

EMPLOYMENT

Employment Law in 2022: *What's on the horizon?*

While it is safe to say that 2021 saw some important developments in employment law, there is no doubt that in 2022 we are set to see some real changes. Significant new legislation is on the horizon involving gender pay gap reporting, remote working, sick pay entitlements and significant changes to whistleblowing law, to name but a few.

In this briefing we outline some of the key developments on the horizon.

7 MIN READ

Gender Pay Gap reporting

The much-anticipated Gender Pay Gap Information Act was signed into law on 13 July 2021. While it was anticipated that regulations prescribing the finer details of the reporting obligations would be published by the end of 2021 they are still awaited, but are expected very shortly.

Under the legislation employers with 250 or more employees will be required to publish details relating to employees' pay and bonus for the purpose of showing their gender pay gap, with the threshold due to gradually decrease over three years to 50 or more employees.

We have set out the key details of the legislation in [this briefing](#) and up to date information can be found on our [Gender Pay Gap hub](#).



The right to request remote working

In January 2021, the government published “Making Remote Work”, its strategy for national remote working. It outlined a commitment to introduce legislation providing a framework around which employees can request remote work.

On 21 January 2022, the government announced that a return to physical attendance in workplaces can commence on a phased basis appropriate to each sector. Under significant pressure as a result of this latest development, the government published details of the new legislation on 25 January 2022. It sets out a framework whereby an employer can either approve or reject a request to work remotely from an employee and the circumstances in which an employee can bring a complaint to the Workplace Relations Commission. We will provide further details on this important legislation in a separate briefing.

Sick Leave Bill 2021

A draft Sick Leave Bill was published in November 2021. It proposes to provide an entitlement to a minimum period of paid sick leave for all employees starting with up to three days per year and after they have completed 13 weeks' service, a service period which has been criticised for being too short. Under the proposals, the number of days of paid sick leave may increase to up to 10 by 2025. The rate of sick pay proposed is 70% of regular earnings up to €110 per day and the employee must supply a medical certificate covering each day.

Tánaiste and Minister for Enterprise, Trade and Employment has outlined his commitment to progressing and enacting this legislation in 2022.

EU Whistleblowing Directive

The deadline for transposing the EU Directive was 17 December 2021. There is significant pressure therefore to implement the Protected Disclosures (Amendment) Bill, which is due to be published very shortly.

Details of the General Scheme of the Bill are available in our publication linked [here](#). Notwithstanding any delay with the implementing legislation, we recommend businesses prepare for the necessary changes required, such as opening up whistleblowing channels to the expanded concept of “worker”. Employers with 250 or more employees should begin incorporating the new procedural requirements, which include acknowledgement of receipt, following up and providing feedback.

Retirement age

Retirement age has been firmly in the spotlight now for some time. The report of the Commission on Pensions was published in October 2021. In terms of retirement age the report has recommended that legislation should be introduced to generally prevent employers setting a compulsory retirement age below the state pension age

(currently 66), with a retirement age below this continuing in “strictly limited cases”. The government is due to decide on the implementation of this recommendation in Spring of 2022.

EU Directives: Transparent and predictable working conditions and work life balance

The EU Directive on Work Life Balance for Parents and Carers and the EU Directive on Transparent and Predictable Working Conditions must be transposed by August 2022.

The aim of the EU Directive on Work-Life Balance for Parents and Carers is to improve work-life balance by improving families’ access to flexible work and to family leave and to increase the participation of women in the workforce. Aspects of this Directive, for example relating to paternity leave, are already in place in Ireland but a significant new development will be a right to request flexible working arrangements for carers and workers of children up to at least the age of eight.

The EU Directive on Transparent and Predictable Working Conditions aims to improve working conditions by promoting more transparent and predictable

employment while ensuring labour market adaptability. One of a number of changes to be implemented includes a limit on probationary periods to six months other than on an exceptional basis.

New public holiday

On 19 January 2022 the government announced that there will be a once-off public holiday on Friday 18 March 2022 in recognition of the efforts of the general public, volunteers and all workers during the COVID--19 pandemic, and in remembrance of people who lost their lives due to the COVID-19 pandemic.

In addition, from 2023 there will be a new permanent public holiday established in celebration of Saint Brigid’s day. This will be the first Monday in every February, except where St. Brigid’s day, 1 February, falls on a Friday, in which case that Friday 1 February will be the public holiday. There are already 9 public holidays designated under the Organisation of Working Time Act 1997 and the Minister for Enterprise, Trade & Employment commented “The creation of a tenth public holiday will bring Ireland more into line with the European average.”

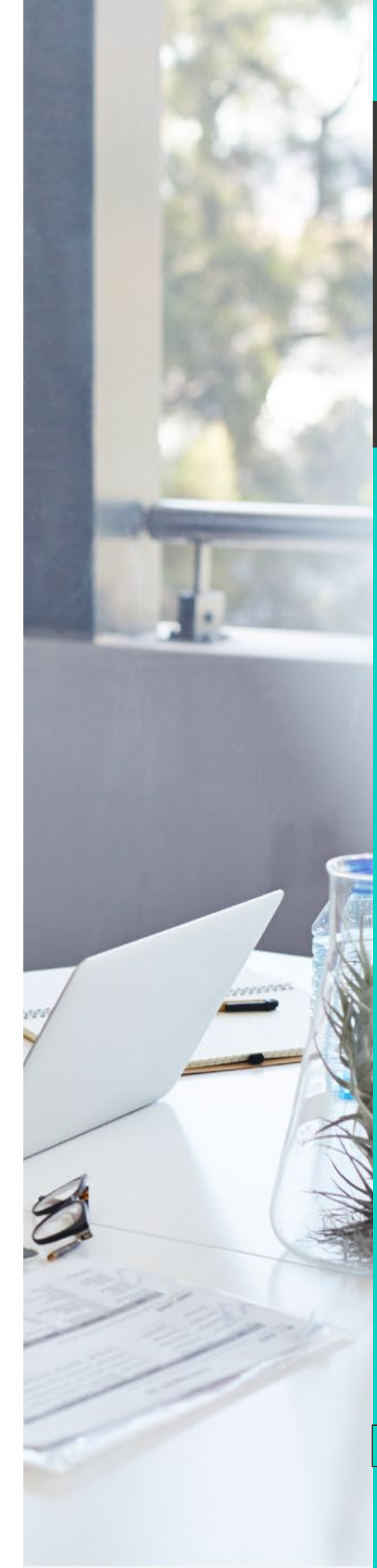
Other new legislation

Two new employment Bills have recently been published:

The Redundancy Payments (Amendment) Bill will give employees who lost out on reckonable service while on lay-off due to COVID-19 restrictions, and have subsequently been made redundant, a special payment of up to a maximum payment of €1,860 tax-free to bridge the gap in their redundancy entitlements.

The Payment of Wages (Amendment) Bill will require employers to clearly display their policy on how tips, gratuities and service charges are distributed. It will give customers clear information on where their tips and service charges go and prohibit the use of tips to ‘make up’ contractual rates of pay.

For further information on any of these topics please contact [Triona Sugrue](#), Knowledge Lawyer, or any member of ALG’s [Employment team](#).



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