



Horizon Scanner
Employment Law - Ireland

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Country	Topic	Summary	Impact date	Implications/actions needed	Risk
Ireland	<p>Tomasz Zalewski v An Adjudication Officer and The Workplace Relations Commission [2021] IESC 24.</p> <p>The judgment can be found here.</p>	<p>All hearings under employment rights legislation are now open to the public. Emergency legislation is to be introduced to allow for evidence to be provided on oath or affirmation, prosecution for giving false evidence and for the generality of hearings under employment rights legislation to be heard in public, save those that may, in circumstances to be defined, heard in private. In cases where there is a serious and direct conflict of evidence between the parties, an adjudication officer may adjourn the hearing to await the amendment of the Workplace Relations Act 2015.</p>	6 April 2021	<p>Companies should be aware that all hearings under employment rights legislation will now be open to the public and published decisions will no longer be anonymised. Mediation services will continue to be held in private.</p> <p>Current cases may be adjourned to allow for the introduction of emergency legislation. This may result in further delays to the hearing of cases.</p>	<p>The identification of companies and their employees in published decisions may give rise to PR or reputational issues. Mediation services may be a preferred method of resolving disputes in certain circumstances.</p> <p>Penalties are to be introduced for giving false evidence under oath or affirmation in hearings under employment rights legislation.</p>
Ireland	<p>Gender Pay Gap Information Bill 2019</p> <p>The current Bill can be found here.</p>	<p>The Gender Pay Gap Information Bill 2019, once enacted, will amend the Employment Equality Acts 1998 to 2015 to require employers to publish information in relation to the remuneration of their employees for the purpose of showing whether there</p>	Expected: 2021 (Q3/Q4)	<p>Once enacted, the regulations introduced will apply to certain companies.</p> <p>In preparation, companies should take the following steps:</p>	<p>The Bill provides for sanctions for non-compliance with the regulations.</p> <p>Potential breaches of the regulations may be investigated. IHREC will be permitted to apply to the Circuit or High Court for an</p>

		are differences in remuneration referable to gender and, if so, the size of such differences. Where differences in remuneration exist, an employer must provide the reasons for such differences and measures taken or proposed to be taken, to eliminate or reduce such differences.		<ol style="list-style-type: none"> 1. Identify relevant employee 'groupings' across the company and review payroll data. Account for differences in remuneration referable to gender where necessary. 2. Consider introducing training for payroll and HR staff where appropriate. 3. Review HR policies and update recruitment practices to identify and address unintentional gender bias where necessary. <p>Eversheds Sutherland are able to provide advice to ensure compliance with the regulations.</p>	<p>order directing compliance with the regulations.</p> <p>Employees will also be permitted to make a claim to the WRC where a company fails to comply with the regulations.</p> <p>Companies should be aware of potential PR or reputational issues associated with non-compliance with the regulations.</p>
Ireland	<p>O'Donovan v Over-C Technology Limited and Over-C Limited [2021] IECA 37</p> <p>The judgment can be found here.</p>	The Court of Appeal in this case found that a right to fair procedures cannot be implied during an employee's probationary period (for anything other than misconduct) as to do so would negate the whole purpose of a probationary period.	16 February 2021	<p>Employers can take comfort from the Court's clear statements that:</p> <ol style="list-style-type: none"> 1. "an employer can terminate employment for any reason or no reason, provided adequate notice is given. This applies whether or not the dismissal occurs during the probationary period" and; 	<p>Employees who do not have the one year's continuous service generally required to ground a claim under the Unfair Dismissals Acts 1977 - 2015 may consider making a complaint to the Workplace Relations Commission or to the Labour Court under the Industrial Relations Act, 1969.</p> <p>Recommendations issued under the Industrial Relations Act 1969 are consistently to</p>

				<p>2. "the principles of natural justice apply to cases involving dismissal for misconduct, but not to termination on other grounds".</p> <p>This judgement affirms the value of a well drafted probationary clause in an employment contract.</p>	<p>the effect that fair procedures must be applied in cases of dismissal during a probationary period. While such Recommendations are not enforceable in law, they can give rise to industrial relations issues, particularly in unionised environments, while Labour Court Recommendations can also give rise to publicity as the names of the parties are not anonymised.</p>
Ireland	<p>Family Leave and Miscellaneous Provisions Act 2021</p> <p>The Act can be found here.</p>	<p>The 2021 Act entitles working parents to an additional three weeks parent's leave for each parent. Parents are now entitled to take a total of five weeks paid leave in the first 2 years of their child's life or adoption placement.</p> <p>The 2021 Act also amends the Adoptive Leave Acts 1995-2005 so that jointly adopting couples can decide which of them will avail of adoptive leave. Previously only the adopting mother could take adoptive leave; whereas an adopting father could only avail of adoptive leave where he was the</p>	25 March 2021	<p>Employers should update their family leave policies to reflect the most recent changes in parent's leave and adoptive leave, and also capture the increase to parental leave in September 2020.</p>	<p>Employees may take a claim to the Workplace Relations Commission if they are not afforded the relevant family leave entitlements.</p>

		<p>sole adopter or where the adopting mother had died. This amendment also rectifies a previously anomaly in the law which meant that jointly adopting male same-sex couples were unable to avail of adoptive leave.</p> <p>The parent who is not availing of adoptive leave will be entitled to leave under the Paternity Leave and Benefit Act 2016.</p>			
Ireland	<p>Workplace Relations Commission Code of Practice for Employees and Employers on the Right to Disconnect.</p> <p>The Code of Practice can be found here.</p>	<p>The Code states that the right to disconnect is an employee's right to be able to disengage from work and refrain from engaging in work-related electronic communications, such as emails, telephone calls or other messages, outside normal working hours. There are three key elements:</p> <ol style="list-style-type: none"> 1. A right not to routinely perform work outside of normal working hours (including refraining from engaging in work-related emails, calls or messages). 2. A right not to be penalised for refusing to 	1 April 2021	Employers should consider undertaking a review of their working time policies and contract clauses and consider implementing a Right to Disconnect Policy addressing issues surrounding the right to disconnect through awareness and training where required.	Failure to follow the code will not be an offence, although Irish employment legislation provides that in any proceedings before a court or the WRC, a code of practice will be admissible in evidence. Any provision of the code which appears to be relevant to any question arising in the proceedings will be taken into account in determining that question.

		<p>attend to work matters outside of normal working hours.</p> <p>3.The duty to respect another person’s right to disconnect (e.g. by not routinely emailing or calling outside normal working hours).</p>			
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