for advice.

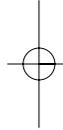
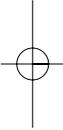




Domestic workers' rights at work – a summary

Contract of employment

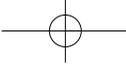
Domestic workers *must* be given a “written statement of employment”.



The statement should set out the domestic worker’s duties, place of work, holiday entitlements, hours of work, wages and any deductions such as charges for room and board. The employer must give the domestic worker a copy of the statement.

Hours of work

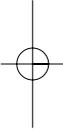
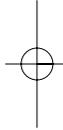
The written statement *must* state how many hours of work the domestic worker will be required to undertake during their normal working week. The average working week for ‘full time’ workers is 38 hours and the

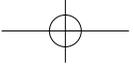


maximum average hours a worker can legally be required to work in a week is 48 hours. A record of the hours worked by the domestic worker *must* be kept.

Breaks

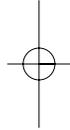
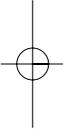
Employees including domestic workers *must* be given a certain number of hours free from having to work.

- Domestic workers *must* be given adequate rest intervals during the working day.
 - Domestic workers *must* receive at least 11 consecutive hours off work each day.
 - Domestic workers must be given at least one full day (24hrs) off every week. This *must* be combined with an 11 hour break.
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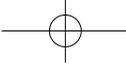
Public holidays

Public holidays are days off with pay. Domestic workers have the same entitlement as other employees to public holidays. They *must* have either a paid day off on the public holiday, another paid day off instead or an extra day's pay.



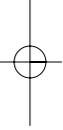
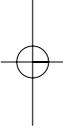
There are 9 Public Holidays in Ireland

- 1st January (New Years Day)
- 17th March (St Patrick's Day)
- Easter Monday
- First Monday in May (May Day)
- First Monday in June
- First Monday in August
- Last Monday in October
- 25th December (Christmas Day)
- 26th December (St Stephens Day)



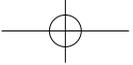
Holidays

Full time domestic workers *must* be given annual leave of four paid weeks in each year. The year starts from the date the domestic worker was hired. Generally employees are entitled to two weeks unbroken leave. Payment for annual leave *must* be made before the leave begins.

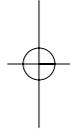
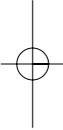


Providing flexible holiday arrangements that allow workers to make extended visits to distant countries is important for some migrant workers who have travelled to work in Ireland and who might wish to visit family in their home country.

When a domestic worker travels on vacation to work with the family, this is working time and the domestic worker *must* be paid for their time. Also the time *must not* be deducted from their holiday entitlements.



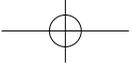
In addition the domestic worker's travel, hotel and living expenses *must* be paid as the domestic worker is working during the vacation.



Domestic workers also have legal entitlements to Parental Leave and Force Majeure (emergency leave). In addition, domestic workers should be provided with compassionate leave for personal circumstances such as bereavement or other personal circumstances. Reasonable time off should be provided to allow the domestic worker to attend a doctor, dentist or other medical appointments.

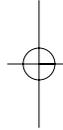
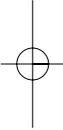
Pay

Domestic workers *must* receive a written statement of their weekly, biweekly or monthly pay. The statement *must* show (i) the gross amount of pay, (ii) the deductions (Tax & PRSI) and (iii) the net pay for the week / month to which it applies.



Rates of pay

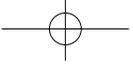
At a minimum the national minimum wage rates apply to domestic workers. The minimum wage rate is €7.65 an hour (1st May 2005). The time that the domestic worker is scheduled and available to work *must* be paid at rates no lower than the minimum of €7.65 an hour. Domestic workers who are scheduled to work on Sundays *must* be paid a rate above this.



Congress recommends that employers recognise the valuable nature of the work undertaken by domestic workers and pay above the legal minimum wage rate.

Overtime

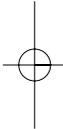
Employees are not legally entitled to overtime, but good practice means that overtime will be paid after the domestic worker has worked the agreed amount of hours a day. Good practice will provide overtime pay at time and



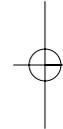
a half, i.e. at 1.5 times the employee's regular rate of pay, for the first four hours and double time after that.

An employer and an employee can agree to paid time off instead of overtime pay.

Deductions for room & board

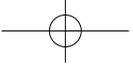


Where domestic workers are provided with meals or where they "live in" the employer can make a deduction for room and board but there are limits.



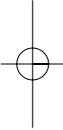
Unions have negotiated that the legal maximum charge for room and board in the Hotel and Catering Sector are:

- Full board and lodging – €54.13 a week or €7.73 per day
- Full board only – €32.14 a week or €4.60 per day
- Lodgings only – €21.85 or €3.14 per day

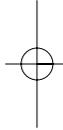


“Full board” means that the worker is entitled to breakfast, lunch and dinner and “per week” means seven days.

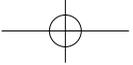
Congress believes that the maximum charges set out above should be applied by employers to domestic workers.



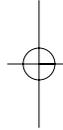
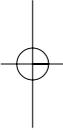
Meals should be of a good standard as should the sleeping area which should be private and reasonably furnished.



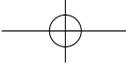
Domestic workers have a right to have their privacy respected. A private secure room with a real bed is an absolute minimum for decent living conditions. Employers *must not* read the domestic workers’ mail, listen in on phone calls or search the domestic workers’ room or belongings. These invasions of privacy harass and violate the dignity of domestic workers and threaten their safety, health and welfare at work.



Deductions for breakages, provision of uniforms etc



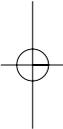
Employers should recognise that accidental breakages will happen and *must not* make deductions for these from domestic workers' wages. There are legal restrictions in relation to deductions from wages for breakages and other costs such as the provision of uniforms etc. Apart from tax and insurance, no deductions (not only breakages) can be made without prior notice or agreement. Such deductions *must* be agreed prior to being taken out of a worker's wages and *must* be fair and reasonable having regard to all the circumstances, including the amount of wages for the employee.



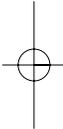
Other deductions

Employers *must not* charge domestic workers for any of the costs associated with their recruitment.

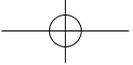
Tax & social insurance contributions



One of the problems reported by domestic workers is the reluctance of some employers to recognise and register them as workers. Domestic workers are entitled to be recognised as workers and to be treated as employees in relation to tax and social insurance protection.

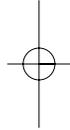
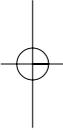


Employers who refuse to register domestic workers for social insurance protection and income tax may be breaking the law and run the risk of a conviction and fine. Domestic workers who are not insured will not be adequately protected and may have no entitlement to sickness and disability benefit, unemployment benefit, maternity benefit and a pension.

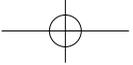


If your employer is refusing to register you as a worker, the Department of Social and Family Affairs can undertake an examination and make a decision about whether or not your employment is insurable.

General information and requests for a decision on insurability in employment can be made to the Scope Section of the Department of Social and Family Affairs. You can write to, telephone and e-mail enquiries to;

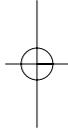
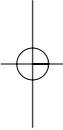


Department of Social and Family Affairs
Scope Section
Floor 3
Oisín House
Pearse Street
Dublin 2
Phone: 01 6732530
E-mail: info@welfare.ie

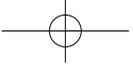


It is important for domestic workers to remember that just because their employer has not registered them for tax and social insurance, this does not mean that they are without any rights in their employment.

Health, safety & welfare

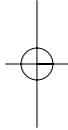
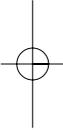


Employers must ensure that the work load, including the psychological workload, is manageable and safe. Adequate rest, relaxation and privacy must be afforded to the worker. Domestic workers must be given appropriate information and training in respect of the household equipment, products, and routines together with information on the general and cultural environment of the locality.



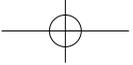
It is important that employers ensure that the domestic worker is adequately protected and insured against accidents. The household's insurance should cover the employment of domestic workers against accidents and injury arising in the course of their employment.

Work Permits & rights of residency



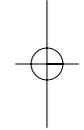
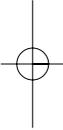
Domestic workers who are nationals of an EU or EEA member state or of Switzerland may work in Ireland without the need for any authorisation.

Domestic workers from outside the EU/EEA or Switzerland will need some form of advance authorisation to work in Ireland. Depending on nationality, some non-EU workers may need a work permit which the employer must apply for. Workers who are employed under the work permit system are allowed to transfer to another employer (once the new employer is willing to obtain a work permit).



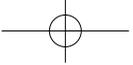
A person may also be entitled to work as a result of having been given permission to remain in Ireland as evidenced by a stamp on his/her passport.

All non EU/EEA workers in Ireland need to register with the Garda National Immigration Bureau if their stay in Ireland is for 3 months or more. This is a matter for the employee, not the employer.



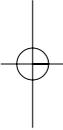
An employer does not have any role in deciding a domestic worker's right to residence and cannot have a worker deported.

Employers *must not* keep in their possession any domestic workers' passports or identity documents.

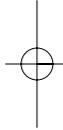


Discrimination

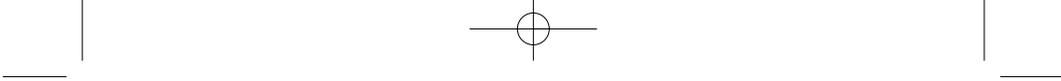
Employers *must not* bully, harass or sexually harass domestic workers. This is prohibited by law and domestic workers do not have to suffer bad treatment in silence.



Employers may make choices before a worker is employed, for example, they may choose male or female workers at the recruitment stage but it is unlawful for employers to discriminate against domestic workers once they are in employment.



Employers *must not* limit a domestic workers' right to leave the employer's premises or the domestic workers' right to speak with or socialize with other people or place any limits on their freedoms or rights, such as their right to practice their religion.



Abusive situations

Domestic workers, in extreme circumstances, experience violence and abuse. Specialist organisations exist who will be able to give assistance including the Migrant Rights Centre of Ireland.

Migrants Rights Centre Ireland

3 Beresford Place, Dublin 1

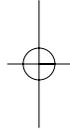
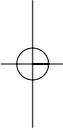
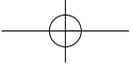
Tel: (01) 888 1355

Email: info@mrci.ie



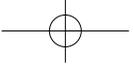
Provision of References

While there is no legal entitlement to be provided with a reference, employers should provide employees with a reference that is accurate and describes the duties and responsibilities that the domestic worker undertook.



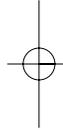
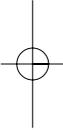
Dismissal

Where a domestic worker believes they have been unfairly dismissed, they can complain to a Rights Commissioner, the Employment Appeals Tribunal or the Equality Tribunal within six months of their dismissal. While the legislation normally requires a worker to have one year's service, this requirement is not needed if the domestic worker is dismissed due to joining or being active in a trade union or for reasons relating to discrimination, for example, pregnancy.



Where should I go for help?

If you believe you have not been given your rights, your union will be able to help. If you are not in a union and you would like to know more about joining a union that represents domestic workers or if you would like to know more about the Congress Campaign for better rights for domestic workers contact the



Irish Congress of Trade Unions
ICTU 31/32 Parnell Square
Dublin 1
Phone 00353 1 8897777
or www.ictu.ie



WORKING FOR PROGRESS

IRISH CONGRESS OF
TRADE UNIONS

ICTU, Congress House,
31/32 Parnell Square,
Dublin 1.

Tel: 01 889 7777

www.ictu.ie

If you would like information on
your rights and entitlements in
Northern Ireland, contact us at:

NIC
Carlin House,
4-6 Donegall Street Place,
Belfast BT1 2FN
Northern Ireland
Phone: 02890 247940
www.ictuni.org

