

## iGlobal Law 2023 Annual Alert: Ireland

Legal Change	Effective Date	Action required
<b>Legislation already in operation</b>		
<p><b>The Payment of Wages (Amendment) (Tips and Gratuities) Act 2022</b></p> <p>This Act introduces new rules about how employers allocate tips, gratuities, and service charges amongst employees. The Act prohibits employers from using tips to make up an employee's basic wage and employers must display "<i>tips and gratuities notices</i>" displayed on their business premises illustrating how tips and gratuities are distributed amongst employees.</p>	December 1 <sup>st</sup> 2022	From December 1 <sup>st</sup> 2022, these new rules came into effect. Therefore, employers within the hospitality industry should review policies in place to aid compliance with the new legislation. Businesses should also ensure that notices are clearly displayed on their premises.
<p><b>Gender Pay Gap Information Act 2021</b></p> <p>This Act establishes the requirement for gender pay gap reporting in Ireland. In May 2022, the Gender Pay Gap Information Regulations 2022 associated with this Act were published. This Act was enacted in 2021 but the Regulations have been long-awaited as they provide the formulae and detail required to be followed by employers to make the necessary calculations for their gender pay gap reports.</p>	Reporting obligations to begin from December 1 <sup>st</sup> 2022	From December 1 <sup>st</sup> 2022, reporting obligations came into effect for employers with over 250 employees. These organisations are now obliged to publish reports relating to the pay of their employees and show any disparity and the level of such disparity in pay between male and female employees. Ultimately, reporting obligations will be extended to organisations with more than 50 employees over the coming years. Organisations within this cohort should review the gender pay gap reports published to familiarise and prepared themselves for the reporting obligations that will befall them in the coming years.
<b>Employment about to commence or become operational</b>		
<p><b>Increase in National Minimum Wage</b></p> <p>The national minimum wage for an experienced adult worker will increase from €10.50 to € 11.30 for employees aged 20 years and older.</p>	January 1 <sup>st</sup> 2023	From January 1 <sup>st</sup> 2023, employers should ensure that experienced adult workers, aged 20 and over, earning the national minimum wage receive the increased amount from January 1 <sup>st</sup> 2023.
<p><b>Sick Leave Act 2022</b></p> <p>This Act introduces new statutory right to paid sick leave for the first time in Ireland. Initially, this will be introduced for the first 3 (three) days (on provision of a sick certificate) before the worker becomes eligible for the state's illness benefit. However, it is anticipated that</p>	January 1 <sup>st</sup> 2023	From January 1 <sup>st</sup> 2023, this new obligation will come into effect so employers should have in place a sick pay policy, if not yet implemented, or align current handbooks and/or policies accordingly.

<p>these 3 days will gradually increase over a four-year period as follows: 3 paid sick days in 2023; 5 paid sick days in 2024; 7 paid sick days in 2025; and 10 paid sick days in 2026.</p>		<p>Employers should put in place a sick pay policy, if not yet implemented, or align current handbooks and/or policies accordingly.</p>
<p><b>Protected Disclosures (Amendment) Act 2022</b></p> <p>This Act transposes EU Directive 2019/1937 into Irish law. It introduces several changes to whistleblowing laws in Ireland. Those of note include:</p> <ul style="list-style-type: none"> <li>• Expanding the scope for “workers” protected by the legislation and extending the list of “relevant wrongdoings”.</li> <li>• Specifically excluding “interpersonal grievances” from the definition of a protected disclosure.</li> <li>• Introducing an obligation to set-up internal reporting channel procedures (e.g., the appointment of a designated person to receive and follow up on lodged protected disclosures).</li> <li>• Expanding the scope of acts and omissions constituting penalisation. The remedy of injunctive relief has also been extended to acts of penalisation.</li> <li>• Introducing new criminal offences for non-compliance with whistleblowing legislation.</li> <li>• Creating a new cause of action in tort for individuals adversely affected by the making of a protected disclosure either directly or indirectly.</li> </ul>	<p>January 1st 2023 for organisations with 250 or more employees.</p> <p>December 17<sup>th</sup> 2023 for organisations with between 50 and 249 employees.</p>	<p>From January 1<sup>st</sup> 2023, the implementation of a reporting channel procedural process comes into effect for employers with over 250 employees. Employers with between 50 and 249 employees have a “transitional period” that runs until December 2023 when these reporting channels and procedures will need to be established.</p> <p>In any event, employers should review existing protected disclosures/ whistleblowing policies or implement a policy if not already implemented and ensure they are fully up to date and in compliance with this new Act.</p>
<p><b>Codes of Practice already in operation</b></p>		
<p><b>IHREC Code of Practice on Equal Pay</b></p> <p>In February 2022, the Irish Human Rights and Equality Commission (IHREC) published a new Code of Practice for Employers and Employees on Equal Pay. The Code provides a useful guidance and a summary of the well-established principles of equal pay in Ireland, including the obligation on employers not to discriminate directly or indirectly, in respect of remuneration, against employees based on any of the nine protected grounds. A recommendation of note enshrined in the Code is the proposition of an annual pay</p>	<p>No specific date provided</p>	<p>While an employer’s failure to follow the Code is not an offence, such non-compliance is admissible in evidence in proceedings before a Court, the Labour Court, or the Workplace Relations Commission (WRC). Employers are therefore encouraged to review their internal policies to ensure they at least reflect the ethos of the new Code. Where they do not, employers should be able to explain their reasons for departing from the Code’s provisions.</p>

<p>review carried out by an employer to evaluate its own pay practices.</p>		
<p><b>IHREC Code of Practice on Sexual Harassment and Harassment</b> In March 2022, IHREC published a new Code of Practice for Employers and Employees on Sexual Harassment and Harassment. The Code restates previous principles enshrined in the original Code of Practice from 2012 but also introduces some new recommendations for dealing with these complaint types. A recommendation of note enshrined in the Code is the introduction of a designated non-HR affiliated Senior Level Champion who will advocate for an anti-harassment in the workplace.</p>	<p>No specific date provided</p>	<p>While an employer’s failure to follow the Code is not an offence, such non-compliance is admissible in evidence in proceedings before a Court, the Labour Court, or the WRC. Employers are therefore encouraged to review their internal policies to ensure they at least reflect the ethos of the new Code. Where they do not, employers should be able to explain their reasons for departing from the Code’s provisions.</p>
<p><b>Legislation/ Codes of Practice to be enacted in the future</b></p>		
<p><b>Transposing EU Directive on Transparent and Predictable Working Conditions</b> Once enacted, the transposition of EU Directive 2019/1152 will introduce mandatory obligations on employers regarding terms of employment, the provision of information to employees posted overseas, probationary periods, parallel employment, minimum predictability of work and work-related training. A lot of the Directive’s provisions are already reflected in Irish law, but some are not, and Ireland missed the transposition deadline on August 1<sup>st</sup> 2022.</p>	<p>No specific date provided although the implementing legislation is expected imminently</p>	<p>The publication of the implementing legislation is now imminently awaited. No specific date has been provided yet as to when the transposing legislation will be implemented. Once this is published however, employers will be expected and advised to review any template contracts to assess whether any changes might need to be made. In the interim, employers should monitor the progress of this legislation closely as it makes its way through the houses of the Irish parliament.</p>
<p><b>Transposing EU Directive on Work-life Balance for Parents and Carers/ Right to Request Remote Working</b> Once enacted, this Bill will transpose EU Directive 2019/1158 into Irish law. It will introduce new statutory entitlements to parents and carers to better support work-life balance. Those of note include:</p> <ul style="list-style-type: none"> <li>• Introducing 5 (five) days unpaid leave annually to provide care or support certain categories of people (e.g., persons experiencing or who have experienced domestic violence).</li> <li>• Introducing a right for parents and carers to request flexible working arrangements for caring purposes.</li> <li>• Extending the current entitlement to breastfeeding breaks under the</li> </ul>	<p>No specific date provided - both the amended bill and Code of Practice expected imminently</p>	<p>Neither the updated Bill incorporating these amendments, nor the Code of Practice have been published yet but both are expected imminently. In the interim, employers should monitor the progress of this legislation closely as it makes its way through the houses of the Oireachtas and bear these materials in mind (when enacted) to implement/amend relevant policies.</p>

<p>Maternity Protection Acts from 6 (six) months to 2 (two) years.</p> <p>In December 2022, the Irish Government confirmed that several significant amendments have been made to the Work Life Balance and Miscellaneous Provisions Bill 2022 which it plans to use to transpose EU Directive 2019/1158 into Irish law. Most notable is the integration of the right to request remote work which has been implemented into the legislation having previously existed as a separate act. As it stands, this Bill requires the employee to have 6 months' continuous employment with the employer concerned before a remote working arrangement can commence. Separately, the Irish Government confirmed in November 2022 that a new Code of Practice on the right to request remote working is currently being developed by the WRC. Its publication is awaited.</p>		
<p><b>Consolidation of Employment Permits legislation</b></p> <p>The Employment Permits Bill 2022 is currently before Dáil Éireann. This legislation aims to help modernise and improve flexibility and efficacy the current Irish employment permit system. Some of the main changes proposed are:</p> <ul style="list-style-type: none"> <li>• The introduction of a seasonal employment permit for the first time and the catering for short term and recurrent employment situations in appropriate sectors.</li> <li>• The revision of the labour market needs test to make it more relevant and efficient.</li> <li>• The streamlining of several criteria requirements to make the grant process more efficient.</li> <li>• The provision of additional required for the granting of an employment permit (e.g., training/ accommodation support for migrant workers).</li> </ul>	<p>No specific date provided - enactment of the legislation expected sometime in 2023</p>	<p>Employers to which the legislation pertains should monitor the progress of this legislation closely as it makes its way through the houses of the Oireachtas. No specific date provided in terms of the legislation's enactment, but it is expected sometime in 2023.</p>