

Industrial Relations Ireland: Developments in working life 2018

Working life in 2018 – Annual review

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Political context affecting working life aspects

The current, minority Government has been involved in two main working life topics in 2018: the **gender pay gap** and **low/insecure earnings**. Government opposition parties developed and furthered legislative proposals to address these issues, with the Government incorporating some of the other political parties' ideas into their own proposals. The Gender Pay Gap is quite topical and has been to the fore of Government attention throughout 2018, even though legislative work has been arguably slow to get going in Parliament.

At the end of 2018, the Government passed the Employment (Miscellaneous Provisions) Act through all Parliamentary phases (before it goes to the President to enact), after much deliberation and amendment. The fact of a minority Government affects the ability to progress bills as efficiently as preferred, due to the ruling party not having the required numbers to defeat opposition amendments. The employer's body lbec is an outspoken critic of the minority status of the Government, as it maintains it is affecting the legislative progress of the Government. There is a plethora of Opposition bills/'private members' bills, and the ability of the Government to deal with opposition amendments efficiently is undermined.

There remains an unwillingness of Government to get involved on the subject of wage demand – this is the same approach of Government for the last decade (since the end of Social Partnership). While there were a few high-profile strikes in 2018 with pay as a primary factor, government ministers do not get involved, leaving dispute resolution to the independent State dispute resolution machinery. Labour market reforms or major packages of working life regulations.

The Youth Employment Support Scheme (YESS) was initiated, replacing the controversial employment activation/internship scheme, JobBridge. JobBridge had been criticised for being vulnerable to exploitation of jobseekers, whereby a jobseeker was hired to do a normal fulltime job, getting paid just their welfare benefit plus €50 and with little to no experience value of the intern position. YESS seeks to correct these problems: It does not provide for any employer payment to the intern, and is restricted just to jobseekers and other eligible cohorts aged 18 to 24, who have been out of work and receiving jobseekers payments for at least 12 months. Participation in YESS is voluntary and there will be no penalty for those who refuse to take up an internship.

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Social partners' views and reactions on changes in governments and working life policies

On the gender pay gap, it was noted in early 2018 that both union representatives and employer body lbec were "working together" on developing their approach to addressing the gender pay gap (*Sheehan, 2018*). Both lbec and the Fórsa union stated that "an appropriate methodology of reporting must be used. This has to be one that both generates meaningful and specific data about really-existing gender pay gaps and is designed so as to minimise, as far as is practicable and without compromising the quality of the data produced, the burden of compliance for employers." The ICTU broadly welcomes the Government initiative on progressing gender pay gap reporting measures, liking in particular the inclusion of bonus payments and part-time work. It has several concerns around how the reporting scheme will work, including how the gender pay gap of an employer will be published, and the current absence of an employer having space to include a narrative behind their gender pay gap.

Employer body Ibec also welcomes initiatives to tackle the gender pay gap, and cautions against any onerous measures for employers to eliminate a gender pay gap.

Ibec has also commented that the minority government's relative weakness in Parliament is having an impact on the legislative functions of government. Ibec head of employment law services, Rhona Murphy stated in July 2018: "The continuation of the current political structure presents irreversible risks to business unless political parties take a more responsible approach to creating legislation [...] political parties more concerned about optics than sensible, balanced regulation. While we acknowledge instances of poor employment practices, the crippling burden the legislation in this format would impose is disproportionate." (*Ibec, 2018*)

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Developments in industrial relations 2018

Changes affecting the national-level actors and institutions in 2018

Actors

There were two major union mergers in 2018: the merger of three civil service unions (IMPACT, PSEU and CPSU) to become Fórsa; and the merger of two craft unions (TEEU and UCATT) to become Connect.

Both of these mergers were in process since around 2014.

The main reason for the civil service union merger was to create a unified voice for civil servants in negotiations. Fórsa now has around 80,000 members, making it the second largest union in the country.

The TEEU merged with UCATT as both unions are for craft/tradespersons so it made logical sense to merge their membership, particularly as UCATT had seen declining numbers since the recession. Connect now has up to 40,000 members and is now dubbed the engineering union.

There were no mergers/amalgamations or significant changes within employer representative bodies.

Representativeness

There were a few interesting Labour Court recommendations under the Industrial Relations Amendment Act, centred on representativeness, in 2018. In one case involving the **Zimmer** company and the **SIPTU** union, the union membership (13% or 19%, depending on overall company headcount) was too low for the union to be considered representative. In two other cases, **Conduit** and **Enercon**, the union membership levels – 29-31% and 47% respectively – were satisfactory for the Court to consider the unions' claims under the Industrial Relations Amendment Act. In the Conduit case, the Court outlined pay increases should apply for the workers concerned – however, this has not had effect, due to the employees now working for a different employer. In the Enercon case, the Court could not make a recommendation on the claim because it did not have enough evidence before it on the chosen comparators the union was using to ground its claim.

The Court did not, in any of its recommendations, state that any explicit representative threshold applies.

There is also an ongoing dispute involving the Health Service Executive (HSE) and the NASRA association seeking to be represented in respect of ambulance personnel. NASRA operates under the licence of the Psychiatric Nurses Association (PNA) but the PNA is not affiliated to the Irish Congress of Trade Unions (ICTU). The HSE does not recognise unions which are not affiliated to the ICTU in respect of ambulance personnel. NASRA engaged low level industrial action near the end of the 2018, the dispute is ongoing.

Institutions

There were no significant changes to the main social dialogue institutions in 2018, in terms of industrial relations. The primary social dialogue body, the Labour-Employer Economic

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Forum (LEEF) expanded its remit to discuss employment rights, pensions, childcare and housing.

Industrial relations continue to be conducted bilaterally – employer & union, at company level or through sectoral mechanisms (Joint Labour Committees or Sectoral Employment Orders) – with the Government involved only in public service IR negotiation (not in the private sector).

Changes affecting the sectoral and company level social dialogue 2018

Company level dialogue continues to be the IR norm. According to the annual IRN-CIPD pay survey, the actual average basic pay increase in 2017 was 3.15%, well above the projected 2.5% increase for that year. The projected average annual basic pay increase for 2018 was 2.8%, which, based on the pattern of the previous year, is likely to be exceeded.

Near the end of the 2018, the largest private sector trade union SIPTU, suggested the target per annum par increase for 2019 was 3.4%. The target pay agreement rate will have an impact on pay negotiation across the private sector in 2019.

The second ever sectoral employment order (SEO) was signed in March 2018, covering the mechanical engineering building services sector, applicable mostly for plumbers and pipefitters. The other existing SEO is for the Construction sector in general and was signed in October 2017. SEOs set rates of pay, sick pay and provide for pension scheme coverage. They facilitate orderly industrial relations in certain sectors of employment.

Innovation in collective bargaining

There is a growing interest and use of tax free vouchers in collective agreements at company level. Nearly 20% of deals concluded in 2018, between SIPTU and manufacturing companies, had some element of a voucher as part of the agreement. The average amount of voucher worth is about €250. Revenue allows for up to €500 to be provided as a tax-free voucher each year. While these vouchers can be awarded at any time of the year, they are generally provided at Christmas, as part of the tradition of the 'Christmas bonus', to help employees through a financially-stretching time of the year. There is also increased interest in the use of Orderly Dispute Resolution Framework (ODRF) at non-union companies. It has been used in the pharmaceuticals, chemicals and medical devices sectors and involves a joint workermanager forum process. These 'stability' agreements offer non-union firms and unions seeking recognition, a way to engage without either having to compromise their core principles.

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National social dialogue in 2018 – Scope and Contribution

Themes	Description	Social dialogue interaction	Social dialogue outcome and/or output
Employment - Youth unemployment support scheme	Youth employment activation, particularly for persons out of work for 12 months. Youth Unemployment Support Scheme YESS	This matter has been a perennial topic of debate for many years, with various State schemes to tackle unemployment and improve job activation since the recession. The views of social partners (particularly the criticism of the former JobBridge scheme) were likely to have been influential in the reform of this activation measure, correcting the flaws in the JobBridge scheme. There was no explicit, specific social dialogue on this matter but it follows from years of dissatisfaction, particularly from trade unions, on how the activation schemes worked before.	The Government launched the Youth Employment Support Scheme, effective from August 1, 2018. It gives young unemployed persons an opportunity to learn basic work and social skills in a supportive environment, while on a work placement in a host organisation. Participants must be aged 18-24, unemployed and getting a qualifying social welfare payment for at least 12 months.
Skills, training and employability - Access to higher education	Equity of access to higher education. The Government has year on year action plans for education policy at third level. Higher Education Authority (2018), Progress Review	The Progress Review involves consultation between the Higher Education Authority (HEA) and the Department of Education & Skills (DES)	The Progress Review makes a total of 16 recommendations, involving the HEA and DES and other stakeholders. These include revising upwards targets for some of the target groups identified in the National Access Plan. Some of the target groups include mature students, students with disabilities.
Benefits - Sick pay scheme in the public service	In 2017 the Minister of Employment, Troels Lund Poulsen, established an expert committee on working environment. The task for the committee was to rethink the working environment (occupational health and safety) system in Denmark. The committee consists of four researchers, four representatives of the social partners and a chairman appointed by the government. There is a long-standing tradition in Denmark to have a tripartite dialogue on working environment issues. In September 2018 the committee came up with 18 recommendations for an improved Occupational	The Department of Public Expenditure & Reform and the Public Services Committee of the ICTU negotiated at the WRC and then at the Labour Court, with the latter adjudicating body outlining new terms which are binding on both parties before it.	The Labour Court's recommendation is binding on the parties. It provides for the following changes: The waiting period for payment of Temporary Rehabilitation Remuneration (TRR) after full and half rates of sick pay have been exhausted should be three days. The rate of TRR should be 37.5%. For the purposes of the 'look back' full account should be taken of period of benefit under TRR.

Themes	Description	Social dialogue interaction	Social dialogue outcome and/or output
	heath and safety effort. The recommendations are backed by the social partners. The recommendations have not yet been followed by political action. References: Statement from LO (2018); Statement from DA (2018); Ministry of Employment (2018b); Ministry of Employment (2018c).		
Taxation and non-wage related labour costs - Regular adjustment	Every year, the Government consider altering the income tax bands, as well as making adjustments to the Universal Social Charge (USC) Budget 2019	All social partners and other interested groups can make submissions to the Government (known as pre-Budget submissions). It is essentially lobbying - the submissions of social partners are considered. Both social partners make their submissions available.	All changes to take effect from January 1, 2019. An increase of €750 in the income tax standard rate band for all earners; from €34,550 to €35,300 for single individuals; and from €43,550 to €44,300 for married, one-earner couples. Also, an increase in the Home Carer Tax Credit from €1,200 to €1,500 and an increase in the Earned Income Credit from €1,150 to €1,350. For the USC, €502 increase to €19,372 band ceiling; 4.75% rate reduced to 4.5% The revised USC bands and rates are: €0 - €12,012 @ 0.5% €19,874 - €70,044 @ 4.5% €70,044 and over @ 8% Self-employed income over €100,000: 3% surcharge
Pension reforms - New pension scheme	The Government opened a consultation on its plan for the auto-enrolment (AE) pension scheme, to be introduced in 2022. The Government has already decided that the new scheme will start in 2022 and it will be an earnings-related defined contribution DC pension with an opt-out facility, with some contribution from employers, employees and the State. Department of Social Protection (2018),	It was a public consultation, running from August to November 2018. It presented 'strawman' proposals to encourage ideas and debate from practitioners on how to move forward.	There are no formal reports/findings from the consultation yet; the issue is ongoing. It is understood employer reaction has been mixed: there is concern that the AE model "will add an administrative burden and there is the additional risk that it could increase wage demands over coming years", said Stratis Consulting. ICTU has welcome the AE proposals "in principle."

Themes	Description	Social dialogue interaction	Social dialogue outcome and/or output
	Minister for Social Protection Launches the Consultation Process for an Automatic Enrolment Retirement Savings System, press release		
Wage setting - Sectoral employment order	Wage setting for the mechanical engineering building services sector (mostly plumbers and pipefitters) was brought into effect through a legally binding Sectoral Employment Order, SEO. Statutory Instrument 59 of 2018, SECTORAL EMPLOYMENT ORDER (MECHANICAL ENGINEERING BUILDING SERVICES CONTRACTING SECTOR) 2018, Published SEO	The Labour Court hears arguments from both employer (MEBSCA, part of the Construction Industry Federation) and union (Connect & Unite) sides, then makes a recommendation on pay and other aspects. This recommendation is then signed by the relevant Minister to make it legally applicable.	The main pay elements of the SEO were: €22.73 for newly qualified workers; €23.33 for those starting their third year after qualifying; €23.60 for those starting their sixth year after qualifying.
Working time - Right to request more working hours	Following trends achieved through company-level collective bargaining - and in the context of precarious working for low-paid workers - there will be, from March 2019, a legal right to request more working hours, if the requesting employee can demonstrate they are consistently working more than their contractual hours. Employment (Miscellaneous Provisions) Act 2018, Employment Act	There was a long consultation process with this measure, going back to late 2015 and the publication of the Government-commissioned report on zero and low-hour working contracts. Pre-legislative scrutiny was pursued via an Opposition Bill (Sinn Fein's Banded Hours Contracts Bill), which made banded hours the core of its legislative agenda. The Government applied the advice elicited from these consultations to its own Bill, which was enacted on 25th December, 2018.	The legally-established banded hours now run as follows: A: 3 hours to 6 hours B: 6 hours to 11 hours C: 11 hours to 16 hours D: 16 hours to 21 hours E: 21 hours to 26 hours F: 26 hours to 31 hours G: 31 hours to 36 hours H: 36 hours and over
Work-life balance - Family leave	Parental leave enhancement: Merrion Street (2018), Government launches First 5, A Whole-of- Government Strategy for Babies, Young Children and their Families, Parental Leave announcement. Two weeks' paid parental leave was introduced in Budget 2019, to take effect from November 2019. Shortly after the Budget, the Government	Government agreed the provisions in its Budget and then a follow up policy decision, but it is likely the product of ongoing, regular lobbying and consultation with social partners and other advocacy groups	Two weeks' paid paternity leave, with effect from November 2019. This to be extended to seven weeks' paid parental leave for each parent by 2021.

Themes	Description	Social dialogue interaction	Social dialogue outcome and/or output
	announced it plans to boost this leave to seven weeks for each parent by 2021.		
Wage setting - Gender Pay Gap	Department of Justice (2018), 'Minister for Justice and Equality, Charlie Flanagan TD, and Minister of State for Equality, Immigration and Integration, David Stanton TD, publish the General Scheme of the Gender Pay Gap Information Bill', General Scheme Ongoing debate to tackle gender pay gap in the workplace, largely taking the lead from measures recently adopted in the UK, and a commitment in the current Programme for Government, which requires the Government to "Undertake a package of measures to tackle the gender pay gap."	The Government hosted a Gender Pay Gap Symposium in January 2018, which elicited stakeholder views on how the gender pay gap reporting scheme should be initiated in Ireland.	The Government published the 'General Scheme of the Gender Pay Gap Information Bill' in June 2018. It will initially apply to employers with 250+ employees, then to those with 150+ and finally those with at least 50 employees.
Terms and conditions of employment - Transparent and predictable working conditions	In the context of growing awareness and concern around precarious working, Government consulted with the social partners on whether rights of employees to the core terms of their employment should be enhanced. Employment (Miscellaneous Provisions) Act 2018, Employment Act.	There was pre-legislative scrutiny of an Opposition party Bill (Sinn Fein's Banded Hours Contracts Bill) which aired social partners' views and recommendations on this issue. During the legislative phases of the Bill through Parliament, it also allowed for amendments be made, but the central thrust of enhancing terms for employees starting in their new job was largely consistent throughout.	New measures incorporated into the Terms of Employment Information Act of 1994 - via the Employment (Miscellaneous Provisions) Act 2018 - make the following enhancements: Employers must now give employees the five core terms of employment within the first five days of employment 1. The full name of the employer and employee 2. The address of the employer 3. The expected duration of the contract (where the contract is temporary or fixed-term) 4. The rate or method of calculating pay 5. What the employer reasonably expects the normal length of the employee's working day and week will be.

Themes	Description	Social dialogue interaction	Social dialogue outcome and/or output
Health, safety	The focus at the moment is on occupational health.	There has been a public consultation and four workshops	Findings from consultation and research presented to
and well-being	It is a priority for the Health and Safety Authority	held under the ambit of the Healthy Workplace Framework,	Government, the final report and Framework (not
at work -	(HSA) and will feature in the Authority's Strategy 2019-2021. As the HSA is a tripartite body the focus	and there is a related committee which has employer and trade unions representatives.	necessarily legislation) - to be published early 2019.
Occupational	in the Strategy follows consultations with trade		
health and	unions and employer representatives on the board		
safety	of the Authority. Health and Safety Review (2018),		
	'McGuinness shares details of HSA's new strategy',		
	Health and Safety Review. The focus on		
	occupational health fits in the Government's		
	Healthy Workplace Framework. The Department of		
	Health has been carrying out research on workplace		
	health and is due to publish reports.		

Selected major social dialogue debates

Gender Pay Gap

The Gender Pay Gap Symposium was hosted by the Government in January 2018

Several Government Ministers brought together senior policymakers, business representatives, trades unions and academics on January 10, 2018 to advance measures to address the gender pay gap. The symposium heard about the initiatives under consideration in the European Commission to address the gender pay gap and involved a wide range of speakers from the CSO, CIPD, IHREC, Ibec, ICTU, the European Foundation, and university academics.

In June 2018, the Government published the 'General Scheme of the Gender Pay Gap Information Bill'. This Bill will go through legislative phases during 2019, with no known enactment date. The General Scheme provides the following provisions:

- the regulations will apply to employers with 250+ employees initially, then to those with 150+ and finally those with 50+;
- the regulations will apply to the public as well as the private sector subject to the employment thresholds;
- in addition to differences in hourly pay, information on differences in bonus pay, part-time pay and pay of men and women on temporary contracts will be among the data which must be published;
- the regulations may also require publication of differences in pay by reference to job classifications;
- the enforcement mechanisms include a power for the Irish Human Rights and Equality Commission to apply to the Circuit Court for an order requiring an employer to comply with the legislation.

Also, an employee of the employer concerned may apply to the Workplace Relations Commission for an order requiring compliance. There is a provision too for designated officers who would investigate a sample of employers to ensure that the information published is accurate.

False self-employment

There was continued debate about measures to stamp out false or bogus false selfemployment. The Department of Employment Affairs & Social Protection published an awareness campaign around false self-employment, with instructions on how to pursue a claim through the Department's Scope section. DEASP initiated the campaign with the aim of informing workers on what constitutes genuine self-employment and how it is distinguished from bogus or false self-employment. The campaign was informative and did not change how the State assesses contested employment status, with the DEASP Scope section still the avenue to pursue. In 2017, Labour Senator Ged Nash outlined a plan for claims of contested status to have direct recourse to the WRC, with his Protection of Employment (Measures to Counter Self-Employment) Bill 2017.Fianna Fail TD Willie O'Dea sought to include an amendment to the Employment (Miscellaneous Provisions) Act that would make it a criminal offence to wrongly designate an employee as self-employed. This amendment was subsequently dropped from the main Bill, however, as it was not considered to not be the most appropriate piece of legislation to channel this new measure through, given the trade union urgency of getting the other Bill's provisions into law.

Unilateral government actions - without social dialogue

There were no relevant unilateral government actions that did not entail some level of social dialogue beforehand, per se. The introduction of YESS (aforementioned) was a unilateral decision but it would be accurate to say it was the culmination of years of debate and consultation with the social partners over how to reform labour activation for youth.

Collective labour disputes in 2018

Changes in the regulation of collective labour disputes

There were no changes in the regulation of collective labour disputes in 2018.

Selected major labour disputes of national significance

Ryanair – pilots, members of the Irish Airline Pilots' Association, went on strike over four days in 2018, over a dispute in the process of forming a collective agreement with the historically anti-union employer. The strike – the first of its kind for Ryanair in Ireland – was a major national industrial relations dispute, with flights cancelled (largely flights between Ireland and the UK).

Irish Life – the largest strike in terms of people involved was at the Irish Life insurance company. 723 workers went on strike in this pension dispute.

At the end of 2018, two major public service unions had balloted in favour of strike action, to take place in 2019, over dissatisfaction with Government measures to tackle pay inequality in the public service. The Irish Nurses and Midwives Organisation (INMO) and the Irish National Teachers' Organisation (INTO) both have mandates for industrial action, which if pursued, will entail serious disruption.

Working time 2018

Changes in the regulation of working time 2018

Legislation on working time duration or organisation

The Employment (Miscellaneous Provisions) Act 2018 will introduce a legal right to request more working hours, if an employee can demonstrate s/he has worked more than their contractual hours over a 12-month reference period. If successful they can be moved on to a higher band of weekly working hours.

Collective bargaining outcomes on working time duration or organisation

One collective agreement at the formerly non-union courier, Nightline, arranged for the following terms on the working week:

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New hires will be on contracts of between 30 to 35 hours per week – shift start times will vary by day due to volume trends

Warehouse operatives will work on a 40-hour week basis. For example, Week 1: work 36.5 hours, pay 40 hours; week 2: work 42 hours, pay 40 hours + 2 hours at time-and-a-half; week 3: work 38 hours, pay 40 hours.

Major debates concerning working time duration or organisation The Employment (Miscellaneous Provisions) Act was debated at length throughout 2018, following the 2015 University of Limerick report on zero and low-hour working in Ireland.

The Act will introduce a legal recourse to banded hours, aforementioned. Banded hours is a union initiative, primarily seen in the retail industry, and is the product of collective bargaining.

Health and well-being at work 2018

Physical working environment

Main legislation was the Safety, Health and Welfare at Work (Mines) Regulations 2018 (SI 133/2018).

The Safety, Health and Welfare at Work (Mines) Regulations 2018 (SI 133/2018) revokes old regulations and consolidates others concerning mines into one set of regulations.

Many of the duties which previously were the mine manager's duties have now been placed on the corporate entity or mine operator. The new regulations allow operators to develop their own rules, schemes and procedures specific to their mining operations. The duties of the mine owner, operator and everyone else in the management structure are clearly defined. There is an increase in the requirements on reporting dangerous occurrences. The new Regulations require mine operators, when developing mine specific rules, schemes and operating procedures to address vehicle movements, ventilation rules, ground support rules, emergency rules and procedures, hoisting rules, inspection/maintenance/testing schemes, training schemes, operating procedures to secure the safety and health of persons at work, operating procedures for excavations/tips/lagoons, procedures in relation to personal floating devices, training for rescue work, shot-firing rules and a scheme of transit for explosives.

Psychosocial working environment

An Economic and Social Research Institute paper (Russell, Helen *et al* (2018) on workplace stress showed stress in the workplace in Ireland doubled, from 8% to 17%, between 2010 and 2015, but is still below a European average of 19%. According to Russel and al. (2018), workers most likely to report stress were in the health sector (18%), public administration (16%), and manufacturing (15%) - while retail and construction showed the lowest levels of stress. Twenty percent of technical/associate professionals report stress, 16% of professionals, and 14% of managers. Stress was most likely to be triggered in Irish

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employees by emotional demands - including dealing with angry customers or clients or being forced to hide their feelings.

Employment status 2018

No major changes in 2018 for: 'Standard' employment contracts; Fixed term contracts; Temporary agency workers; Posted workers.

Self-employed

Proposals to make it an offence to misclassify a worker as self-employed, if that person is in fact an employee, were included – and subsequently dropped – from the Employment (Miscellaneous Provisions) Act. As a result of Budget 2019, self-employed persons can now avail of Jobseeker's Benefit

Seasonal workers

On December 21, 2018, the Minister for Employment Affairs and Social Protection, Regina Doherty, announced a change to jobseeker's benefit regarding employment rights and earnings for workers with subsidiary employment, including seasonal, casual and part-time employment. The new regulation, effective from 1 January 2019, will allow workers with subsidiary seasonal and casual employment to earn €7,500 a year without it impacting on their rights to Jobseeker's Benefit when work is scarce. The previous rate of €12.70 a day for subsidiary work for people who take on short-term employment was last set in 1991. The new rate takes into account the price inflation and will allow workers to earn up to €7,500 over a 12-month period, or €144 on a weekly basis.

• Department of Employment Affairs and Social Protection press release, 'Minister Doherty Introduces Significant Change to Jobseeker's Benefit for Workers in Seasonal, Casual and Part-time Employment', December 21, 2018.

Zero hour contracts

The Employment (Miscellaneous Provisions) Act 2018 (awaiting enactment by the President), will outlaw, in most circumstances, the existence of zero-hour contracts.

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