

Employment and employee benefits in Ireland: overview

Peter Benson, John O'Connor, Ruth O'Connor and Antonia Melvin
O'Connor Solicitors

global.practicallaw.com/3-525-7135

SCOPE OF EMPLOYMENT REGULATION

1. Do the main laws that regulate the employment relationship apply to:

- Foreign nationals working in your jurisdiction?
- Nationals of your jurisdiction working abroad?

Laws applicable to foreign nationals

The employment relationship in Ireland between employer and employee is principally governed by contract law, with parties free to choose the terms and conditions applicable to their specific working relationship. Once legally working in Ireland, migrant workers have the same minimum statutory employment protections as their Irish counterparts.

Laws applicable to nationals working abroad

Irish nationals working abroad are subject to the laws of the jurisdiction in which they are employed. A contract of employment may contain a provision which states that Irish law must apply and govern the employment relationship. However, it should be noted that a recent European Court of Justice ruling confirmed that jurisdiction clauses seeking to prevent employees from bringing proceedings before courts which do have jurisdiction under EU legislation in a relevant sector are not enforceable against employees (*Sandra Nogueira and Others v Crewlink Ltd and Miguel José Moreno Osacar v Ryanair* (Cases C-168/16 and 169/16) EU:C:2017:688).

EMPLOYMENT STATUS

2. Does the law distinguish between different categories of worker? If so, what are the requirements to fall into each category, the material differences in entitlement to statutory employment rights and are there any maximum time periods for which each category of worker can be engaged?

Categories of worker

There are two categories of worker in Ireland:

- Employees, working under a contract of service.
- Self-employed or independent contractors, working under a contract for services.

There is no comprehensive statutory or common law definition of employee in Irish law. A number of factors such as mutuality of obligation, the degree of control and payment of tax are considered to determine an individual's employment status.

Entitlement to statutory employment rights

The majority of employment statutory rights apply to employees only.

Time periods

An individual's employment status is not determined by length of service. There are no maximum time periods for which a category of worker can be engaged.

RECRUITMENT

3. Are any grants or incentives available for employing people? Does any information/paperwork need to be filed with the authorities when employing people?

Grants or incentives

The Industrial Development Agency Ireland (IDA) provides funding and grants for foreign direct investment in Ireland. There is a 25% tax credit available for companies engaging in research and development (R&D) in Ireland.

The Employment Investment Incentive (EII) is an incentive scheme for individual investors and it provides annual tax relief for investments into EII-certified qualifying companies. Relief is initially available for up to 30% with a further 11% tax relief where employment levels are proved to have increased at the end of the holding period of three years. A maximum tax relief on investments up to EUR150,000 can be obtained in each tax year up to 2020.

The Special Assignee Relief Programme is designed to attract high-value employees to Ireland with a view to supporting and encouraging inward investment and job creation. The programme exempts 30% of a qualifying employee's income in excess of EUR75,000 from income tax. The scheme does not extend to the universal social charge (USC) and pay-related social insurance (PRSI) which must be paid on all income. Employees can also receive certain travel expenses tax free, including an annual trip home. Educational relief is available of up to EUR5,000 per child each year for the education of the employee's children within Ireland for the first five consecutive years of tax residency. It applies to employees entering Ireland up to 2020. Relocation expenses are tax exempt in certain circumstances.

Start-up Refunds for Entrepreneurs (SURE) is a tax relief incentive scheme for entrepreneurs in start-up businesses. An entitlement of up to 41% of the capital invested may be claimed. Depending on the size the investment made, a refund of income tax paid previously over the six years before the year of investment may be recouped.

The Knowledge Development Box (Certification of Inventions) Act 2017 (KDB) introduces a lower rate of corporation tax on profits arising from intellectual property (IP) assets resulting from R&D. The IP asset must be novel, non-obvious and useful. If a company



qualifies for KDB, it may be entitled to a deduction equal to 50% of its qualifying profits. Qualifying profits are taxed at 6.25%.

Recruitment. JobsPlus is a state-sponsored, grant-based incentive scheme for employers employing jobseekers who have been unemployed for more than 12 months. The Department of Social Protection pays the incentive to the employer in monthly arrears over a two-year period. It provides two levels of regular cash payments:

- A payment of EUR7,500 for each person recruited who has been unemployed for more than 12 but less than 24 months.
- A payment of EUR10,000 for each person recruited who has been unemployed for more than 24 months.

The Job Expansion Fund provides grant support up to a maximum of EUR150,000 towards the recruitment of new employees. Enterprise Ireland also provides finance towards the costs of employing key personnel and support for high-potential start-up businesses.

Filings

All employers within Ireland must register with the Revenue Commissioners (Revenue). The Revenue must be informed of new employees within nine days from the employee's start date. New employees must provide their new employer with their P45 Form. Part 3 of the P45 must be submitted to Revenue to request a Tax Credit Certificate (P2C) for a new employee. Form P46 must be completed if a new employee does not have a Form P45. Employers must also make monthly, quarterly and annual pay-as-you-earn (PAYE), PRSI and USC returns (Forms P30 and P35). From 1 January 2019, employers must report to the Revenue full details of the payment and deductions every time an employer pays an employee. This is in addition to the current situation where only a form P35, which gives details of payments to employees and relevant deductions, is submitted after year end.

BACKGROUND CHECKS

4. Are there any restrictions or prohibitions on carrying out background checks in relation to applicants?

In accordance with the Data Protection Acts 1988 to 2003, employers intending to carry out background checks on applicants must seek their consent and inform them in advance of the nature and extent of the checks to be undertaken. Only relevant candidate information can be collected and processed. It is unlawful for an employer to require an employee or applicant to make a subject access request to a former employer to provide that information to the new (or prospective) employer (*see also, Question 16*). Employers who wish to verify a candidate's qualifications or experience with a third party must obtain the candidate's prior authorisation.

There is no specific mechanism for carrying out a criminal background check on a candidate in Ireland. Certain jobs have a legal requirement for Garda vetting before commencement, such as working with vulnerable adults or children (An Garda Síochána is the police force for the Republic of Ireland). An employer can ask an employee to declare any previous relevant criminal convictions which may affect the desirability of them performing a particular task. The Data Protection Commissioner has produced guidance on background checks in employment (www.dataprotection.ie/docs/Data-Protection-in-the-Workplace/1239.htm).

PERMISSION TO WORK

5. What prior approvals do foreign nationals require to work in your country? What information/paperwork needs to be kept or filed with the authorities when they start work?

Non-EEA nationals (unless exempted) must hold a valid employment permit. For certain non-EEA nationals, a visa is also required to gain entry into Ireland.

Visa

Procedure for obtaining approval. A visa application can only be made after an employment permit has been obtained. A visa application can be made up to three months before the date of intended travel to Ireland. Applications can be made online at the Irish Naturalisation and Immigration Service (INIS) website (www.inis.gov.ie) or at the Irish Embassy or Consulate in the candidate's country.

Cost. The fees for visa applications are:

- Single entry visa: EUR60.
- Multi-entry visa: EUR100.
- Transit visa: EUR25.

Additional fees may be charged relating to the submission of documentation. Certain applicant countries are exempt from visa fees.

Time frame. There is a general waiting period of eight weeks for a visa application decision from the date on which the application is lodged (the waiting period may be longer than this). Generally, visas must be renewed within ten weeks of their expiry date if the holder wishes to remain in Ireland.

Sanctions. If a person who requires a visa is refused or fails to obtain a visa, they will be refused entry into Ireland. A person who is found guilty of an offence under the Immigration Acts 1999-2004 may be liable to a fine and/or a term of imprisonment.

Permits

Procedure for obtaining approval. Applications for employment permits can be made by prospective employees or employers using the Employment Permits Online System (EPOS) (<https://epos.djei.ie/>). The type of permit required depends on the length and nature of employment, salary level, industry and skills required.

There are nine types of employment permit:

- General Employment Permit.
- Critical Skills Employment Permit.
- Dependent/Partner/Spouse Employment Permit.
- Intra-Company Transfer Employment Permit.
- Contract for Services Employment Permit.
- Reactivation Employment Permit.
- Sport and Cultural Employment Permit.
- Exchange Agreement Employment Permit.
- Internship Employment Permit.

Employment permit holders must register with the Garda National Immigration Bureau following entry into Ireland.

Cost. The general first application fee for most permits is:

- EUR1,000 for up to 24 months.
- EUR500 for six months or less.

The general renewal fee for most permits is:

- EUR750 for six months or less.
- EUR1,500 for up to 36 months.

Time frame. Applications are processed in order of date received. An application status enquiry may be made online to ascertain the application progress. Employment permit applications must be made three months in advance of the expected date of arrival into Ireland.

Sanctions. Employment permit holders can only work for the named employer or connected person in the occupation provided on their employment permit. Permit holders must abide by the immigration rules. Employing someone without a valid employment permit is criminal offence under the Employment Permits Acts 2003 to 2014. A breach of the Employment Permit Acts may lead to a fine or term of imprisonment alongside the refusal or revocation of the employment permit. Apart from certain exceptions, employees receiving a first time permit must stay with an employer for 12 months before they can seek to move to another employer. Moving to another employer will require a new permit application.

Other

The following schemes are run by the Department of Justice and Equality for non-EEA nationals who commit to investing in Ireland:

- The Immigrant Investor Programme. This enables non-EEA nationals and their families to acquire secure residency status in Ireland upon the commitment to invest a minimum of EUR1million in an approved investment for a minimum of three years.
- Start-up Entrepreneur Programme. This enables non-EEA nationals and their families to acquire secure residency status in Ireland if they commit to a high-potential, start-up business in Ireland. Funding of EUR50,000 must be in place.

EU nationals have free movement rights in Ireland and no quotas apply. There are limited instances of quotas being applied generally. For example, a limited number of migrants are granted a right to remain in Ireland under the European Commission's mandatory resettlement programme.

RESTRICTIONS ON MANAGERS AND DIRECTORS

6. Are there any restrictions on who can be a manager or company director?

Age restrictions

All company directors must be over 18 years of age. There are no age restrictions for managers.

Nationality restrictions

There are no nationality restrictions for directors or managers in Ireland. A company must have one of its directors resident in an EEA member state (*Companies Act 2014*). If a company does not have an EEA-resident director, the company must hold a bond to the value of EUR25,000 or a statutory certificate stating the company has a real and continuous link with one or more economic activities carried out in Ireland.

Other restrictions

There is no requirement or qualification for a person to become a director. Directors who are undischarged bankrupts cannot act as an officer or directly or indirectly take part in or be involved with the promotion, formation or management of any company, except with the leave of the High Court. If an undischarged bankrupt acts as a director, he or she is guilty of an offence. Subject to certain exceptions, Section 142 of the Companies Act, 2014 provides that a person cannot be a director of more than 25 companies.

REGULATION OF THE EMPLOYMENT RELATIONSHIP

7. How is the employment relationship governed and regulated?

Written employment contract

A contract of employment is governed by the common law principles of contract law. Employment legislation provisions cannot be contracted out of in the employment contract. The Terms of Employment (Information) Acts 1994 to 2014 impose an obligation on employers to provide their employees, within two months of commencing employment, with a written statement of certain terms and conditions of their employment. This is not an obligation to provide a written contract but most employers comply by providing a written contract. The following particulars must be contained in the written statement:

- Full name of the employer and employee.
- Address of the employer and place of work.
- Job title and nature of the work.
- Date of commencement of employment.
- Expected duration of the contract (if temporary contract) or the date on which the contract will expire (if fixed-term contract).
- Rate or method of calculation of pay.
- Hours of work and overtime.
- Sick leave or payment due to incapacity as a result of injury.

Implied terms

Terms can be implied into an employment contract by legislation, law, custom and practice or the conduct of the parties. Once a term is implied into the contract, it will have the same effect as an express written term. If the implied term contradicts or is inconsistent with the express written wording of the contract, it may be deemed invalid. Examples of common implied terms include the following:

- That the employer and employee have a duty of care to each other and other employees.
- That the employee will act in the best interests of the employer.
- Where a reference is provided, there is an implied term in the contract of employment that the reference is accurate and fair.
- Where a bonus is paid annually, although not provided for in the contract, the payment of a bonus can be deemed an implied term of the contract over time.
- Statutory terms implied into a contract (that is, no less than the minimum wage be paid).

Collective agreements

Collective agreements in Ireland are not binding to the employment relationship unless the collective agreement is expressly incorporated into the contract of employment. Registered employment agreements (REAs) are collective agreements that relate to the pay or conditions of the employment of specified workers and are registered with the Labour Court. The Industrial Relations (Amendment) Act 2015 provides for a system of sectoral employment orders (SEOs), which replaces the previously used mechanism of REAs. The first of the new SEOs (SEO (Construction Sector) 2017) took effect from 19 October 2017.

8. What are the main points to consider if an employer wants to unilaterally change the terms and conditions of employment?

Employers cannot unilaterally change the terms or conditions of employment. Both parties to a contract must consent to any proposed change. If a contract of employment is to be varied, then the affected employee must be given the details of the change in writing within one month of the date of its operation. It is advisable for employers to include an express right to vary an employee's terms within their contract.

MINIMUM WAGE

9. Is there a national (or regional) minimum wage?

The national minimum wage for most experienced adult employees is EUR9.55 per hour (as of 1 January 2018). However, there are some exceptions to the national minimum wage. For example, employees under the age of 18 are entitled to 70% of the minimum wage and employees who are in the first year of employment since reaching the age of 18 are entitled to 80% of the minimum wage. The national minimum wage applies to full-time, part-time, temporary and casual employees. Employees must be given pay-slips showing their wages and any deductions made. Sectoral employment orders (SEOs) and registered employment agreements (REAs) set out minimum wages in certain sectors that differ to the national minimum wage (see also *Question 7*).

RESTRICTIONS ON WORKING TIME

10. Are there restrictions on working hours? Can an employee opt out on either an individual or collective basis?

Working hours

The Organisation of Working Time Act 1997 (OWTA) provides the maximum average working week is 48 hours, subject to certain exceptions. The average work hours may be taken over a four- (most common), six- or 12-month period (this is exceptional and applies to the security industry, hospitals, prisons, gas/electricity, airport/docks, agriculture and employees in businesses which have peak periods at certain times of the year such as tourism).

Rest breaks

Every employee has a general entitlement to the following rest periods:

- **Daily.** 11 consecutive hours' daily rest per 24-hour period.
- **Weekly.** One period of 24 hours' rest per week, preceded by a daily rest period of 11 consecutive hours.
- **Rest breaks.** Employees are entitled to:
 - 15 minutes where more than four and half hours have been worked; and
 - 30 minutes where more than six hours have been worked, which may include the first 15-minute break.

Shift workers

Special conditions apply to night workers. A night worker is an employee who works for at least three hours between midnight and 7am, and who works at night for at least half of their annual work. Employers must prevent night workers from working more than an average of eight hours in a 24-hour period. The average period for night workers is calculated over two months. Night workers are entitled to the same rest break provisions as normal workers (see above, *Rest breaks*).

HOLIDAY ENTITLEMENT

11. Is there a minimum paid holiday entitlement?

Minimum paid holiday entitlement

Holiday entitlement is governed by the Organisation of Working Time Act 1997 (OWTA). All employees earn holiday entitlements from the time work is commenced. Holiday pay is earned against time worked. Employees are entitled to the greater of one of the following paid annual leave entitlements:

- Four working weeks in a leave year in which the employee works at least 1,365 hours (unless it is a leave year in which the employee changes employment).
- One-third of a working week for each month in the leave year in which the employee works at least 117 hours.
- 8% of the hours the employee works in a leave year (but subject to a maximum of four working weeks).

Additional annual leave may be provided at the discretion of an employer. If an employee has worked for their employer for less than the full holiday year, holidays are granted on a pro rata basis.

Public holidays

There are nine public holidays in Ireland and most employees are entitled, at the discretion of their employer, to one of the following:

- A paid day off on that day.
- A paid day of within a month of that day.
- An additional day of annual leave.
- An additional day's pay.

This does not apply to employees who have not worked for their employer for at least a total of 40 hours in five weeks before the public holiday.

The public holidays are as follows:

- New Year's Day (1 January).
- St. Patrick's Day (17 March).
- Easter Monday.
- First Monday in May, June, August.
- Last Monday in October.
- Christmas Day (25 December).
- St. Stephen's Day (26 December).

ILLNESS AND INJURY OF EMPLOYEES

12. What rights do employees have to time off in the case of illness or injury? Are they entitled to sick pay during this time off? Who pays the sick pay and, if the employer, can it recover any of the cost from the government?

Entitlement to paid time off

There is no obligation for employers to pay employee sick pay. It is at the discretion of an employer to provide their own policy on sick leave and sick pay. An employer must include terms or conditions relating to an employee's incapacity for work due to sickness or injury in their written statement (*Terms of Employment (Information) Acts 1994 to 2014*) (see also *Question 7*). If sick pay is included in the contract, there is often a limit on the period of sick pay entitlement. If there is no express or implied term in the contract of employment, the employee has no entitlement to sick pay and must rely wholly upon social welfare benefits.

Entitlement to unpaid time off

There is no statutory entitlement for employee sick leave in Ireland. Equality legislation obliges employers to provide employees with reasonable accommodation in respect of disabilities. Consequently, employers must provide a reasonable period of sick leave for employees with disabilities. The Workplace Relations Act 2015 provides that statutory annual leave accrues during periods of certified sick leave up to a maximum of 15 months from the end of the leave year in which it was accrued.

Recovery of sick pay from the state

Employees who are under 66 years of age and have obtained sufficient social insurance contributions (pay-related social insurance (PRSI)) are entitled to state illness benefit. An employee must apply for illness benefit within seven days of becoming ill, regardless of whether or not they are in receipt of sick pay from their employer. There is no payment for the first six days of illness. If an employee is receiving sick pay from their employer, the employee must sign over the illness benefit payment to their employer for as long as sick pay continues. Disability benefit and other forms of illness benefit are available for employees on longer terms of leave. Employers are not reimbursed directly by the state.

STATUTORY RIGHTS OF PARENTS AND CARERS

13. What are the statutory rights of employees who are:

- **Parents (including maternity, paternity, surrogacy, adoption and parental rights, where applicable)?**
- **Carers (including those of disabled children and adult dependants)?**

Maternity rights

The Maternity Protection Acts 1994 and 2004 provide an entitlement of 42 weeks' maternity leave for pregnant employees, composed of 26 weeks' "ordinary maternity leave" and 16 weeks' "additional maternity leave". At least two weeks of maternity leave must be taken before the baby's expected date of birth and at least four weeks' leave taken after the birth. An employee must notify her employer in writing of her intention to take maternity leave no later than four weeks before commencing maternity leave. Pregnant employees and employees who have recently given birth are entitled to time off work without loss of pay for ante-natal and post-natal care. Certain women in employment who are breastfeeding are entitled to take time off work each day in order to breastfeed (section 9, *Maternity Protection (Amendment) Act 2004*). The provision applies to all women in employment who have given birth within the previous six months. Employers are not obliged to provide facilities in the workplace to facilitate breastfeeding if the provision of these facilities would give rise to considerable costs. At the choice of her employer, the woman may therefore opt to:

- Breastfeed in the workplace or express breast milk, where facilities are provided in the workplace by the employer.
- Have their working hours reduced (without loss of pay) to facilitate breastfeeding where facilities are not made available.

The entitlement applies to mothers of babies under six months old.

There is no statutory obligation to pay an employee during maternity leave. An employee is entitled to state maternity benefit for the first 26 weeks of maternity leave, subject to the employee's pay-related social insurance (PRSI) contributions. Employers are not obliged to provide further maternity pay/benefits in addition to state maternity benefit.

Paternity rights

The Paternity Leave and Benefit Act 2016 provides two weeks' statutory leave and benefit for employees who are the relevant

parents of children born or adopted. Paternity leave generally must be taken in one block of two weeks. The term "relevant parent" is defined broadly to provide for fathers, adoptive fathers, civil partners, cohabitants and same-sex couples. Paternity benefit is payable by the state subject to an employee's PRSI contributions. Employers are not obliged to provide further paternity pay/benefits in addition to state paternity benefit.

Employers are not obliged to pay paternity leave benefit.

Surrogacy rights

There is no Irish legislation covering the legal issues arising from surrogacy. As a result, no statutory entitlement to surrogacy leave or pay exists.

Adoption rights

Female employees (employed adopting mother) and sole male adopter employees are entitled to take up to 40 weeks' adoptive leave (24 weeks' "ordinary adoptive leave" and 16 weeks' "additional adoptive leave") (*Adoptive Leave Act 1995 (as amended)*). A sole male adopter is defined as a male adoptee who is adopting a child on his own. Employed adopting fathers are also entitled to leave in certain, limited circumstances on the death of the adopting mother. Since the enactment of the Adoption (Amendment) Act 2017 on 19 October 2017, any couple living together in a civil partnership or cohabiting together for at least three years can apply to adopt a child. Previously only married couples or individual applicants could apply to adopt. However, there had been no amendment to the Adoption Leave Act in this regard, and so adoption leave remains as before.

Adoptive benefit is payable by the state for the first 24 weeks, subject to qualifying PRSI contributions. Employers are not obliged to provide further adoption pay/benefits in addition to state adoption benefit. Employees have a right to adoptive leave from employment without pay.

Parental rights

Parents are entitled to 18 weeks' unpaid leave for each child under the age of eight (*Parental Leave Acts 1998 to 2006*). This is subject to modifications for an adopted child or a child with a disability or long-term illness. An employee is also entitled to *force majeure* paid leave in cases of family emergencies.

Carers' rights

Employees who have 12 months' continuous service may, in limited circumstances, take up to 104 weeks' unpaid leave to provide full-time care for an incapacitated person. An application must be made to the Minister for Social Protection and a decision received before an employee is entitled to carer's leave. Carer's benefit can be used if the employee has the required PRSI contributions. Alternatively, an individual may qualify for a carer's allowance, which is a means-tested payment.

CONTINUOUS PERIODS OF EMPLOYMENT

14. Does a period of continuous employment create any statutory rights for employees? If an employee is transferred to a new entity, does that employee retain their period of continuous employment? If so, on what type of transfer?

Statutory rights created

Specific employment legislation requires certain periods of continuous employment before particular benefits may be gained. For example, the Unfair Dismissal Acts 1977 to 2015 only apply to employees, subject to certain exceptions, with at least 12 months' continuous service. A further example is the entitlement to a redundancy payment, which only arises on or after the completion of 24 months' continuous service.

Consequences of a transfer of employee

Under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003, an employee's period of continuous service remains intact upon a transfer of an undertaking or business or part of that business.

FIXED TERM, PART-TIME AND AGENCY WORKERS

15. To what extent are temporary and agency workers entitled to the same rights and benefits as permanent employees? To what extent are part-time workers entitled to the same rights and benefits as full-time workers?

Temporary workers

The Protection of Employees (Fixed-Term Work) Act 2003 applies to most employees on fixed-term contracts. Fixed-term employees are entitled to be treated no less favourably than a comparable permanent employee, unless this treatment can be justified on both of the following objective grounds:

- Its purpose is to achieve a legitimate objective of the employer.
- It is appropriate and necessary to achieve that purpose.

There are some exceptions in relation to pension entitlements. An employer cannot employ an employee on a series of fixed-term contracts indefinitely.

The Unfair Dismissal Acts apply to fixed-term employees unless their contract of employment expressly excludes their application.

Agency workers

Agency workers are not entitled to all the employment rights afforded to regular workers; however, they do have the right to equal treatment and equal basic employment conditions provided for by the Protection of Employees (Temporary Agency Work) Act 2012. The Act does not cover employees of contractor companies and limited liability companies where the worker is the beneficial owner.

Part-time workers

The Protection of Employees (Part-Time) Work Act 2001 governs the treatment of part-time employees. Part-time employees have the right not to be treated less favourably than a comparable full-time employee regarding conditions of their employment, unless objectively justified. The two objective grounds are:

- Where its purpose is to achieve a legitimate objective of the employer and such treatment is appropriate and necessary for that purpose.
- Pensions.

DATA PROTECTION

16. Are there any requirements protecting employee privacy or personal data? If so, what are an employer's obligations?

Employees' data protection rights

The Data Protection Acts 1998 to 2003 provide robust legislation for upholding individuals' privacy rights in relation to the processing of their personal data. Employees, as data subjects, are entitled to make a subject access request, which entitles them to:

- Be informed as to what personal data is held about them and to whom it is disclosed.
- Obtain a copy of their personal data.
- Direct the amendment or deletion of incorrect personal data.

A fee may be requested by the employer which may not exceed EUR6.35.

Employers' data protection obligations

Employers are considered data controllers under the Data Protection Acts and are subject to onerous obligations in respect of sensitive personal data. The Data Protection Commissioner has produced guidelines for employers (www.dataprotection.ie/docs/Data-Protection-in-the-Workplace/1239.htm).

The Data Protection Commissioner has the power to investigate allegations of a breach of data protection. A breach of the Acts by a data controller amounts to an offence punishable by a fine of up to EUR100,000 or a conviction and/or an order to delete all or part of the database controlled.

Regulation (EU) 679/2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation (GDPR)) will come into force on 25 May 2018. The GDPR enhances the rights of EU citizens to data privacy in relation to security, accountability and transparency. This will have a significant impact on employers/employees. Some of the key changes are as follows:

- The time frame for dealing with data access requests will be reduced to 30 days.
- Data breaches must be reported within 72 hours to the Data Protection Commissioner and to affected employees.
- Employees will have "a right to be forgotten".
- Breaches can result in fines of up to EUR20 million (or 4% of total annual global turnover, whichever is greater).

DISCRIMINATION AND HARASSMENT

17. What protection do employees have from discrimination or harassment, and on what grounds?

Protection from discrimination

The Employment Equality Acts 1998 to 2015 prohibit the direct and indirect discrimination of employees on nine grounds. There is no minimum period of service required to bring a claim under these Acts. The nine discriminatory grounds are:

- Gender.
- Marital/civil status.
- Family status.
- Sexual orientation.
- Religious belief.
- Age.
- Disability.
- Race.
- Membership of the Traveller community.

Protection from harassment

The Employment Equality Acts prohibit harassment and sexual harassment on any of the above grounds of discrimination in relation to employment. The common law principles of negligence and breach of contract also apply in the case of workplace harassment. An employer is liable for acts of harassment which an employee commits during the course of their employment. There is no minimum period of service required to bring such a claim. Employers must have a policy and procedure to deal with and prevent harassment at work alongside an effective grievance procedure. The Code of Practice on Sexual Harassment and

Harassment at Work provides a practical guide to employers (www.irishstatutebook.ie/eli/2012/si/208/made/en/print).

WHISTLEBLOWERS

18. Do whistleblowers have any protection?

The Protected Disclosures Act 2014 provides protection from penalisation and dismissal where "workers" disclose one or more "relevant wrongdoing" or potential wrongdoing in the workplace. The disclosure must be a disclosure of information and not a mere allegation or expression of concern. The definition of workers covers current and former employees. There is no minimum period of service required to bring a claim. A protected disclosure includes a disclosure of relevant information made before or after the date of the passing of the Act.

TERMINATION OF EMPLOYMENT

19. What rights do employees have when their employment contract is terminated?

Notice periods

The contract of employment must contain an agreed notice period. In the absence of a contractual notice period, an employer must give "reasonable" notice prior to the termination of an employee's contract. If the notice period given is less than the statutory notice period, the statutory notice period prevails. The Minimum Notice and Terms of Employment Acts 1974 to 2005 apply to employees who have completed 13 weeks' continuous service with their employer. The following minimum notice periods apply:

- 13 weeks' to less than two years' service: one week.
- Two years' to less than five years' service: two weeks.
- Five years' to less than ten years' service: four weeks.
- Ten years' to less than 15 years' service: six weeks.
- More than 15 years' service: eight weeks.

The Acts do not preclude either party from waiving their right to notice or accepting payment in lieu of notice. The employment may be legitimately terminated without notice due to the misconduct of either party.

Severance payments

A contract of employment may provide for a severance payment in the event of a termination by consent. Most employers require the employee whose contract is being voluntarily terminated to sign a severance agreement relinquishing the employee's right to take any future legal action against their employer. Severance packages are distinct from redundancy situations.

Procedural requirements for dismissal

The Unfair Dismissal Acts 1977 to 2015 require an employer to act "reasonably" in relation to an employee's dismissal. To validly dismiss an employee, the employer must have a clear documented procedure in place and follow that procedure fully. Employees must be afforded full and fair procedures in accordance with natural justice in the dismissal process. The Code of Practice on Grievance and Disciplinary Procedures S.I. 146 of 2000 contains general guidelines on the application of grievance and disciplinary procedures and the promotion of best practice for dismissal.

20. What protection do employees have against dismissal? Are there any specific categories of protected employees?

Protection against dismissal

Unfair dismissal. An employee may challenge their dismissal under the Unfair Dismissal Acts. A dismissal is automatically deemed to be unfair, placing a positive onus on the employer to prove otherwise.

Wrongful dismissal. In cases of wrongful dismissal, an employee can bring a breach of contract claim in the civil courts. In certain circumstances, such as the employer's defective fair procedures, an employee can bring an injunction to restrain the wrongful dismissal and seek to be reinstated to their employment position.

Discriminatory dismissal. If an employee is discriminatorily dismissed on one of the nine grounds of discrimination, the employee can bring a claim under the Employment Equality Acts (*see below, Protected employees*).

Constructive dismissal. When an employee terminates the contract of employment with or without notice due to the employer's conduct, the employee can bring a claim for constructive dismissal. In the cases constructive dismissal, the burden of proof is reversed and the employee must prove that they were constructively dismissed.

Protected employees

In general, an employee must have at least 12 months' continuous service to rely on the Unfair Dismissal Acts. A dismissal is automatically deemed to be unfair if it was by reason of:

- Pregnancy.
- Religion.
- Politics.
- Race.
- Colour.
- Sexual orientation.
- Age.
- Trade union membership.
- Unfair selection for redundancy.
- Making a protected disclosure under the Protected Disclosures Act 2014 (*see Question 18*).

REDUNDANCY/LAYOFF

21. How are redundancies/layoffs defined, and what rules apply on redundancies/layoffs? Are there special rules relating to collective redundancies?

Definition of redundancy/layoff

An employee can be dismissed by his or her employer by reason of redundancy if, for one or more reasons not related to the employee concerned, the employee's dismissal is attributable "wholly or mainly" to one of the five situations outlined in the Redundancy Payment Acts 1967 to 2014:

- Change in purpose or place of business.
- Reduction in the business's requirements.
- Diminution in the required number of employees.
- Change in work methods.

- Change in work.

Procedural requirements

The selection process for redundancy must be carried out in an objective, fair and transparent manner by the employer. The employer must be able to demonstrate that the particular employee was compared to other employees who were considered during the redundancy selection. It is important for employer's conduct to be reasonable at all times. Employers must consult with employees either individually or collectively to notify them of the redundancy situation and process. At least two weeks' written notice of the redundancy must be given to an employee. The statutory notice period depends on an employee's period of service. Part A of Form RP50 must be given to the employee.

Redundancy pay

The Redundancy Payment Acts impose a statutory obligation on employers to pay compensation to employees who are dismissed by reason of redundancy or layoff. To qualify for the statutory payment, an employee must be aged over 16 years, with at least two years' continuous service and whose employment has been terminated by reason of redundancy. The statutory redundancy lump sum entitlement is calculated as follows:

- Two weeks' pay for every year of service, subject to the statutory ceiling of EUR600 per week.
- One bonus week's gross pay.

Incomplete years of service are taken into account on a pro rata basis.

Collective redundancies

The Protection of Employment Acts 1977 to 2000 set out specific notification and consultation requirements regarding collective redundancies. Employers who are planning collective redundancies must inform and consult their employees at least 30 days before the first dismissal is scheduled. The Minister for Enterprise, Trade and Employment must also be notified at least 30 days before any dismissals take effect. A collective redundancy means the dismissal on grounds of redundancy over a period of 30 consecutive days of:

- At least five employees where 21 to 49 employees are employed.
- At least ten employees where 50 to 99 employees are employed.
- At least 10% of the employees where 100 to 299 employees are employed.
- At least 30 employees where 300 or more employees are employed.

More onerous obligations exist for employers in situations of exceptional collective redundancies. An exceptional collective redundancy is a dismissal, by reason of compulsory collective redundancy, which is not regarded as a redundancy, where the dismissed employees are replaced by new employees doing the same job and performing the same duties for less wages.

EMPLOYEE REPRESENTATION AND CONSULTATION

22. Are employees entitled to management representation (such as on the board of directors) or to be consulted about issues that affect them? Is employee consultation or consent required for major transactions (such as acquisitions, disposals or joint ventures)?

Management representation

The Worker Participation (State Enterprises) Acts 1977 to 2001 provide for employee representation and participation at board and sub-board level in certain state enterprises. These rights are

limited and unless there is an agreement in place, employees will generally have no such entitlement.

Consultation

The Transnational Information and Consultation of Employees Act 1996 sets out procedures for consulting and informing employees in relation to transnational matters affecting their work organisation. The Act applies to businesses with over 1,000 employees in the EEA and at least 150 employees in each of two EEA states. Employers must establish a Special Negotiating Body to negotiate with employees.

The Employees (Provision of Information and Consultation) Act 2006 imposes consultation obligations on businesses in Ireland with over 50 employees.

Major transactions

There is no legal requirement to consult with employees ahead of a share sale unless there is an agreement to do so in place. Best practice for employers is to communicate with its employees regarding a proposed transaction. The European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 govern transactions involving the sale of businesses or assets. The original employer and new employer must consult with their employees no later than 30 days before the transfer date.

The European Communities (Cross-Border Mergers) Regulations 2008 provide for arrangements to be established for employee participation in an Irish successor company.

23. What remedies are available if an employer fails to comply with its consultation duties? Can employees take action to prevent any proposals going ahead?

Remedies

Failure to comply with the Protection of Employment Acts, the Transnational Information and Consultation of Employees Act 1996, and the Employees (Provision of Information and Consultation) Act 2006 can result in a criminal conviction (see also *Question 21* and *Question 22*).

A complaint regarding a breach of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 can be made by employees, trade unions and certain others (for example, a staff association or excepted body on behalf of and with the employee's consent). Compensation not exceeding four weeks' remuneration can be awarded for a breach of the information and consultation obligations, and compensation not exceeding two years' remuneration may be awarded for breach of any other provision of the Regulations, in addition to reinstatement or re-engagement, if deemed appropriated.

Employee action

Employee action cannot be invoked in an effort to prevent the progression

CONSEQUENCES OF A BUSINESS TRANSFER

24. Is there any statutory protection of employees on a business transfer?

Automatic transfer of employees

Under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003, the transfer of employees resulting from a business transfer is automatic.

Protection against dismissal

The dismissal of an employee by reason of transfer is prohibited under the 2003 Regulations and is deemed unfair unless the

dismissal can be justified for "economic, technical or organisational reasons entailing changes in the workforce".

Harmonisation of employment terms

The 2003 Regulations stipulate that all employment contractual rights and obligations along with collective agreements are automatically transferred to the transferee (the new purchaser), with the exception of pensions. However, if there is a pension scheme in operation at the time of the transfer, the 2003 Regulations provide:

- Occupational pension schemes covered by the Pension Acts 1990 to 2002 are protected by those Acts.
- Other pension schemes must be protected by the transferee.

Harmonisation of employment terms is implemented post-transfer with the agreement of employees.

EMPLOYER AND PARENT COMPANY LIABILITY

25. Are there any circumstances in which:

- **An employer can be liable for the acts of its employees?**
 - **A parent company can be liable for the acts of a subsidiary company's employees?**
-

Employer liability

The common law principle of employer's vicarious liability holds employers liable for the acts and omissions of their employees which occur in the course of their employment. There is no necessity to find fault on behalf of the employer. Liability can also be imposed on an employer under the Employment Equality Acts 1998 to 2015, where employers are vicariously liable for the discriminatory acts of their employees committed in the course of their employment. It is a defence for an employer to show that he or she took reasonable steps to prevent the acts of discrimination.

Parent company liability

At present, parent companies and subsidiaries are treated as separate economic entities and a parent company cannot be held liable for the acts of the employees of its subsidiary. However, in the circumstances where a parent company is deemed to have assumed a duty of care, it may be held liable for the act or omission of the subsidiary company's employee.

EMPLOYER INSOLVENCY

26. What rights do employees have on the insolvency of their employer? Is there a state fund which guarantees repayment of certain employment debts?

Employee rights on insolvency

Employer insolvency in Ireland is a complex area of law determined by the particular circumstances of an employer's insolvency. Generally, the appointment of an examiner or receiver to a company does not automatically terminate existing contracts of employment. However, if a receiver has been appointed by a court, the contract of employment is automatically terminated. Where a company ceases to trade, this amounts to a dismissal of the employee. The appointment of a liquidator may lead to termination but the employment relationship will continue if the liquidator is given the power to continue to trade and proceeds to do so. Where an employee is dismissed, either by the receiver's appointment or actions, the employee's contractual and statutory entitlements are maintained.

Certain employee debts, which are limited, are given priority in the distribution of assets after the payment of the secured creditors and the liquidator's/official assignee's remuneration and expenses.

This only occurs where there are sufficient assets to discharge the amounts due.

State guarantee fund

The Insolvency Payments Scheme protects pay-related entitlements owed to employees who lose their employment due to employer insolvency. The scheme enables employees to claim limited arrears of pay, holiday pay, pay in lieu of statutory notice and other entitlements owed by their employer. An employer must go into official liquidation for employees to come within the scheme's ambit. The state has also created the Redundancy Payments Scheme where the state will discharge the statutory redundancy entitlements of employees in the event of employer insolvency.

HEALTH AND SAFETY OBLIGATIONS

27. What are an employer's obligations regarding the health and safety of its employees?

Employers must provide employees with a safe system and place of work. The common law duty of care requires employers to protect employees from reasonably foreseeable injury. This area of the employment relationship is also governed by the Safety, Health and Welfare at Work Act 2005 (as amended) and imposes a legal duty on employers to identify hazards in the workplace and to carry out a risk assessment of those hazards. Employers are also required to prepare written safety statements in a form and language that is understood by its employees.

It is a criminal offence to breach the Safety and Health at Work Act. Employees are entitled to bring civil claims against their employers for any loss or injury suffered as a result of an accident at work. The penalties on summary conviction are a fine not exceeding EUR5,000 per charge or imprisonment for a term not exceeding 12 months or both, and on conviction on indictment to a fine not exceeding EUR3 million per charge or imprisonment for a term not exceeding two years or both.

TAXATION OF EMPLOYMENT INCOME

28. What is the basis of taxation of employment income for:

- **Foreign nationals working in your jurisdiction?**
 - **Nationals of your jurisdiction working abroad?**
-

Foreign nationals

Foreign nationals who are resident but not domiciled in Ireland are liable to Irish income tax on:

- Income generated in Ireland.
- Income from a foreign source of employment attributable to the performance of those employment duties within the state.
- Income from a foreign employment related to duties performed outside the state. If an individual is not domiciled within the state, this income is only taxable on the income brought into the state.

An individual who is non-resident, non-ordinarily resident and not domiciled in Ireland for the tax year in respect of which tax liability is to be calculated is liable to Irish tax on Irish-source income and income derived from employment effected in the state.

Employees may be entitled to credit for foreign tax paid. Particular rules apply to temporary assignees who may be on short-term business visits to the state.

Nationals working abroad

Irish nationals resident, ordinarily resident or domiciled within Ireland, are liable to income tax on their total income, wherever it arises. Certain relief may be claimed for income tax paid abroad. An individual who is non-resident for a particular tax year but is ordinarily resident in the state for the tax year in respect of which tax liability is to be calculated, is treated for that year in the same manner as an individual who is tax resident but is not taxable on:

- Income derived from a trade or profession carried on outside the state.
- Income derived from a non-public office or non-public employment, all duties having been performed outside the state (except incidental duties).
- Other foreign income not exceeding EUR3,810.

Directors of an Irish incorporated company must pay income tax regardless of residency status or location of the performance of their duties.

29. What is the rate of taxation on employment income? Are any social security contributions or similar taxes levied on employers and/or employees?

Rate of taxation on employment income

The standard rate of tax for 2018 is 20% on income up to a certain threshold. All earnings above this threshold are taxed at the higher rate of 40%. The thresholds are as follows:

- Single, widowed or a surviving civil partner without qualifying dependent children: up to EUR34,550 taxed at 20%. The rest is taxed at 40%.
- Single, widowed or a surviving civil partner qualifying for One Parent Family Tax credit (2013) or Single Person Child Carer Credit (2014): up to EUR39,550 taxed at 20%. The rest is taxed at 40%.
- Married or in a civil partnership (one spouse or civil partner with income): up to EUR43,550 taxed at 20%. The rest is taxed at 40%.
- Married or in a civil partnership (both spouses or civil partners with income): up to EUR69,100 taxed at 20%. The rest is taxed at 40%.

Certain tax credits, allowances and reliefs are available on income tax.

Universal social charge (USC)

The USC is tax payable on gross income and pension contributions. The 2017 rates of USC are:

- 0.5% on the first EUR12,012.
- 2.0% on the next EUR7,360.
- 4.75% on the next EUR50,672.
- 8% on the balance above EUR70,044.

Social security contributions

There are both employer and employee components to pay-related social insurance (PRSI) contributions. Employees are divided into social insurance classes with most employees falling within the Class "A" band. Class A contributions for 2018 are as follows:

- Employer PRSI on salaries less than EUR376 per week: 8.6%.
- Employer PRSI on salaries greater than EUR376.01 per week: 10.85%.

- Employee PRSI is payable at 4% on salaries if earnings are greater than EUR352.01 per week.

PRSI credits are available and depend on gross weekly earnings.

BONUSES

30. Is it common to reward employees through contractual or discretionary bonuses? Are there restrictions or guidelines on what bonuses can be awarded?

Employers can choose to operate a bonus scheme for employees. It is at the discretion of the employer how the bonus scheme should operate. In addition to multinationals operating in Ireland, indigenous companies and professional service provider firms will commonly have bonus schemes as part of an employee's remuneration package.

INTELLECTUAL PROPERTY (IP)

31. If employees create IP rights in the course of their employment, who owns the rights?

Employee IP rights are governed and protected by the Patents Acts 1992 to 2014 and the Copyright and Related Rights Acts 2000 to 2007. Generally, the person who creates the IP is the first owner and can decide how it is used. Work created by an employee in the course of their employment belongs to the employer, unless otherwise agreed.

RESTRAINT OF TRADE

32. Is it possible to restrict an employee's activities during employment and after termination? If so, in what circumstances can this be done? Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

Restriction of activities

It is common for contracts of employment to contain express terms relating to the restraint of trade during the course of employment. However, if there is no express provision within the contract of employment, an employee is free to take up additional employment.

Post-employment restrictive covenants

Any attempt to restrict an employee after the termination of the employment relationship is presumed to be unenforceable unless the contract of employment contained a clause restricting trade which is both:

- Reasonable as between the parties (a restrictive covenant may be deemed unreasonable and therefore unenforceable if the period of restriction is too long or the geographical area it may apply to is too extensive).
- Consistent with the public interest (for example, if the covenant is anti-competitive then this would be contrary to the public interest).

There is no statutory requirement for an employer to continue to pay a former employee bound by a post-employment restrictive covenant.

RELOCATION OF EMPLOYEES

33. Can employers include mobility clauses in employment contracts, or take any other measures, to ensure that employees are obliged to relocate?

An employer is entitled to include a mobility clause into the employment contract. The Terms of Employment Information Acts state that if an employee is required to work outside the state for a minimum period of one month, the employer must provide the employee with a statement to include:

- The period of employment outside the state.
- The currency in which the employee is to be remunerated in respect of that period.
- Any benefits in cash or kind for the employee while working outside the state.
- The terms and conditions applying to the employee's repatriation.

PROPOSALS FOR REFORM

34. Are there any proposals to reform employment law in your jurisdiction?

The General Scheme of the Assisted Human Reproduction Bill 2017 was approved by the Government on 3 October 2017. It is hoped that the regulation of surrogacy in Ireland will fill the current legal gap and allow for statutory employment leave.

Draft legislative proposals were approved by the Government on 2 May 2017 to enhance the level of employment protection afforded to low-paid vulnerable workers and address the issues of zero-hour contracts, low-hour contracts and banded-hour contracts. The draft legislation has been referred to the Office of the Attorney General for priority drafting of a Bill.

The General Scheme of the Social Welfare and Pensions Bill 2017 was published in May 2017. The Bill sets out to increase protection for members of defined-benefit occupational pension schemes, to improve access to pensions for same-sex couples and to make it easier for persons with disabilities to engage in work.

The General Data Protection Regulation (GDPR) will come into force on the 25 May 2018.

ONLINE RESOURCES

Citizens Information

W www.citizensinformation.ie

Description. Information on public services and entitlements of citizens in Ireland.

Department of Business and Enterprise Ireland

W www.dbel.ie

Description. Information on enterprise, innovation, regulation of business and protection of workers.

Department of Employment Affairs and Social Protection

W www.welfare.ie

Description. Information on pay-related social insurance (PRSI), redundancy and employment services.

Irish Development Agency (IDA)

W www.ida.ie

Description. State agency website responsible for foreign direct investment (FDI) in Ireland.

Irish Statute Book

W www.irishstatutebook.ie

Description. Website containing Irish legislation.

Revenue Commissioners

W www.revenue.ie

Description. Website containing general tax information.

Workplace Relations Commission

W www.workplacerelations.ie

Description. Website containing information on employment law rights.

Practical Law Contributor profiles



Peter Benson, Partner

O'Connor Solicitors

T +3536992222
F +3536766764
E peter.benson@oclegal.ie
W www.oclegal.ie

Professional qualifications. Solicitor qualified in Ireland in 2004.

Areas of practice. Employment and employee benefits; Commercial law including commercial litigation; Property.

Non-professional qualifications. Bachelor of Arts (Pure Economics), University College Dublin.

Recent transactions

- Acting for numerous employer-clients including private companies and multinationals.
- Acting on behalf of representative bodies and unions on behalf of their members.

Languages. English

Professional associations/memberships. Law Society of Ireland; Dublin Chamber of Commerce; Dublin Solicitors Bar Association; Association of Regulatory and Disciplinary Lawyers.



John O'Connor, Partner

O'Connor Solicitors

T +3536764488
F +3536766764
E john.oconnor@oclegal.ie
W www.oclegal.ie

Professional qualifications. Solicitor qualified in Ireland in 1992.

Areas of practice. Employment law and employment litigation; Commercial law including commercial litigation; Company law.

Non-professional qualifications. Bachelor of Civil Law, University College Dublin.

Recent transactions

- Acting on behalf of healthcare representative body in four lead cases to determine contractual rights across hospital sector which would have value estimated by the state in excess of EUR350 million.
- Acting for multi-national employer-clients in employment disciplinary matters, defence of unfair dismissal claims.
- Acted in Appeal to High Court on point of law concerning section 77 of the Employment Equality Act 1998.
- Advice to company in connection with termination of employment of Director and Shareholder.
- Lectured Law Society of Ireland 2017 Diploma on Employment Law on Policies and Procedures in the Workplace.

Languages. English

Professional associations/memberships. Law Society of Ireland; Dublin Chamber of Commerce; Dublin Solicitors Bar Association; Association of Regulatory and Disciplinary Lawyers.



Ruth O'Connor, Partner

O'Connor Solicitors

T +3536764488
F +3536766764
E ruth.oconnor@oclegal.ie
W www.oclegal.ie



Antonia Melvin, Associate

O'Connor Solicitors

T +3536764488
F +3536766764
E antonia.melvin@oclegal.ie
W www.oclegal.ie

Professional qualifications. Solicitor qualified in Ireland in 1987.

Areas of practice. Employment and employee benefits; Regulatory law; Commercial property transactions.

Non-professional qualifications. Bachelor of Civil Law, University College Dublin.

Recent transactions

- Acting for numerous employer-clients including private companies and multinationals on a range of employment issues.
- Acting on behalf of representative body and unions in the public sector healthcare area on behalf of their members (one such union has in excess of 35,000 members).
- Advising in relation to grievance and disciplinary policies and procedures, and workplace investigations and currently advising on injunction proceedings seeking to prevent the issuing of an investigation report.
- Advising in relation to claim to Workplace Relations Commission involving dispute as to whether individual was employee or a contractor.
- Drafting Agreements in respect of senior management positions in financial services area consultancy agreement with a registered charity.

Languages. English

Professional associations/memberships. Law Society of Ireland; Dublin Solicitors Bar Association; Association of Regulatory and Disciplinary Lawyers.

Professional qualifications. Barrister qualified in Ireland in 2004; Solicitor qualified in Ireland in 2014.

Areas of practice. Employment and Employee benefits; Insurance litigation.

Non-professional qualifications. Bachelor of Civil Law, University College Dublin.

Recent transactions

- Acting for numerous employer-clients including private companies and multinationals.
- Acting on behalf of representative bodies and unions on behalf of their members.

Languages. English, German, Irish

Professional associations/memberships. Law Society of Ireland; Dublin Chamber of Commerce; Dublin Solicitors Bar Association; Association of Regulatory and Disciplinary Lawyers.