

# Employment (Miscellaneous Provisions) Act, 2018 - update on key changes

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## Overview

Recent legislation on employment terms was heralded as "*one of the most significant pieces of employment legislation in a generation*". In practice, it has given rise to much uncertainty. Following on from our recent overview of this legislation (available here), in this series, we highlight some common questions with which employers must grapple in seeking to be fully compliant.

## Key Changes:

1. 5 employment terms must now be provided to employees within 5 days of their commencing employment. Failure to do so is now a criminal offence.
2. Prohibition on zero hour contracts as well as the introduction of a minimum payment for employees on *if and when* contracts, being 3 times the national minimum wage; and
3. Introduction of banded hour working arrangements.

In the first of a series of follow ups on this legislation, we deal firstly with statement of terms of conditions, or, the 5 within 5 day requirement.

### ***Do I have to re-issue employment contracts to my existing employees to comply with the new 5 terms of employment requirement?***

No. The "5 within 5" requirement applies to new recruits with effect from 4 March 2019.

However, employers should bear in mind that it remains the case that employees are entitled to receive a statement of other terms and conditions of employment, as set out in the Terms of Employment (Information) Act, 1994 within 2 months of commencement. Most employers will of course send one statement immediately on commencement to satisfy both requirements.

### ***If an employee commences work but leaves before I can give them a statement of their employment, do I have to still have to provide them with their statement?***

Yes, the Act specifically addresses this. Such employees must still receive their written statement.

### ***What are the sanctions for failure to provide the written statement?***

Failure to provide the 5 terms of employment is an offence. However, this arises only if the default is not cured within one month of commencement of employment. Sanctions include fines of up to €5,000 or 12 months imprisonment, or both.

It remains the case that the WRC can award up to 4 weeks' remuneration for failing to provide the necessary terms and conditions, as before.

## Conclusion

Most employers are likely to be compliant with these requirements, but we recommend reviewing practices to confirm that this is the case.

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