WORKING PAPER

Industrial relations and social dialogue

Ireland: Developments in working life 2023

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Introduction

Employment growth continued apace in 2023, with a new record level of 2.7 million people in employment. Unemployment hovered around 4.5%. The labour market remained very tight and wage pressures pushed pay agreements upwards, closer to the 4% increase per annum mark. Some existing pay agreements were revised during the year, due to cost of living pressures, but other means of addressing inflation issues, such as tax free vouchers became more common. Inflation fell on average during the year, compared to 2022, but this in turn creates a greater expectation for pay agreements to reach the rate of inflation – something which employers and the Government are keen to avoid.

While there was expectation amongst the social partners for legislative proposals for reforming industrial relations and collective bargaining in Ireland, these did not come to fruition, with some questions referred to the Attorney General to see whether a constitutional referendum might be required to bring 2022 High Level Group social partner recommendations into effect.

The government agreed to the largest ever increase in the national minimum wage, from €11.30 to €12.70 per hour. This is in the context of bringing Ireland's minimum wage to 60% of gross median earnings by 2026.

There were other advances in employment rights, with the introduction of statutory sick pay where employers are obliged to provide sick pay to employees (starting at 3 days per year in 2023), and the Work-Life Balance Act, which introduced new forms of leave, such as domestic violence leave, and a forthcoming right to request remote and flexible working.

Political context

The coalition government (Fine Gael, Fianna Fáil and the Green Party) continued throughout 2023, with the planned rotation of Taoiseach and Tánaiste (Prime Minister and Deputy Prime Minister) taking place as planned in late 2022. There were no major challenges that put the government in jeopardy, nor one that made a general election likely in 2023. The current government's term is due to run to early 2025, however, some commentators figure a general election might be called sooner than that (McDowell, 2023).

Inflation remained a talking point in parliament and had a certain influence on the government's Budget for 2024, which included more cost-of-living offsetting measures. Protests that were focused on the cost of living were fewer and on a smaller scale, compared to 2022. The Budget 2024 package - which included income tax band indexation and electricity subsidies (€450 in total) – seemed to have been received well by the general public, as government approval ratings increased thereafter (Corcoran, 2023).

Later in 2023, protests and other forms of social unrest were more focused on immigration issues, namely the riots in Dublin on 23 November.

The public service pay talks, which were expected to commence sooner in the year, did not start in earnest until December and did not conclude in time to secure a new deal before the end of the year, meaning the public service pay agreement expired without a new agreement replacing it – this is the first time this has happened in the modern era of public service national deals (beginning in 2010).

Actors and institutions

Social partners

While there were no mergers or amalgamations of social partner organisations. Merger talks between two prominent education unions, the Association of Secondary Teachers Ireland (ASTI) and the Teachers Union of Ireland (TUI), made real progress during the year, with a merger now expected in 2024 (Higgins, 2023). Both unions represent second-level teachers in Ireland and have a fractured relationship largely due to the overlap of membership base. While merger talks have been mooted in the past such did not make any progress. If this merger proceeds it would represent a major step in union consolidation within the public sector, which in turn might influence further consolidation.

Social dialogue bodies or frameworks

The primary social dialogue body is the Labour Employer Economic Forum (LEEF), which includes representatives of the peak level bodies, the Irish Congress of Trade Unions (ICTU) and the employer body Ibec. There is the main LEEF body and then subgroups which have been established to deal with specific issues. There were several plenary meetings throughout the year as well as a number of ad hoc meetings for the subgroups.

The main discussion point for the LEEF body throughout the year was focused on how to implement the 2022 High Level Group recommendations on reforming industrial relations and collective bargaining in Ireland, as well as how to transpose the Adequate Minimum Wages Directive. While some progress was made on these issues, no legislative proposals were produced and the process appears to be behind schedule – in 2022 the then Minister for Employment/now Taoiseach Leo Varadkar signalled the industrial relations reforms could be in place by 2023. A couple of key questions to do with reforming the IR system were forward to the Attorney General in November 2023, on whether a constitutional referendum will be required (Prendergast, 2023).

Other working life related institutions

The Low Pay Commission (LPC) recommended increasing the national minimum wage (NMW) from €11.30 per hour to €12.70 – a recommendation subsequently accepted by the government. This the largest single increase in the NMW to date and should be viewed in the context of the government's stated ambition to move the NMW to a new "living wage" which is 60% of gross median earnings, as part of the transposition of the EU Directive on Adequate Minimum Wages.

A study undertaken by the Economic & Social Research Institute (ESRI), funded by the LPC, concluded there would be a "muted" impact on jobs if sub-minima rates of the NMW were to be abolished (Redmond et al, 2023). Sub minima rates of the NMW are coming under increasing scrutiny with a stronger push, particularly from ICTU, to have them abolished.

Developments in collective bargaining

Changes to the collective bargaining structures and frameworks

While no industrial relations legislation involving structural or framework changes has been acted in the 2018-2023 period (the last major change was in 2015), the primary development was the social partner High Level Group (HLG) recommendations on industrial relations and collective bargaining reform, published in October 2022. The HLG was formed in early 2021, on the initiative of then Tánaiste (now Taoiseach) Leo Varadkar, and met several times over 2021-2022. It comprised three employer leaders (Danny McCoy and Maeve McElwee of Ibec and Tom Parlon of the Construction Industry Federation) and trade union leaders (Patricia King of ICTU, Kevin Callinan of Fórsa and Joe Cunningham of SIPTU).

The final report makes four key recommendations:

- Joint Labour Committees: promoting mechanisms to increase sectoral coverage of collectively bargained terms and conditions. This includes the power of the Labour Court to move forward with an employment regulation order in the absence of a JLC member who declines to participate in the process.
- Measures to improve the functioning of the procedure set out under the Industrial Relations Acts 2001-2004 (as amended) to allow trade unions to represent members in relation to terms and conditions of employment, where the employer does not engage in collective bargaining with a trade union or excepted body. This includes the use of technical assessors at the Labour Court who can provide important, impartial data on a relevant case.
- A process to encourage and facilitate 'good faith' engagement between trade unions and employers at enterprise level, where a trade union has organised members in the enterprise, but where the employer does not engage in collective bargaining with a trade union or excepted body.
- Measures to improve the functioning of collective bargaining at enterprise level. This includes a proposed training program for IR practitioners and the development of a code of best practice

In its deliberations, the HLG was also asked to examine the issue of trade union recognition and the legal and constitutional impediments that may exist in the reform of the current systems. The Group was asked to be cognisant of individual employment rights frameworks and the EU context, including models of employee relations and pay determination established in other Member States.

The recommendations are influenced by the apparent deficits and other non-functional aspects of the IR framework that have either come to light, or been exacerbated in the past decade. These include the non-functioning of joint labour committees (JLCs) if even one member refuses to partake and the information gap that can hinder trade unions utilising the 2015 Amendment to the IR Acts 2001-2004, designed to allow unions seeks unionised pay rates at non-union companies.

The HLG recommendations are being dealt with in a separate process to the transposition of the Directive on Adequate Minimum Wages, for which Ireland will have to come up with an action plan to promote collective bargaining. It remains to be seen if legislating for the HLG recommendations will dovetail with obligations to promote collective bargaining.

A significant measure that trade unions are seeking is access to non-union workplaces (Prendergast, 2023b). This is likely to be very contentious amongst the non-union, multinational company sector where foreign direct investment is paramount.

Data on collective bargaining

There is no national register of collective agreements in Ireland. Only public service agreements, sectoral agreements (SEOs and EROs) and registered employment agreements are publicly available.

Collective bargaining coverage in Ireland is considered to be 34% (Reidy, 2024). Union density is around 22% overall; density is much higher in the public sector (over 60%) than in the private sector. Around one-seventh (15%) of employment in Ireland is in public service. Semi state transport and utility companies are heavily unionised (some employers like the CIE companies, Bus Eireann and Dublin Bus make it a condition of employment that the employee joins a recognised trade union). Sectors which little to no collective bargaining presence are in the tech sector, hospitality and agriculture.

Collectively agreed pay outcomes and wage-setting mechanism

Local/enterprise level bargaining continued to be predominate in 2023, with at least 150 pay agreements concluded during the year (Higgins, 2024).

Some highlights of local bargaining at large employers during the year include:

- **Allied Irish Banks** (AIB) agreed with the Financial Services Union (FSU) an enhancement to an existing pay deal for 10% over 36 months as follows: an extra €1,000 voucher paid in 2023; 10 days of fully paid carers' leave per year; and the replacement of marriage leave with five days' leave for a 'significant life event'. Mileage rates are also to increase by 9% from January 2024.
- **Bank of Ireland** agreed with the FSU an additional increase of 1.5% from 1 June 2023, on top of the 3.5% already agreed from 1 January 2023, and the expiry date remains the same at 31 December 2023. Also agreed are a once-off cost-of-living payment of €720 in April 2023; an annual Personal Benefit Allowance of €200; an increase of 5.7% in the minimum entry salary to €28,000 per annum (to position it well above Living Wage level); and an increase in minimum salaries for those with certain qualifications.
- **Penneys (Primark)** agreed with Mandate an increase of 5% over 18 months (partially retrospective), as follows: 3% from 21 October 2022; 2% from 21 October 2023; deal expires 20 April 2024. Also, the entry rate (rate 1), in addition to the 5% for all workers, has a special increase between the 3% and 2%, from €11.56 to €12 per hour from 1 January 2023, taking the total increase for those on this rate to almost 9% over the 18 months.
- **Aer Lingus** agreed with SIPTU and Fórsa an extra increase of 2% or €640 (whichever is the greater) from 1 October 2023, plus a tax-efficient, unconsolidated lump sum of 1.5% of pay or €750 (whichever is the greater) in October 2024, for ground staff and cabin crew.

There are two main forms of sectoral bargaining wage-setting mechanisms in Ireland: sectoral employment orders (SEOs) and joint labour committees (which produce employment regulation orders). The former generally cover skilled trades, such as construction and mechanical engineering, while the latter are formed in lower-paid sectors. Sectoral bargaining mechanisms continue to be tested in the courts by employer representative groups who do not wish to partake in collective bargaining.

The **Construction Sectoral Employment Order** (SEO) enacted to cover 53,000 general construction workers (represented by BATU, Connect, OPATSI, SIPTU and Unite unions) and construction employers (represented by CIF), stipulated an increase in minimum pay for the sector of 5.4%, as follows: 1.9% from 18/9/2023; 3.5% from 5/8/2024. SEOs do not have expiry dates but the last increase under the previous SEO had been 2.8% from 1 February 2023, meaning this SEO came earlier than originally expected, which would have been 1 February 2024. Pension contributions are to increase by the same percentage as the pay rates on the same dates.

Electrical Contractors' Association (ECA) and Association of Electrical Contractors Ireland (AECI) agreed with the Connect trade union (which represents about 6,000 **electricians e**mployed by both associations) an increase of 5.4%, as follows: 2.7% from 1 October 2023; 2.7% from 1 June 2024. Note: this increase is a *voluntary industrial relations agreement*, since the SEO for the sector was struck out in October 2022, although the second increase under that SEO, 2.8% from 1 February 2023, had been honoured by ECA and AECI members.

Mechanical Engineering and Building Services Association (MEBSCA) agreed with Unite (which represents about 2,000 **plumbers and pipefitters** employed by the association's 65 member employers) an increase of 9.9% over 38.5 months, as follows: 3.5% from 18 September 2023; 1.9% from 5 August 2024; 1.5% from 2 December 2024; 3% from 5 August 2025; deal expires 31 May 2026. Deal agreed after strike ballot, following rejection of a Labour Court recommendation.

The **Security Industry** Joint Labour Committee Employment Regulation Order increased the main industry hourly pay rate by €1.25 (or about 10.7% in percentage terms) to €12.90 from 4 September 2023.

In September 2023, the process of concluding a minimum pay rate for **childcare workers** appeared to reach an impasse when a Labour Court backed 5% pay rise seemingly faced rejection by the SIPTU union. The issue concerned 26,000 childcare staff in over 4,000 facilities covered by two employment regulation orders. Later in the year, however, the pay rise was approved by the JLC and sent to the Labour Court for approval.

In October 2023, a Sectoral Employment Order (SEO) for the **mechanical engineering and building services sector**, employing 10,000 workers, was quashed by High Court. The SEO had been in place since 2018, setting minimum pay, sick pay, pension and other employment conditions for all skilled craft workers in the sector. The ruling followed a judicial review challenge brought by an employer association representing around 500 smaller contractors.

Collective bargaining and inflation

An IRN analysis of **pay agreements** in 2023 found that around half of deals had concluded per annum increases of between 3% and 4% for the year, with another one-third going over the 4% per annum mark (Higgins, 2024). This shows that pay agreements were, in general, edging upwards compared to 2022, but still remained below the inflation rate. The inflation rate (CPI) was above 4.5% for all months of 2023 except for November, when it dipped to 3.9%.

One innovative example of **linking inflation to pay increases** is at American Airlines, whose contact centre staff, members of the Communications Workers' Union (CWU), received a 10.1% pay increase for the April 2023 to March 2024 period (Prendergast, 2023c). The CWU negotiated an ‘inflation plus’ model of pay agreements at the company in 2016 at a time when inflation is negligible. This type of agreement is very exceptional however, and it is very unlikely to be adopted by any other company any time soon, as long as inflation is relatively high.

The IRN-CIPD pay and employment practices survey 2023 found that 45% of respondent employers said they had **revised upwards existing agreements on basic pay** in the previous 12 months; this figure increased five percentage points, from 40% in 2022. Nearly 42% of employers in 2023 said they were paying higher than planned basic pay increases.

The same survey found that close to half of employers (48.9%) utilised the maximum value of **tax free vouchers**. The maximum value was increased to €1,000 per annum, per employee in 2022 (prior to 2022 the maximum annual value per employee was €500). Tax free vouchers are considered to be an effective way of dealing with heightened wage pressures in an inflationary environment, by getting more payment to employees without locking in higher basic pay increases that could be unsustainable, or, in a broader sense, contributing to inflation by causing a wage-price spiral.

There have been examples of trade unions seeking to re-open multi-year pay agreements following the surge in inflation, but these would represent a minority of employments. Moreover, these claims were often resolved with a once-off, tax-free voucher rather than an ongoing pay increase. The upper limit of tax-free vouchers employers can give to employees (called the Small Benefit Exemption scheme) was expanded to €1,000 per annum per employee in 2022, however most of the pay agreements recorded that featured the use of tax free vouchers used a voucher of value of €500 or less. While this might seem surprising, trade unions are adamant that tax free vouchers cannot replace existing wages and some employers may be wary of building in extra costs, which may need to be bought out if the tax exemption is removed in the future. Government supports against inflation (including another series of energy credits agreed under Budget 2024) have been a factor in the public service pay talks, private sector employers have also cited these supports when their unions seek higher pay increases to meet inflation.

Developments in governmental responses to inflation

As part of the Budget 2024 package announced in October 2023, the Government announced a series of measures designed to ease the cost-of-living pressures caused by inflation. **Income tax bands for employees were indexed,** with the standard rate tax band (20%) increased by €2,000, to €42,000 for a single person, with proportionate increases for married couples and civil partners. Income earned above this amount is subject to the higher tax rate of 40%. Tax credits (Personal Tax Credit, Employee Tax Credit, Earned Income Tax Credit) were all increased by €100, to €1,875 per annum. For the Universal Social Charge (USC) the 2% band increased by €2,840 (from €22,920 to €25,760; and the 4.5% USC rate (applying to income between €22,900 and €70,044) was reduced to 4% - this new 4% rate will now apply to income between €25,761 and €70,044. All these changes took effect from 1 January 2024[i].

The **National Minimum Wage** (NMW) also increased, by over 12%, to a new rate of €12.70 per hour (effective from 1 January 2024). This increase follows the recommendation by the Low Pay Commission, which is tasked with finding the most appropriate route to the NMW to reach 60% of median earnings by 2026. The Commission's recommendation to increase the NMW to €12.70 was unanimous amongst its membership, which includes worker and employer representatives. The Commission also runs a public consultation to inform their deliberations.

The Government also agreed to another round of **energy credits**, whereby each household receives €450 off their electricity bill over the winter of 2024 (this credit is applied in three trances: €150 in December 2023, €150 in January 2024 and €150 in March 2024).

The Budget measures on income tax indexation and energy credits were supported by the social partners. The minimum wage increase was supported by trade unions, but employer representatives were less supportive. Ibec, the largest employer rep body, while not opposed to the NMW increase, expressed concern about the NMW increase happening at around the same time as many other labour cost increasing measures (Ibec, 2024). The representative bodies for specific sectors, such as the Restaurant Association of Ireland did not support the NMW increase.

[i] Eurofound (2023), New cost of living measures to address ongoing inflation, case IE-2023-41/3402 (measures in Ireland), EU PolicyWatch, Dublin, https://static.eurofound.europa.eu/covid19db/cases/IE-2023-41_3402.html

Labour disputes and industrial action

Industrial action in Ireland in 2023 remained relatively low, as with other years of the past decade – a legacy of the industrial peace feature of the tripartite social partnership era. Effective dispute resolution machinery, a demonstrable value in early dispute resolution and a decline in trade union density all explain the low level of disturbance from industrial action.

Changes to the right to strike

There is no 'right to strike' under Irish law per se, but licensed trade unions may undertake industrial action under the Industrial Relations Acts. If the action is lawful and done according to rules (e.g. a secret ballot of members) then the union and its members are immune from liability. Nevertheless, there have been no changes to these rules in the last five years.

Data on industrial action

The most updated CSO statistics available show there were six recorded strikes 3,326 workers and 4,203 days lost to industrial action for the period January to December 2023.

The impact of industrial action across the economy was slightly higher in by comparison (4,063 workers were on strike leading to 5,246 days lost in January to September 2022) but the strike data for both years show a low level of disturbance considering inflation has had a significant impact on industrial relations in the same period, when more industrial action in pursuit of better pay can reasonably be expected.

Table 1. Industrial action in Ireland 2018-2021

	Number of disputes	Firms involved	Workers involved	Days lost to industrial action
2018	9	9	1,804	4,045
2019	9	9	42,656	n/a*
2020	7	7	22,076	21,704
2021	3	4	548	1,540

*Note: * The CSO could not provide the total days lost figure to industrial action for 2019 but it would be in excess of 30,000 days.*

Source: https://data.cso.ie/table/IDQ02

The overall trend for industrial action for the past decade is one that shows a relatively low level of industrial disturbance and less of a willingness to go on strike before exhausting the standard dispute resolution mechanisms (namely the WRC and the Labour Court; both of which are largely effective at preventing all out strike action, or managing to halt strike action once it has begun). The legacy of industrial peace has carried through since the late 1980s, when national agreements stipulated industrial peace clauses under the former tripartite social partnership system. Industrial peace clauses are common features of collective agreements and have been a cornerstone of public service agreements since 2010. Nevertheless, there have been a few notable public service strikes in the last decade, including secondary school teachers and nurses. When the ‘days lost’ and workers on strike figures go above 10,000 per year it is generally because some public servants have went on strike; for example the nurses strike in early 2019. Strikes in the public service, rare as they are, generally skew the statistics.

Collective labour disputes in 2023

The dispute involving most workers and firms in 2023 was the industrial action by thousands of workers, mostly represented by SIPTU, INMO and Fórsa trade unions, across several organisations in the community and voluntary sector, including Enable Ireland, the Irish Wheelchair Association and Family Resource Centres. This dispute centred on low pay which had led to a recruitment and retention crisis. Employers in the sector, such as Enable Ireland, are dependent on public funding to pay their staff but employees do not have public service status, hence their terms and conditions are inferior to their public service counterparts – the pay disparity is between 10% and 20%. The dispute was eventually settled when a new pay proposal emerged in November 2023, applying to around 5,000 and which included an 8% pay offer and a promise to move toward pay parity during the period of a new national public service agreement (2024-2026).

Another notable dispute during the year involved 2,000 retained (part-time) firefighters across local authorities. A long-running dispute over pay and working conditions, particularly rostering, involved pickets being placed at fire stations across the country. The key industrial relations issues were the level of guaranteed earnings (retained firefighters are permitted to work other jobs but are restricted in terms of time and location) and low staffing levels in some fire stations, which was putting pressure on current firefighters. Similar to the community and voluntary sector dispute, working conditions for retained firefighters had led to recruitment and retention challenges. The industrial dispute was settled with the help of the Workplace Relations Commission and the Labour Court. A final agreement improved the guaranteed earnings of retained firefighters; new entrants will be guaranteed annual earnings of just over €18,000, which will then increase over time, depending on length of service. Local authority management also committed to the recruitment of 400 new retained firefighters which will provide for approximately 50 additional promotional posts.

Developments in working time

Changes to legislation

The Work Life Balance and Miscellaneous Provisions Act 2023 introduced two new rights on flexible working: the right to request remote working and the right to request flexible working for people with caring responsibilities. These new rights have yet to be commenced – they require a code of practice to be finalised first – allow eligible employees to request these types of flexible working with recourse to the Workplace Relations Commission and Labour Court if an employer does not provide a response in time and according to their procedure that will be set down in the code of practice.

The Act also extended workplace breastfeeding breaks (60 minutes per workday), from from 26 weeks post-birth to 104 weeks (2 years) post-birth; introduced an unpaid leave for up to 5 days (in one year) for the purposes of providing personal care or support for someone who is in need of significant care or support for a serious medical reason; and introduced domestic violence leave of up to five days paid leave (in one year). This rate of pay must be at the normal pay of the affected employee.

Bargaining outcomes

A number of large organisations introduced new domestic violence/abuse leave policies which include paid days off and other financial and non-financial supports. All three retail banks – Bank of Ireland, AIB and PTSB – had such policies in place during 2023. AIB also tweaked one of its leave policies to provide for a ‘significant life event’ paid leave of up to five days over the course of the employment relationship. These banks negotiate with the Financial Services Union (FSU).

Debates on duration and organisation

The Government commissioned KPMG to undertake research on the impacts of moving to a four-day work week. As of January 2024, this project has not concluded, and no findings have been published.

Various surveys throughout the year continue to record a strong preference for greater working flexibility, such as fully remote working or a reduced working week. While there is some indication workers are willing to accept less pay for having fully remote work (Morgan McKinley 2024 Irish Salary Guide), a willingness to trade lower pay for a shorter working week is not evident (Robert Walters Survey).

Other important policy developments

Regulations on employment status and contracts

The European Union (Transparent and Predictable Working Conditions) Regulations 2022 (fully transposing Directive 2019/1152) were signed in late 2022, involving important changes for many employment changes throughout 2023. Amongst the main features was the redefinition of a contract of employment, with the effect of encompassing some workers who, before then, may have been working under a 'self-employed' arrangement - but would now be classified as an employee.

A 'contract of employment', under section 1 of the Terms of Employment (Information) Act (as amended), is now defined as: *"(a) a contract of service or apprenticeship, or (b) any other contract whereby - (i) an individual agrees with another person personally to execute any work or service for that person, or (ii) an individual agrees with a person carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 to do or perform personally any work or service for another person (whether or not the other person is a party to the contract), whether the contract is express or implied and, if express, whether oral or written."*

The Regulations also introduced into law other features which were signalled in 2022, such as a statutory limit on probationary periods and stopping employers from preventing employees to take up other jobs, unless such a limit is proportionate and based on objective grounds. With retrospective effect from August 1, 2022, probationary periods at the commencement of employment cannot exceed six months, except in limited circumstances as provided for in the regulations. In those limited exceptions the maximum period may be extended to no more than twelve months. For public servants a probationary period cannot exceed 12 months.

The "Day 5" statement - a statement of an employee's core terms and conditions of employment by day 5 of their employment - was also amended to include additional information relating to the duration and conditions relating to a probationary period, if applicable. In addition to this, a number of items that were previously part of the written statement to be provided within two months must now be provided as part of the "Day 5" statement:

- The place of work or, where there is no fixed or main place of work, a statement specifying that the employee is employed at various places or is free to determine his or her place of work or to work at various places;
- The title, grade, nature or category of work for which the employee is employed or a brief description of the work;
- The date of commencement of contract of employment;
- Any terms and conditions relating to hours of work (including overtime).
- All other terms of employment required to be given to the employee under the Terms of Employment (Information) Act now have to be provided within one month, not two.

The landmark Supreme Court judgment of *Karshan (Midlands) v The Revenue Commissioners* (2023 IESC 24) set out a new test to ascertain whether a worker is an employee or a self-employed contractor. Mr Justice Brian Murray produced a series of questions that a decision maker must follow to make a determination. These are as follows:

> “(i) Does the contract involve the exchange of wage or other remuneration for work?
>
> (ii) If so, is the agreement one pursuant to which the worker is agreeing to provide their own services, and not those of a third party, to the employer?
>
> (iii) If so, does the employer exercise sufficient control over the putative employee to render the agreement one that is capable of being an employment agreement?
>
> (iv) If these three requirements are met the decision maker must then determine whether the terms of the contract between employer and worker interpreted in the light of the admissible factual matrix and having regard to the working arrangements between the parties as disclosed by the evidence, are consistent with a contract of employment, or with some other form of contract having regard, in particular, to whether the arrangements point to the putative employee working for themselves or for the putative employer.
>
> (v) Finally, it should be determined whether there is anything in the particular legislative regime under consideration that requires the court to adjust or supplement any of the foregoing.”

Policies to reduce the gender pay-gap

The Gender Pay Gap Information Act has been in effect for two years, requiring employers with 250 or more employees to calculate and publish their gender pay gaps annually. These reporting obligations are to be widened to employers with 150 employees or more in 2024, and then to organisations with at least 50 employees in 2025.

Examples of methods to reduce gender pay gaps in the private and public sectors were discussed at the IRN Conference 2023 on 15 June in Dublin. At Diageo Ireland, the company has removed traditional barriers for entry, such as formal education requirements as well as promoting apprenticeships. The company has also put in place a number of policies to enable employees to “craft their careers”, including policies such as the six month family leave, available to all parents, not just female employees. At An Garda Síochána (police force), a retirement age of 60 has helped reduce the gender gap at senior levels within the organisation which have been predominantly male. More female employees are being encouraged to apply for senior management positions and a switch to direct recruitment (away from civil service recruitment) is considered be a more effective tool to address gender imbalances (Angel, 2023).

Health and safety regulations and policies

The main workplace related health and safety regulation passed in 2023 was the Indoor Air Quality Code, which is the first of its kind in Europe.

The code was developed by the Health and Safety Authority (HSA) and sets out in clear steps the expectations for employers when it comes to providing sufficient fresh air, effective ventilation and limiting pollutants. The requirement to provide sufficient fresh air and maintain ventilation systems remains in the post-pandemic era and is set out in the Safety Health and Welfare at Work (General Application) Regulations 2007, SI 299 of 2007, as amended by SI 255 of 2023 (Kirby, 2023).

Work-life balance related policies

All parent-related benefits were expanded in Budget 2024, with some leave provisions extended.

Maternity Benefit, Paternity Benefit and Parent's Benefit were increased by €12 to €274 per week, as part of Budget 2024. It was announced that Parent's Benefit would be extended from seven weeks to nine weeks in August 2024 (this meets obligations under the Work-Life Balance Directive).

Life-long learning and skills development

The Government launched the European Year of Skills in Ireland in May. The main feature of this launch was the release of the OECD report on Ireland which published the following findings:

- the share of young adults with a tertiary degree is significantly above the OECD average
- however, many Irish adults are at risk of falling behind as they do not have the right skills to thrive in their current employment and are unprepared for changes in the world of work
- in addition, participation in lifelong learning to facilitate essential reskilling and upskilling in Ireland, while above the EU average, falls far behind top EU performers
- Irish employers express significant concern about labour and skills gaps
- significant investment in skills, including supports for management capabilities and adoption of high performance work practices, is the essential ingredient to ensure that SMEs across Ireland can increase productivity, innovation and competitiveness (Department of Further Education, 2023)

Other topics

The government announced in August 2023 that it was establishing an AI Advisory Council which will be made up of suitably qualified individuals from academia, business, law, security, social sciences, economics, and civil society. This Council "will provide independent expert advice to government on artificial intelligence policy, with a specific focus on building public trust and promoting the development of trustworthy, person-centred AI" (Department of Enterprise, 2023). This Council is part of the Government's AI policy strategy, created in 2021, called 'AI: Here for Good'. Just prior to this announcement there had been some criticism of the pace of progress the Government was making on this policy (Prendergast, 2023d).

Commentary and outlook

In 2023, there were some notable working life developments, as wage pressures continued to grow due to inflation – with more pay agreements closer to the 4% increase per annum mark – as well as some key employment rights developments, such as the introduction of a new law on the right of employees to request remote and flexible working.

Wage pressures caused by inflation carried over into 2023 from the previous year, with inflation (based on the Consumer Price Index (CPI)) remaining 'sticky' at around 5–6% for much of the autumn. CPI inflation fell to 3.9% in November, but HICP (Harmonised Index of Consumer Prices) inflation rose again in December. Around half of the 50 pay agreements recorded by Industrial Relations News were in the range of a 3–4% basic pay increase per annum, while another one-third of the agreements were above 4%; all the 4% or more agreements were concluded in the second half of 2023.

The upper limit of tax-free vouchers that employers can give to employees (under the Small Benefit Exemption scheme) was expanded to €1,000 per annum per employee in 2022. However, most of the pay agreements recorded for 2023 that featured the use of tax-free vouchers used a voucher value of €500 or less. Tax-free vouchers can be used by workers to purchase goods in most retailers. Government supports against inflation (including another series of energy credits agreed under Budget 2024) were a factor in the public service pay talks (in that they reduce the cost of living pressure for workers, hence reducing slightly the pressure on wage increases). Private sector employers also cited these supports when their unions sought higher pay increases to meet inflation, as part of an overall view of what can be negotiated

While it was expected that a new public service pay agreement would be concluded by the end of 2023, talks extended into January 2024. A new deal was proposed on 26 January, which provides for pay increases of up to a total 10.5% over 30 months to the end of June 2026.

Social dialogue structures did not change in 2023, with the main outlet for dialogue, the Labour Employer Economic Forum (LEEF), convening its main body and subforums on pressing issues throughout the year. At the top of the working life agenda are the planned reforms of collective bargaining and industrial relations in Ireland. These reforms include changing sectoral bargaining rules to ensure low-pay sectors can produce new wage agreements and to compel non-union employers to meet with trade unions. These matters were forwarded to the Attorney General regarding their constitutionality. No increase in industrial action according to the days lost metric was recorded, but some thorny industrial disputes broke out in public, notably with part-time or retained firefighters and community and voluntary sector workers, who went on strike over pay issues that had gone unresolved for many years, resulting in recruitment and retention issues.

The primary working life legislative development in the year was the enactment of the Work–Life Balance Act, which introduced a new right to request remote work and a right to request flexible work for employees with caring responsibilities. Both rights have yet to come into force (they will not be in operation until 2024), but they are significant developments for both employees and employers. Eligible employees requesting new working flexibility have recourse to the Workplace Relations Commission if their requests are unreasonably refused. Another notable feature of the law is a new domestic violence leave entitlement of up to five days in any 12 consecutive months.

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