



# GUIDE TO GOING GLOBAL EMPLOYMENT

*Ireland*



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## INTRODUCTION

Welcome to the 2023 edition of DLA Piper's *Guide to Going Global – Employment*.

### GUIDE TO GOING GLOBAL SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Guide to Going Global* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

### EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2021 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

To learn more about DLA Piper's global Employment practice, visit [www.dlapiper.com](http://www.dlapiper.com) or contact:

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## IRELAND



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### LEGAL SYSTEM, CURRENCY, LANGUAGE

Common law. Member of the EU and required to implement relevant EU directives. The official currency is the Euro (EUR). The official language is English.

### CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

A foreign entity may engage employees in Ireland if it has proper payroll registrations, subject to business and corporate tax planning considerations. Through the payroll, withholdings should be made on any remuneration, including benefits in kind, payable to the employees in Ireland, for income tax up to 40 percent, the Universal Social Charge up to 8 percent and social insurance contribution (PRSI) up to 11.05 percent for the employer and 4 percent for the employee. Self-employed independent contractors are generally paid gross and are responsible for their own taxation.

### PRE-HIRE CHECKS

#### Required

Immigration compliance. Criminal record checks only in limited circumstances (eg, for those who work with children, with vulnerable adults and in security).

#### Permissible

Reference and education checks are common and permissible with applicant consent.

### IMMIGRATION

Nationals of the European Economic Area (EEA), UK and Switzerland have the right to work in Ireland. Other nationals require permission to work via an employment permit.

### HIRING OPTIONS

## Employee

Indefinite, fixed-term, full-time or part-time. Part-time and fixed-term employees have the right not to be discriminated against on the basis of their status.

## Independent contractor

Independent contractors may be engaged directly by the company or via a personal services company. Engagement may be subject to misclassification exposure.

## Agency workers

Agency workers are common. Agency workers have the right to equal treatment to employees in relation to pay, working hours and other benefits.

## EMPLOYMENT CONTRACTS & POLICIES

### Employment contracts

Within 5 days of commencement of employment, an employer must provide the employee with a written statement of core terms of employment. Other minimum terms must be given within 2 months of commencement of employment.

### Probationary periods

Permissible. Should not exceed 6 months but can be extended to up to 12 months in exceptional circumstances if it is in the interest of the employee. 3 to 6 months is common. For fixed-term employees, the probationary period should be proportional to the term.

### Policies

A written health and safety policy, disciplinary and bullying and harassment policies and procedures are mandatory. Grievance and IT-related policies are common and recommended.

### Third-party approval

There is no third-party approval requirement in Ireland.

## LANGUAGE REQUIREMENTS

No statutory requirement. Usually provided in English. Should be in a language the employee can understand.

## WORKING TIME, TIME OFF WORK & MINIMUM WAGE

Employees entitled to minimum employment rights

All.

## Working hours

Working time is limited to 48 hours per week calculated over a 4-month period, subject to certain exceptions. Rules on rest breaks, night work and rest periods between shifts also apply. Zero-hour contracts have recently been prohibited in most circumstances, and banded-hours contracts have been introduced for employees whose actual hours do not reflect their contracted hours.

## Overtime

As long as overall pay does not fall below the statutory minimum, there is no obligation to provide pay for overtime worked. A premium must be paid for Sunday work, unless the fact that the individual must work on a Sunday has already been taken into account in determining pay.

## Wages

The National Minimum Wage increased from EUR10.50 per hour to EUR11.30 per hour from January 1, 2023.

## Vacation

There are 10 public holidays.

Annual leave entitlement is based on hours worked:

- 4 working weeks in a leave year in which the employee works at least 1,365 hours or
- 1/3 of a working week for each month in the leave year in which the employee works at least 117 hours or
- 8 percent of the hours the employee works in a leave year (subject to a maximum of 4 weeks).

## Sick leave & pay

Employees with at least 13 weeks' service are entitled to 3 days' sick pay a year. Sick pay is paid by the employer at 70 percent of the employee's normal pay, up to a maximum of EUR 110 a day.

## Maternity/parental leave & pay

26 weeks' ordinary maternity leave, during which the employee may be entitled to maternity benefit from the state, plus 16 additional weeks during which no state benefit is payable. General right to return to work.

24 weeks' ordinary adoptive leave, during which the employee may be entitled to adoptive benefit from the state, plus 16 additional weeks during which no state benefit is payable. General right to return to work.

26 weeks' unpaid parental leave to be taken before the child reaches the age of 12.

2 weeks' paternity leave, during which the employee may be entitled to paternity benefit from the state. This entitlement applies to any parent who is a "relevant parent" – the child's father; the spouse, civil partner or cohabitant of the child's mother; or adopting mother or sole male adopter, as well as parents of a donor-conceived child. Same-sex couples jointly adopting a child must choose 1 parent to be the "relevant parent."

7 weeks' paid parent's leave for a child born or adopted on or after July 1, 2022, which increased from 5 weeks in July 2022. May only be taken within 2 years of the birth of the child or in the first 2 years of adoption.

## Other leave/time off work

Employees may also be entitled to leave for jury service, carer's leave, force majeure leave and, later in 2023, domestic violence leave.

## DISCRIMINATION & HARASSMENT

Direct discrimination, indirect discrimination, victimization and harassment are prohibited. Employers are under a duty to make reasonable adjustments for persons with disabilities.

Characteristics protected from unlawful discrimination and harassment include gender, age, race/nationality, religion, family status, civil status, disability, sexual orientation and/or membership of the Traveller community.

## WHISTLEBLOWING

A new national law has been introduced to implement the EU Whistleblower Protection Directive which significantly expands the scope of the protections for those who make protected disclosures and places enhanced obligations on organizations.

## BENEFITS & PENSIONS

No compulsory benefits beyond those covered by social insurance contributions. Proposed legislation is expected to provide a new auto-enrollment pension scheme in Ireland by 2024.

## DATA PRIVACY

Ireland is subject to the General Data Protection Regulation (GDPR), which places significant obligations and onerous sanctions for employers. GDPR requires employers to identify a legal basis for their processing of personal data, and it is unlikely that a catch-all consent will enable processing of employee data by an employer. Employers must ensure that they have GDPR-compliant documentation and that they are able to deal with the new rules on subject access requests. There continue to be significant restrictions on monitoring employees, including email and internet use.

## RULES IN TRANSACTIONS/BUSINESS TRANSFERS

The European Communities (Protection of Employees on Transfer of Undertakings) Regulations transpose the Acquired Rights Directive and provide for automatic transfer of employees with undertakings – or parts of undertakings – which retain their identity post-transfer.

On a business transfer, there is also a duty to inform and consult with employee representatives and a prohibition on transfer-related dismissals, unless dismissal is justified on economic, technical or organizational grounds.

## EMPLOYEE REPRESENTATION

Trade unions are prevalent in the manufacturing, transport and public sectors. Many businesses have no union or other worker representation, and works councils are uncommon. Industry-level collective bargaining exists.

No right of recognition for a trade union.

## TERMINATION

### Grounds

Termination permissible, if a fair process has been followed, on the following grounds: misconduct, capability (including performance and ill health), redundancy, illegality and "some other substantial ground of a kind to justify dismissal."

### Employees subject to termination laws

Employees with less than 1 years' service have no protection against unfair dismissal, except in certain circumstances where no service is required, including, for example, dismissals for whistleblowing, dismissals based on discriminatory grounds or trade union membership and activities.

### Restricted or prohibited terminations

Transfer-related dismissals are void unless justified on economic, technical or organizational grounds.

### Third-party approval for termination/termination documents

- Up to 13 weeks: none
- 13 weeks to 2 years: 1 week
- 2 years to 5 years: 2 weeks
- 5 years to 10 years: 4 weeks
- 10 years to 15 years: 6 weeks
- 15 years or more: 8 weeks



Notice is not required for terminations for gross (ie, extremely serious) misconduct. Longer notice may be agreed and set out in the contract of employment.

## Mass layoff rules

Strict information and consultation rules apply in certain collective redundancy situations. The employer must also notify the Minister for Enterprise, Trade and Employment.

## Notice

Statutory minimum notice requirements:

- Up to 13 weeks: none
- 13 weeks to 2 years: 1 week
- 2 years to 5 years: 2 weeks
- 5 years to 10 years: 4 weeks
- 10 years to 15 years: 6 weeks
- 15 years or more: 8 weeks

Notice is not required for terminations for gross (ie, extremely serious) misconduct. Longer notice may be agreed and set out in the contract of employment.

## Statutory right to pay in lieu of notice or garden leave

There is no statutory right and entitlement to either pay in lieu or garden leave; depends on contract terms.

## Severance

Severance is payable only to redundant employees with 2 years' service at the rate of 2 weeks' pay per year of service plus an additional week's pay. "Pay" is capped at EUR600 per week. More generous terms are possible and quite common.

## POST-TERMINATION RESTRAINTS

Considered in restraint of trade and void. However, those that protect the employer's legitimate business interests may be enforced if reasonable. Restraints must be tailored for the specific business and the risks posed by the employee. Garden leave is common for senior employees.

## Non-competes

Permissible in narrow, justifiable circumstances. Typical duration is no longer than 3 to 6 months with an absolute maximum of 12 months, depending on the circumstances. The geographical area must also be reasonable and not be extensive.

## Customer non-solicits

Permissible in specific circumstances. Typical duration is no longer than 3 to 6 months with an absolute maximum of 12 months, depending on the circumstances. The geographical area must also be reasonable and not be extensive.

## Employee non-solicits

Permissible. Length of restriction depends on the circumstances.

## WAIVERS

Enforceable, but employees must have been advised to and afforded the opportunity to take independent legal advice prior to signing a settlement agreement waiving employment rights.

## REMEDIES

### Discrimination

The Workplace Relations Commission may order re-engagement, re-instatement or award compensation of up to 2 years' remuneration.

### Unfair dismissal

The Workplace Relations Commission may order re-engagement, re-instatement or award compensation of up to 2 years' remuneration. Claimant is under a duty to mitigate loss.

For a transfer-related dismissal, compensation is not limited to financial loss and may be punitive.

In whistleblowing dismissals, compensation may be up to 5 years' remuneration.

### Failure to inform and consult

In the context of a mass redundancy, failure to inform and consult may amount to a criminal offense. In the context of a business transfer, such failure can result in up to 4 weeks' pay per complaining employee.

## CRIMINAL SANCTIONS

Failure to notify the Minister for Enterprise, Trade and Employment about mass layoffs is a criminal offense, although prosecution is rare. Employing a non-EEA or Swiss national without the required work permit is also a criminal offense. Failure to provide employees with a written statement containing 5 core terms of employment within 5 days of them commencing employment is also a criminal offense.

## KEY CONTACTS



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