



Republic of Labour Law – Irish HR Updates in October

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By Dónall Breen - 30 October 2020

Welcome to our Halloween edition of Republic of Labour Law, a spooky newsletter in which we distil the most frightening Irish legal and HR updates from the last month in 500 words or less.

For those of you who do business in Ireland, this should be your one stop shop trick or treat for what you need to know.

This week in the Republic of Labour Law:

- Lockdown 2.0
- The Budget
- Key Case Law



Lockdown 2.0

It was somewhat inevitable; Ireland has effectively gone into a second lockdown.

The government has moved the entire country to 'Level 5' - the highest level of restriction. Although schools are still open, most businesses will need to close. Advice is to stay at home and exercise within 5km of your house.

For employers, the advice is that staff should work from home unless they are providing an essential service for which their physical presence is required. There is a surprisingly long list of what is deemed essential (see [here](#), even lawyers make the list) but the key question will be whether physical presence is required.

Further information on what a Level 5 lockdown means can be found [here](#).

The Budget

Death and taxes always remain a certainty, and the pandemic has shown that taxes are keeping up their fair share of that adage.

The Budget, delivered on 13 October, saw no major surprises. The key takeaways are that:

- Minimum wage will increase to €10.10 from January;
- The state pension age will not increase to 67 in 2021 as planned;
- As already announced, the Employment Wage Subsidy Scheme will run until 31 March 2021. However, it was announced last week that the lowest contribution amount will increase to €350 per week to bring it in line with the Pandemic Unemployment Payment;
- Entitlement to Parents' Benefit will increase from two weeks to five weeks from April 2021.

Finally, the government also announced that employees will be eligible for Illness Benefits from the third day of sickness absence (rather than the sixth). By way of reminder, Ireland is an outlier in Europe as there is no employer sick pay requirement - only the state paid Illness Benefit. The Labour Party (who are not in government) have proposed changes to this and it seems the government are going to review their proposal. So, watch this space.

Key Case Law

There has been one interesting case this month which is worth a closer look.

The Labour Court set aside a settlement agreement, signed by the employee, on the basis it did not validly waive the right to bring an unfair dismissal case.

Some legal background is necessary here:

- In Ireland, it is not a requirement for the employee to see an independent adviser in order to validly sign a waiver/settlement agreement;
- However, free and informed consent to any waiver is one of the key considerations that differentiates a genuine bargain to settle dispute and an unlawful attempt to exclude or limit employment protections.

In this case, the employee's first language was not English, he signed the settlement agreement very soon after being informed he was being made redundant and the employer could not recall if they had advised him to get independent legal advice.

The Labour Court decided it wasn't valid and the employee was entitled to bring an unfair dismissal claim. However, his final award was offset against the payment already made under the agreement.

The case is a harsh reminder to employers that, even if there is no legal requirement, employees who sign waivers with no legal advice will leave a residual risk of a claim in the future. To mitigate this, employers should advise the employees to get advice (and keep a record of it), give the employee time to sign and take each case on its own facts.

That's all for this month. Enjoy your socially distanced, no fireworks, from-home Halloween. I suppose dressing up is still an option! This year I am going to put on my suit and pretend to be an office worker...