

### Collective Redundancies:

The Protection of Employment Act, 1977 Act makes it mandatory on employers proposing a collective redundancy:

- to engage in an information and consultation process with employees' representatives and
- to notify the Minister for Enterprise, Trade and Employment of the proposed collective redundancy.

A collective redundancy is making redundant within a period of 30 consecutive days;

- 5 employees in an establishment employing 21 - 49 employees.
- 10 employees in an establishment normally employing 50 - 99 employees.
- 10% of employees in an establishment normally employing 100 - 299 employees, or
- 30 employees in an establishment normally employing 300 or more employees.

In addition, an employer is prohibited from issuing any notice of redundancy during the mandatory employee information and consultation period and until 30 days have elapsed from the date on which the Minister has been notified. An employer who fails to engage in the consultation process or who fails to notify the Minister or who effects a dismissal in pursuance of a proposal for collective redundancies before the expiration of the 30 days is guilty of an offence and liable on conviction to fines of up to €5,000 and on indictment to a fine not exceeding €250,000.

### Training Rates of Pay:

Employers are permitted to pay employees who are undergoing a "structured training" programme, specified training rates of pay below €8.65 per hour. A structured training programme must:

- be split into three equal parts of not less than one month and not more than twelve months each
- have set out in writing its title and purpose, objectives and an outline plan documenting the duration, the approach and the certification process
- be assessed by means of a recognised certification procedure on completion
- be paid for by the employer
- be related to improving work performance
- Involve the worker to be away from day to day operational duties at least 10% of the time for the purposes of training

Records must also be kept demonstrating employee's completion of the various stages of training.

Pay rates increase for employees for each third of the structured training programme as follows:

- Over 18 and in the first third: €6.49 per hour
- Over 18 and in the second third: €6.92 per hour
- Over 18 and in the final third: €7.79 per hour

These rates can only be applied to employees on a structured training programme.

The full criteria to be met are outlined in [Statutory Instrument No. 99 of 2000, National Minimum Wage Act, 2000 \(Prescribed Courses of Study or Training\) Regulations, 2000.](#)

# NERA Activity January to March 2012

## Awareness & Information:

The NERA call centre provided information to over 18,560 people between January and March 2012, a decrease of over 36% on the 2011 figure of 29,178. 15,619 callers were dealt directly by experienced Information Officers and 3,141 by the NERA 24 hour recorded information service. This is partly attributable to the transfer of calls relating to redundancy claims to the Department of Social Protection in October 2011. This reduction has enabled NERA to support the Workplace Relations Customer Services role under the Employment Rights Bodies reform programme and to take on the issuance of Employment Agency licences [see below].

Employees and former employees accounted for 72% of callers, while an estimated 19% were employers. Redundancy, working hours, terms of employment, payment of wages and unfair dismissal represented the highest categories of queries dealt with.

The Workplace Relations Customer Services became operational at the beginning of 2012. This Unit, based in NERA, incorporates the existing NERA Information services. In this regard 3,587 employment rights complaints were received by the WRCS in the first quarter of 2012. Full breakdown of the WRCS statistics are contained in the first issue of the Workplace Relations Reform Quarterly Newsletter available to download at [www.workplacereactions.ie](http://www.workplacereactions.ie).

## Employment Agencies Licences:

From 10 April 2012 Workplace Relations Customer Services has assumed responsibility for the issuance of licences to Employment Agencies under the Employment Agency Act, 1971. Under the legislation An Employment Agency must hold a licence if it is to carry on its business.

## NERA Workplace Inspections:

(See breakdown by Sector and Legislation on Page 3)

NERA carries out workplace inspections to ensure compliance with employment rights legislation. In the period January to March 2012 a total of 1,083 inspection cases were completed involving over 21,000 employees. This compares to 1,235 cases in the same period on 2011. The amount of unpaid wages recovered was €293,020.

NERA inspections generally deal with the following Items of legislation:

- [National Minimum Wage Act 2000](#)
- [Payment of Wages Act 1991](#)
- [Organisation of Working Time Act 1997](#)
- [Protection of Young Persons \(Employment\) Act 1996](#)
- Employment Permits Acts [2003](#) & [2006](#)
- [Industrial Relations Acts](#)

## Summary of Inspections & Breaches Detected by Industry Sector January to March 2012

Sector	No of Inspections Concluded	Compliance Rate%	Unpaid Wages Recovered (€)
AGRICULTURE	33	45%	1,770
CATERING	106	41%	37,036
RETAIL GROCERY	33	45%	12,576
HOTELS	33	42%	68,746
CONTRACT CLEANING	8	37%	0
SECURITY	5	60%	0
CONSTRUCTION	75	63%	71,671
ELECTRICAL	14	50%	20,470
OTHER	11	64%	5,496

## Summary of Inspections & Breaches by Employment Legislation: Jan- Mar 2012

Legislation	No of Inspections Concluded	Compliance Rate%	Unpaid Wages Recovered (€)
NATIONAL MINIMUM WAGE	345	52%	75,255
PROTECTION OF YOUNG PERSONS	420	100%	0

### Employment Permits Inspections:

NERA inspectors are authorised officers under the Employment Permits Acts. Compliance checks under this legislation are an integral element of all NERA inspections. Joint inspections may also be carried out as part of investigations involving Revenue, Department of Social Protection staff and An Garda Síochána. Between January and March 2012 fifty nine employers were found to be in breach of the Employment Permits Acts with 125 persons detected working without authorisation.

### Prosecutions:

It is NERA policy to work with employers and allow every reasonable opportunity to rectify breaches in preference to prosecution. As a result of this in 2011 only 56 (1%) of the 5,591 inspections undertaken ended in legal proceedings.

In the period January to March 2012 nineteen cases were referred for prosecution (in Q1 2011 forty two cases were referred). In 16 cases heard by the Courts in the same period convictions were recorded resulting in fines of €31,500 and arrears of wages of over €32,800 being awarded.

## Enforcement of EAT/Labour

### Court Orders:

Where an employee has received an award through a Rights Commissioner hearing or an EAT/Labour Court hearing and the employer has failed to pay the award, NERA (acting on behalf of the Minister) may bring proceedings for the purposes of enforcing awards of both the Labour Court and the Employment Appeals Tribunal. 90 such cases were on hands at the end of March 2012. 17 cases were concluded in the three month period ending March 2012.

## Protection of Young Persons

### Licences:

Section 3 of the Protection of Young Persons (Employment) Act provides for the issue of licences which allow children (i.e. under 16s) to be employed in cultural, artistic, sports or advertising work which is not harmful to their safety, health, or development and does not interfere with their attendance at school. A total of 42 licences were issued in the period January to March 2012 in respect of 69 children working in the arts/TV/film.

## Reform of Employment Rights

### Bodies:

The Workplace Relations Reform Programme will create a two tier structure by merging the activities of the National Employment Rights Authority, the Labour Relations Commission, the Equality Tribunal and the first instance functions of the Employment Appeals Tribunal and Labour Court into a new Body of First Instance to be known as the Workplace Relations Commission.

The appellate functions of the Employment Appeals Tribunal will be incorporated into an expanded Labour Court. This will result in a modern, user-friendly world class workplace relations system that will provide significant benefits for its users and society as a whole and make a significant contribution to better business regulation, employee relations and public service reform.

To date a number of reforms have already taken place:

- Introduction of a single complaint form
- Creation of a single website ([www.workplacerelements.ie](http://www.workplacerelements.ie))
- Establishment of a single point of contact providing information, dealing with queries and receiving complaints
- Establishment of a pilot Early Resolution Service

NERA is at the forefront of these reforms, providing resources to ensure operation of the Workplace Relations Customer Services as well as providing staff to the Early Resolution Service and Workplace Relations Project Office.

The new structures will be formally created under the proposed Workplace Relations Bill legislate and established from the end of 2012.

More details and information is available from the Workplace Resolution Service website:

[www.workplacerelements.ie](http://www.workplacerelements.ie)

#### Contact Details

Information: Lo-call 1890 80 80 90

Inspection: Lo-call 1890 220 100

Prosecution & Enforcement:

Lo-call 1890 220 200

[www.employmentrights.ie](http://www.employmentrights.ie)

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