



Doing Business in Ireland

Insights

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If the Celtic Tiger roars again and your company responds to the call, are you familiar with basic employment laws in Ireland?

Beginning in the 1970's, the Republic of Ireland adjusted its business tax law for foreign investors and set out to establish itself as a hub for multinational businesses. It succeeded well in that endeavor but then experienced the same economic downturn as most of the rest of the world in the late 80's. It appears that Ireland is attempting to come back economically through foreign investment once more. As reported in The Irish Times on May 17, 2012, an organization called Startupbootcamp had, since January, hosted ten startups in an accelerator program in a warehouse in Dublin. In mid-May, these startups each pitched their ideas – ranging from Opara, a Brazilian startup that developed a system to trace fruit and vegetables to Pombai, a US-China startup that created software that allows one to book travel abroad without knowing the local language – to one hundred investors from around the world who gathered for that purpose.

According to IBM Venture Capital's Martin Kelly, the ultimate goal of Startupbootcamp, with which he is affiliated, is to create in Dublin an international hub for startups. The Irish Times quoted Kelly as saying, "My view is that it's not really country versus country, it's city versus city. Why Dublin? All the major multinationals are here. It's really well positioned between the US, Europe and Asia. It's easy to connect with people here; it's big enough to be interesting yet small enough to move around." Since relaxing its tax laws in the mid-70's to attract foreign businesses, Ireland has been successful in developing itself as a player on the multinational scene.

Employment in Ireland is closely regulated through both national laws as well as EU Directives. Some key features of Irish employment law, separate and apart from EU Directives, are described here.

Discrimination

The Equality Act 2004 and the Equality Act 1998 which it amends prohibit discrimination in employment based on gender, marital status, family status, age, race, religion, disability, sexual orientation and membership in the Traveller Community (the Traveller Community generally is a group of nomadic people of Irish ethnic origin who have their own traditions and language). Amending the Equal Status Act 2000, the Equality Act expands the definition of sexual harassment and places the burden of proof on the employer.

Leave Laws

The Parental Leave Act of 1998 as amended by the Parental Leave Act 2006 grants parents 14 weeks of unpaid time off per child to care for children (up to age 8) or disabled children (up to age 16) including paid leave in the event of serious family illness. Parental leave may be taken in one continuous block of time or split into two blocks of time with a gap of at least 10 weeks between. With employer consent, the leave time off may be broken down further. Failure to return parents to work at the end of the leave constitutes an unfair dismissal.

The Maternity Protection Act 1994 and its 2004 amendments provide time off for pre-natal classes, maternity leave, and breastfeeding (an hour each day). Under a government-funded social welfare program, mothers are entitled to up to 26 weeks of paid maternity benefit, based on their regular earnings.

By statute, adoptive mothers have time off available in the form of a work leave that grants her the right to return to work at the conclusion of the leave. Adoptive Leave Act 2005 amending Adoptive Leave Act 1995.

The Carer's Leave Act 2001 provides for temporary, unpaid leave of up to 65 weeks to care personally for a relevant person as defined in the 2000 Act.

Protection of Employment

Under the Protection of Employees (Fixed Term Work) Act 2003, employees working for a fixed term cannot be treated less well than comparable permanent workers. Employers are prohibited from endlessly renewing fixed term contracts, after being on a fixed term contract, or series of fixed term contracts, for a total of four years, the employee is considered to have a permanent contract. Part-time employees also have special protection under the Protection of Employees (Part-Time Work) Act of 2001 which prohibits discrimination against part-time workers and requires that their schedules be set up to accommodate both them and the employer.

Ireland also has statutory protection for working youth (Protection of Young Persons (Employment) Act 1966 and has developed the Code of Practice for Protecting Persons Employed in Other People's Homes.

Irish law protects employees from unfair dismissal under the Unfair Dismissals Act 1977-2007. A dismissal is deemed unfair if it is undertaken in retaliation for an employee's exercising rights under any of the protective statutes or leave laws. Under this law, once the employee establishes that a dismissal occurred, it is incumbent on the employer to prove that it had fair grounds for the dismissal. Fair grounds include proving that the employee was not capable (can be illustrated by lateness or absenteeism, so long as the absence was not a protected disability as recognized under employment equality law), not competent (to do the job for which s/he was hired after adequate notice and a final warning), not qualified (where the employee misrepresented qualifications at hire or failed to gain qualifications after being given time to do so), engaged in gross or ordinary misconduct, or was eliminated through a redundancy.

Redundancy

The Protection of Employment Act 1977 sets out conditions with which an employer must comply to eliminate one or more employees for redundancy. For an employer to use redundancy as the reason for dismissal, it must be in a redundancy situation. This includes a need to shut its doors for economic reasons, the need for employees in a certain category has ceased or diminished, there has been a management decision to carry on business with fewer staff, the employee(s) are not qualified to carry on work that will be done in a different manner going forward, or the work will be done by another worker who is qualified to do both jobs while the redundant worker is not equally qualified to do so. To qualify as a collective redundancy the employer must be of a certain size and must dismiss a threshold number of employees given its size. In the case of a collective redundancy, the company must give notice to the Minister for Enterprise, Trade and Employment in an effort to find redundant workers alternative employment. Selection criteria must avoid violating any protective legislation and must be reasonable and fair. Individual redundancies have no such special requirements (other than avoiding a charge of unfair dismissal), but employees are advised to consult with the redundant employee in an effort to help him or her find alternative employment. Under the Redundancy Payments Acts 1967-2007, redundant employees may be entitled to minimum redundancy payments, based on length of service.