



Republic of Labour Law – Irish HR Updates in February

Dónall Breen

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By Dónall Breen - 27 February 2020

Welcome to our inaugural edition of the Republic of Labour Law, a monthly newsletter in which we distil the most important 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 for what you need to know.

This week in the Republic of Labour Law:

- Ireland and Brexit
- The gig economy in Ireland
- Can you teach belly dancing whilst on sick leave
- Employer's obligations for disabled employees



Let's start from the top, where are we now with Brexit?

Well, as the UK is in a holding pattern during the transition period not much has changed in Ireland either. There is still a free flow of people, data, goods and services over the border. Once the transition period comes to an end the flow of data, goods and services might be affected. However, Irish and UK citizens can continue to freely pass between the two countries (visa free) due to agreements put in place prior to either country joining the EU.

Politically, Ireland has just had a general election in which there was no clear winner. Most commentators have predicted that the left-leaning Sinn Féin party is likely to lead the next government. Sinn Féin has never been in power in the Republic of Ireland and is vocally pro-worker. If Sinn Féin can form a government we should expect to see some movement in the employment labour law sphere.

There have been plenty of changes coming from the Irish labour courts to fill the gap in the meantime. Ireland grappled with its first gig economy case recently (in a tax tribunal) and the outcome was reassuringly familiar for those of you acquainted with UK law. The test for whether someone is an employee or not uses many of the same concepts that the UK courts have previously outlined - mutuality of obligation, substitution, integration etc. At a high level, this is also similar to approaches adopted in the US. However, in Ireland there is no halfway house of 'worker status', unlike in the UK, so you either engage an employee or independent contractor which makes the distinction a little clearer.

Irish courts have also been active when it comes to disability discrimination. A first tier decision confirmed that depression and anxiety constitute legal disabilities. Further, a Supreme Court decision set out what an employer must do in order to provide reasonable accommodation for disabled employees. In short, if you are a large organisation the bar is high to make reasonable adjustments but that doesn't go as far as creating a new role for the employee.

On a more practical note, the minimum wage has just risen to €10.10 an hour, so if you have any employees on the minimum wage make sure your payroll is aware of the new increase.

Finally, the stories coming from the Workplace Relations Tribunal continue to be quite wild. The headlines that have caught my attention in the last few weeks are 'Woman seen teaching belly dancing after calling in sick loses unfair dismissal action', and an employee whose excuse for squeezing his colleague's breast was that "he was trying to sort out her chest infection". I can confirm this is not a traditional, Irish healing cure - it's just creepy.

Until next time, slán agus beannacht.