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CONTENTS

Editor’s Preface .....................................................................................................................................................ix
Erika C Collins

Chapter 1  GLOBAL DIVERSITY AND INTERNATIONAL EMPLOYMENT ......................................................1
Erika C Collins

Chapter 2  EMPLOYMENT ISSUES IN CROSS-BORDER M&A TRANSACTIONS..........................................7
Erika C Collins and Michelle A Gyves

Chapter 3  SOCIAL MEDIA AND INTERNATIONAL EMPLOYMENT ................................................................14
Erika C Collins and Suzanne Horne

Chapter 4  AUSTRALIA .........................................................................................................................................21
Miles Bastick and Shivchand Jhinku

Chapter 5  AUSTRIA ..............................................................................................................................................41
Jakob Widner

Chapter 6  BELGIUM ...........................................................................................................................................61
Chris Van Olmen

Chapter 7  BOLIVIA .............................................................................................................................................77
Carolina Aguirre U

Chapter 8  BRAZIL ..............................................................................................................................................93
Vilma Toshie Kutomi

Chapter 9  CANADA...........................................................................................................................................117
Erin R Kuzz, Jennifer Hodgins and Curtis Armstrong
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
<th>Authors</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>CHILE</td>
<td>133</td>
<td>Francisco della Maggiora M and Sebastián Merino von Bernath</td>
</tr>
<tr>
<td>11</td>
<td>CHINA</td>
<td>147</td>
<td>Gordon Feng, Erika C Collins and Chunbing Xu</td>
</tr>
<tr>
<td>12</td>
<td>COLOMBIA</td>
<td>166</td>
<td>Alberto Escandón and Maria Claudia Escandón</td>
</tr>
<tr>
<td>13</td>
<td>CYPRUS</td>
<td>182</td>
<td>George Z Georgiou, Anna Praxitelous and Natasa Aplikiotou</td>
</tr>
<tr>
<td>14</td>
<td>DENMARK</td>
<td>197</td>
<td>Tommy Angermair</td>
</tr>
<tr>
<td>15</td>
<td>ESTONIA</td>
<td>212</td>
<td>Heli Raidve</td>
</tr>
<tr>
<td>16</td>
<td>FRANCE</td>
<td>228</td>
<td>Deborah Sankowicz and Jérémie Gicquel</td>
</tr>
<tr>
<td>17</td>
<td>GERMANY</td>
<td>246</td>
<td>Thomas Griebe and Jan-Ove Becker</td>
</tr>
<tr>
<td>18</td>
<td>GREECE</td>
<td>265</td>
<td>Effie G Mitsopoulou and Ioanna C Kyriazi</td>
</tr>
<tr>
<td>19</td>
<td>GUATEMALA</td>
<td>284</td>
<td>Lionel Francisco Aguilar Salguero</td>
</tr>
<tr>
<td>20</td>
<td>HONG KONG</td>
<td>291</td>
<td>Michael J Downey</td>
</tr>
<tr>
<td>21</td>
<td>INDIA</td>
<td>310</td>
<td>Manishi Pathak</td>
</tr>
<tr>
<td>22</td>
<td>INDONESIA</td>
<td>331</td>
<td>Nafis Adwani and Indra Setiawan</td>
</tr>
</tbody>
</table>
Chapter 23  IRELAND .......................................................... 347
Bryan Dunne and Georgina Kabemba

Chapter 24  ITALY ............................................................ 369
Raffaella Betti Berutto

Chapter 25  JAPAN ........................................................... 382
Setsuko Ueno

Chapter 26  KOREA .......................................................... 397
Kwon Hoe Kim, Don K Mun and Young Min Kim

Chapter 27  LATVIA .......................................................... 410
Sigita Kravale

Chapter 28  LUXEMBOURG ............................................. 426
Guy Castegnaro, Ariane Claverie, Céline Defay, Christophe Domingos, Laurence Chatenier and Lorraine Chéry

Chapter 29  MALAYSIA .................................................... 448
Siva Kumar Kanagasabai and Selvamalar Alagaratnam

Chapter 30  MEXICO ........................................................ 468
Miguel Valle, Jorge Mondragón and Rafael Vallejo

Chapter 31  NETHERLANDS ............................................ 488
Eugenie Nunes

Chapter 32  NEW ZEALAND ............................................. 513
Bridget Smith and Tim Oldfield

Chapter 33  NICARAGUA .................................................. 526
Bertha Xiomara Ortega Castillo

Chapter 34  NIGERIA ........................................................ 536
Olawale Adebambo, Folabi Kuti and Ifedayo Iroche

Chapter 35  NORWAY ....................................................... 549
Gro Forsdal Helvik
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Country</th>
<th>Page</th>
<th>Authors</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>PERU</td>
<td>562</td>
<td>José Burgos C</td>
</tr>
<tr>
<td>37</td>
<td>POLAND</td>
<td>578</td>
<td>Roch Pałubicki and Karolina Nowotna</td>
</tr>
<tr>
<td>38</td>
<td>PORTUGAL</td>
<td>593</td>
<td>Pedro Furtado Martins, Dora Joana and Nuno Pais Gomes</td>
</tr>
<tr>
<td>39</td>
<td>ROMANIA</td>
<td>610</td>
<td>Ionut Stancu, Iurie Cojocaru, Alexandru Lupu and Patricia-Sabina Macelaru</td>
</tr>
<tr>
<td>40</td>
<td>RUSSIA</td>
<td>623</td>
<td>Irina Anyukhina</td>
</tr>
<tr>
<td>41</td>
<td>SAUDI ARABIA</td>
<td>641</td>
<td>Amgad T Husein, John Balouziyeh and Fadil Bayyari</td>
</tr>
<tr>
<td>42</td>
<td>SINGAPORE</td>
<td>655</td>
<td>Ian Lim, Nicole Wee and Gordon Lim</td>
</tr>
<tr>
<td>43</td>
<td>SLOVENIA</td>
<td>672</td>
<td>Vesna Šafar and Martin Šafar</td>
</tr>
<tr>
<td>44</td>
<td>SOUTH AFRICA</td>
<td>690</td>
<td>Stuart Harrison, Brian Patterson and Zahida Ebrahim</td>
</tr>
<tr>
<td>45</td>
<td>SPAIN</td>
<td>712</td>
<td>Iñigo Sagardoy de Simón and Gisella Alvarado Caycho</td>
</tr>
<tr>
<td>46</td>
<td>SWEDEN</td>
<td>731</td>
<td>Erik Danhard and Jennie Lööw</td>
</tr>
<tr>
<td>47</td>
<td>SWITZERLAND</td>
<td>744</td>
<td>Ueli Sommer</td>
</tr>
<tr>
<td>48</td>
<td>TURKEY</td>
<td>758</td>
<td>Serbulent Baykan and Handan Bektas</td>
</tr>
<tr>
<td>Chapter 49</td>
<td>UKRAINE ................................................................. 771</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Svitolana Kheda</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 50</td>
<td>UNITED ARAB EMIRATES ............................................ 786</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ibrahim Elsadig</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 51</td>
<td>UNITED KINGDOM .................................................... 796</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suzanne Horne and Tom Perry</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 52</td>
<td>UNITED STATES ........................................................ 810</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Patrick Shea and Erin LaRuffa</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 53</td>
<td>VIETNAM ................................................................ 822</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Michael K Lee, Annika Svanberg and Doan Ngoc Tran</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appendix 1</td>
<td>ABOUT THE AUTHORS ................................................ 837</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appendix 2</td>
<td>CONTRIBUTING LAW FIRMS’ CONTACT DETAILS .................... 871</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
It is hard to believe that we have now published the fifth edition of *The Employment Law Review*. When we published the first edition of this book five years ago, I noted my belief that a book of this sort was long overdue given the importance to multinational corporations of understanding and complying with the laws of the various jurisdictions in which they operate. It has given me great pleasure to see the past editions of this book used over the last several years for just this purpose – as a tool to aid practitioners and human resources professionals in identifying issues that may present challenges to their clients and companies. The various editions of this book have highlighted changes in the laws of many jurisdictions over the past few years, making even clearer the need for a consolidated and up-to-date reference guide of this sort.

My practice in 2013 included a notable uptick in M&A activity – a welcome development after several relatively flat years in this area following the financial crisis. For this reason, we’ve opted to include once again a general-interest chapter in this book on addressing employment issues in cross-border mergers and acquisitions. It is our hope that this chapter, along with the relevant country-specific chapters, will aid practitioners and human resources professionals in conducting due diligence and providing other employment-related support in connection with cross-border M&A deals.

This year I have also experienced an increasing number of clients considering or revising their company’s social media and mobile device management policies, and have noted a particular increase in the number of organisations that are moving toward ‘bring your own device’ programmes. One of the general-interest chapters in this edition addresses issues for consideration by multinational employers in rolling out policies of this sort. This issue is particularly timely as more and more jurisdictions pass or are beginning to consider privacy legislation that places significant restrictions on the processing of employee personal data.

Finally, the third general-interest chapter addresses diversity initiatives (both legislative and corporate), as this issue continues to be a hot topic for global employers.

In addition to these three general-interest chapters, the fifth edition of *The Employment Law Review* includes 50 country-specific chapters. This edition has once again
been the product of excellent collaboration. I wish to thank our publisher, particularly Katherine Jablonowska, Adam Myers, Gideon Roberton and Eve Ryle-Hodges, for their hard work and continued support. I also wish to thank all of our contributors, as well as my associate, Michelle Gyves, for their efforts to bring this edition to fruition.

Erika C Collins  
Proskauer Rose LLP  
New York  
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I INTRODUCTION

The employment relationship in Ireland is regulated by an extensive statutory framework, much of which finds its origin in European Community law. The Irish Constitution, the law of equity and the common law remain relevant, however, particularly in relation to applications for injunctions to restrain dismissals and actions for breach of contract. The main (although not exhaustive) legislation in the employment law area in Ireland includes the following statutes:

- the Industrial Relations Acts 1946–2012;
- the Protection of Employment Act 1977;
- the Terms of Employment (Information) Acts 1994 and 2001;
- the Maternity Protection Acts 1994 and 2004;
- the Organisation of Working Time Act 1997;
- the National Minimum Wage Act 2000;
- the Protection of Employees (Part-Time Work) Act 2001;
- the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003;
- the Protection of Employees (Fixed-Term Work) Act 2003;
- the Safety, Health and Welfare at Work Act 2005;
- the Employees (Provision of Information and Consultation) Act 2006;
- the Employment Permits Acts 2003 and 2006;

1 Bryan Dunne is a partner and Georgina Kabemba is an associate at Matheson.
Employment rights under Irish law can be enforced by any one of a variety of statutory tribunals and bodies, depending on the nature of the particular claim, or by the civil courts in appropriate cases. The process of determining which body or court will have jurisdiction in a particular case will depend on the legislation under which the claim is being pursued (or whether or not it is being pursued at common law), although employees will frequently have a choice of forum.

In general terms, employer's liability (i.e., personal injury) claims and claims of breach of contract are dealt with in the civil courts, as are applications for injunctive relief in relation to employment matters, whereas statutory claims (i.e., those made, for example, under the Unfair Dismissals Acts 1977 to 2007 or the Organisation of Working Time Act 1997) are heard by any one of the various bodies outlined below.

i Civil courts

The civil judicial system in Ireland is tiered, based on the monetary value of particular claims. At the lowest level, the District Court deals with claims not exceeding €15,000 and this court rarely hears employment-related disputes. Also the District Court has no equitable jurisdiction, and cannot therefore hear applications for injunctive relief. The next level is the Circuit Court, the jurisdiction of which is generally limited to awards up to €75,000, although in circumstances where a case has been appealed to the Circuit Court from the Employment Appeals Tribunal (EAT), it has jurisdiction to exceed this limit and make awards up to the jurisdictional level of the EAT. The Circuit Court also has potentially unlimited jurisdiction in relation to gender equality cases. Where the sums involved in a contractual claim exceed €75,000, the action must be brought in the High Court, which has unlimited jurisdiction. Only the Circuit and High Courts can hear applications for injunctive relief.

ii Labour Court

The Labour Court is principally involved in the resolution of industrial disputes involving groups of employees but also has jurisdiction to hear certain individual claims relating to equality, organisation of working time, national minimum wage entitlements, part-time work and fixed-term work. The Labour Court generally only has an appellate jurisdiction and will not, other than in certain limited circumstances, hear a dispute until it has received a report from the Labour Relations Commission, stating that the body cannot resolve the matter and that the parties require the Labour Court's assistance. The Labour Court, having investigated a trade dispute, may make a recommendation setting out its opinions on the merits of the dispute and the terms on which it should be settled. The Court's recommendation is not legally binding on either party, except in cases referred to it under the Industrial Relations (Amendment) Act 2001 where the employer concerned does not engage in collective bargaining.
In relation to the individual claims referred to above, a determination of the Labour Court is legally binding on the parties, such as an award of compensation or reinstatement.

iii Rights Commissioner Service
The Rights Commissioner Service is housed within the Labour Relations Commission. Rights Commissioners are empowered to investigate disputes, grievances and claims that individuals or small groups of employees refer under various employment rights legislation. Rights Commissioners issue their findings in the form of recommendations or decisions, which are binding or non-binding depending on the statutory provision under which the claim was referred in the first instance. A dissatisfied party may, however, appeal to the Labour Court, or in some cases the EAT, against a Rights Commissioner’s recommendation or decision. The decision of the Labour Court or the EAT in relation to such appeals is binding on the parties.

iv The Employment Appeals Tribunal
The EAT is the main forum for a number of statutory claims, including those in respect of minimum notice, unfair dismissal and redundancy payments. The EAT investigates unfair dismissal cases where the parties object to the claim being heard by a Rights Commissioner or where the decision of a Rights Commissioner is being appealed. The EAT’s decision is called a ‘determination’ and is legally binding. In unfair dismissal cases a full appeal to the Circuit Court on the facts is available to either of the parties. In most other cases, the EAT’s determination may be appealed to the High Court, but only on a point of law. The Minister for Jobs, Enterprise and Innovation can also refer a point of law to the High Court at the request of the EAT.

v Equality Tribunal
The Equality Tribunal is the forum of first instance for the investigation and adjudication of all complaints of discrimination in relation to terms and conditions of employment and occupational pension schemes. The Equality Tribunal can also attempt to mediate such disputes at the option of the parties. In particular, the Equality Tribunal has jurisdiction to hear claims concerning any of the nine grounds upon which discrimination is prohibited under the Employment Equality Acts 1998–2011. In practical terms, an Equality Officer will consider submissions from both parties in advance, before arranging a hearing of the case, to enable him or her to reach a decision that is binding on the parties. The decision may be appealed to the Labour Court.

vi Labour Inspectorate of the National Employment Rights Authority
The Labour Inspectorate has responsibility for the enforcement of employers’ obligations in relation to the rights of employees as provided for by the Organisation of Working Time Act 1997, the National Minimum Wage Act 2000, the Industrial Relations Acts 1946–2012, the Protection of Young Persons (Employment) Act 1996 and the Payment of Wages Act 1991. It also has a role in relation to record inspections and information gathering for other sections of the Department of Jobs, Enterprise, and Innovation, and for the Department of Justice and Equality.
vii The National Employment Rights Authority

As part of the government’s agreement with the Irish Congress of Trade Unions (ICTU) in the last round of national partnership talks, the Office of the Director for Employment Rights Compliance was established, later renamed the National Employment Rights Authority (NERA). NERA’s primary purpose is to promote a national culture of employment rights compliance in the labour market and to assume responsibility for the enforcement of employees’ rights. Once it is put on a statutory footing, employees will be able, inter alia, to make complaints regarding non-compliance in a general way to NERA, provided such complaints are made in good faith, which will then be able to prosecute defaulting employers. NERA will also assume responsibility for the Labour Inspectorate units who will investigate non-compliance in a range of areas including annual leave, wages, working hours, notice, redundancy and dismissal. As an alternative to prosecution, and as currently envisaged, NERA may inform the employer and affected employees of any breaches identified and may also inform the latter of their options for redress, including the rectification of the matter in the workplace and the option of seeking a hearing before a Rights Commissioner. While it had been expected that NERA would be given statutory recognition in early 2012, the Employment Law Compliance Bill, through which this was to be achieved, has made no further progress through the legislature and does not appear to be high on the new government’s list of priorities.

The government recently announced its intention to restructure the specialist fora in which employment disputes are litigated, as a result of which it is widely expected that those listed above (subsections ii to vii, supra) will be replaced by a more streamlined system over the next 12 to 24 months.

II YEAR IN REVIEW

There was a renewed sense of buoyancy and cautious optimism in Ireland in 2013. Indications of recovery in the Irish economy continue to appear. Recruitment agencies reported an upswing in demand, there has been an increase in commercial property leasing, and an improvement in exports. There has also been a drop in the unemployment rate in Ireland, decreasing to 13.2 per cent in October of 2013 from 15.1 per cent in January of 2013.

There have been a number of developments in the statutory employment law framework recently. The Redundancy Payments Acts 1967–2007 were further amended, whereby the rebate on statutory redundancy payments available to employers from the Department of Jobs, Enterprise and Innovation was abolished with effect from 1 January 2013. Employers had previously received a rebate of 60 per cent up to 2011. This had been reduced to 15 per cent in 2012. The abolition has increased severance costs for employers, affecting the feasibility and level of ex gratia payments which employers are able to pay. Detractors of the abolition have criticised that this makes it more difficult for companies to make the changes needed to stay afloat and will have a particularly disproportionate impact on those trying to restructure their businesses for future growth.

has been increased from 14 to 18 weeks per child. The Regulations also give parents a right to request a change in working hours for a set period on return from parental leave. Employers are not required to grant it, but under the Regulations they must now at least consider it. Parents can avail of the leave for each child under eight, but are limited to 18 weeks per year if they have more than one child except in the case of twins.

The much anticipated Protected Disclosures Bill 2013 was published in July. The Bill builds on existing provisions regarding whistleblowing contained in various pieces of sectoral legislation. Sectoral whistle-blowing provisions currently exist in 16 Acts of the Oireachtas (the Irish parliament) including the Health Act 2007, the Employment Permits Act 2006, the Protections for Persons Reporting Child Abuse Act 1998 and the Central Bank (Supervision and Enforcement) Act 2013, among others. The Bill is intended to provide for the protection of workers who make disclosures of certain information in the public interest and to provide for related matters. The Bill, in its current form, will apply to both public and private sectors. It provides for a ‘stepped’ disclosure process to make a ‘protected disclosure’. It also provides safeguards for workers against detriment with respect to any term or condition of his or her employment, immunity against civil liability and in certain circumstances immunity against criminal liability. The Bill provides workers with an avenue of redress if they suffer detriment as a consequence of having made a protected disclosure. There is much to consider with this Bill given its broad application and the potential to add administrative and litigious burdens on employers. The Bill is currently going through the various stages of the Oireachtas, and is expected to be enacted during 2014.

A general statutory provision change which affected the employment law framework was the amendment to the monetary jurisdiction limits contained in the Courts and Civil Law (Miscellaneous Provisions) Act 2013. On 18 July 2013 the Circuit Court limit was increased from €38,092 to €75,000 and the District Court limit increased from €6,384 to €15,000. The Act also restricted the Circuit Court limit to €60,000 for personal injury actions.

Changes were also introduced in the area of business immigration. The pilot Atypical Working Scheme was launched on 2 September 2013 by the Department of Justice and Equality (Irish Naturalisation and Immigration Service), in conjunction with the Department of Jobs, Enterprise and Innovation. The Scheme provides a streamlined mechanism to deal with atypical, short-term employment where the nature of work is not governed by the Employment Permits Acts or by current administrative procedures under the Employment Permits Acts.

The Atypical Working Scheme applies to non-EEA nationals who, in certain circumstances, are required by an organisation based in the state to undertake short-term contract work (90 days) where a skill shortage has been identified; to provide a specialised or highly skilled work to an industry, business or academic institution; to facilitate trial employment in respect of an occupation on the Highly Skilled Occupations List and to facilitate paid internships in respect of non-EEA full-time students studying outside the state (excluding medical internships). Ireland is unique and innovative among EU Member States in piloting such a scheme. There is currently no indication as to how long the scheme will run or whether it will be an indefinite programme.
III SIGNIFICANT CASES

i Industrial relations

In the Supreme Court judgment in McGowan and others v. The Labour Court, Ireland and the Attorney General,2 delivered 9 May 2013, the Supreme Court held that registered employment agreements are unconstitutional. Registered Employment Agreements (REAs) were introduced under the Industrial Relations Act 1946. Part III of the Act allowed employment agreements to be registered with the Labour Court, provided that certain criteria were satisfied. Once registered, the agreement became legally binding, not only on the parties to the agreement but on every worker and employer in that sector. The agreements were normally negotiated between trade unions and employers, who were supposed to be substantially representative of their particular industry.

The Constitution (Article 15.2.1) provides that the exclusive power to make laws is vested in the Oireachtas. The Supreme Court took the view that REAs are instruments having the status of laws made by private individuals subject only to a limited power of veto by a subordinate body. While the Constitution allows for the limited delegation of law making functions, the provisions of the 1946 Act went beyond what is permissible under the Constitution. The consequence of this decision is that the Labour Court no longer has jurisdiction to enforce, interpret or otherwise apply these agreements. As a result, all such agreements no longer have any application beyond the subscribing parties and are not enforceable in law. However, existing contractual rights of workers in sectors covered by REAs are unaffected by the ruling. Contractual rights can be altered only by agreement between the parties involved.

In June of this year, the government stated that legislation would be brought forward to address the recent Supreme Court ruling that struck down registered employment agreements. It is anticipated that draft legislation will be published by early 2014.

ii Recent developments in work-related stress, harassment and bullying personal injury actions

Recent High Court judgments have shown a judicial softening of sorts towards plaintiffs who bring personal injury claims as a result of work-related stress and are suggestive of a new departure in this area. In the case of Kelly v. Bon Secours,3 the plaintiff was employed by the defendant hospital which she sued for injuries caused by bullying and harassment against her, sustained during the course of her employment. The history between the employer and employee was particularly fractious in this case. The plaintiff made a number of bullying allegations towards her manager and also alleged she was subjected to corporate bullying by senior management. She was the subject of disciplinary proceedings due to complaints against her regarding her repeated inappropriate behaviour towards work colleagues. The plaintiff also had a paranoid personality and a tendency to infer a hostile intent to other people's behaviour, making her prone to stress.

---

The judge found that the bullying and harassment did result in heightened anxiety and mild depressive symptoms in the plaintiff. However, he held that the plaintiff’s acute depressive symptoms were not causally linked to the bullying suffered, but rather were attributable to her complicated personal circumstances. Despite this, Mr Justice Cross held that the defendant must take the plaintiff as it found her, while acknowledging that her employer was not responsible for an underlying condition of acute depression which it did not cause. The plaintiff was awarded €60,000 for stress, distress and insult suffered.

The case is considered to be a marked departure from previous case law as ordinarily plaintiffs are required to have suffered an identifiable psychiatric illness as one of the criteria required to succeed in such a claim. It is certainly arguable that the symptoms that the plaintiff presented within this case were just symptoms of ordinary occupational work-related stress.

In a subsequent case, *Browne v. Minister for Justice,* the High Court awarded €55,000 to an officer in the Garda (the police force) who was bullied and harassed in work and suffered a significant stress reaction. What is interesting about this case is that the plaintiff was not on any anti-depressants and only took two weeks’ sick leave as a result of stress. Adopting the same approach as taken by him in *Kelly,* Mr Justice Cross objectively analysed each alleged incident and took the view that the actions of senior management and Gardai (police) could be reasonably foreseen to undermine and cause the injury to the plaintiff. These decisions have lowered the bar for plaintiffs taking work-related stress claims. The decisions have caused concern among employers who feel that they may open the floodgates to more work-related stress and bullying claims with increased awards.

iii Surrogacy case law

In September 2013, the Court of Justice of the European Union (CJEU) released legal opinions (not decisive judgments) on two recent cases, one of which originated in Ireland, regarding leave entitlements for women who had children via a surrogate mother. Both women argued that they had equal maternity rights to women who actually gave birth. The rulings are the first time the Court has issued an opinion on whether the right to receive maternity leave under the EU Pregnant Workers Directive (1992) extends to mothers who have had a baby via a surrogacy.

In *Z v. A Government Department and the Board of Management of a Community School,* Z applied to her school for adoptive leave but was refused paid leave of absence since there is no express provision in Irish legislation for leave arising from the birth of a child through a surrogacy arrangement. She was offered only unpaid parental leave. Z brought a case before the Equality Tribunal in Ireland, arguing that she had been subject to discrimination on grounds of sex, family status and disability arising from her inability to give birth. The Equality Tribunal subsequently referred the case to the CJEU, asking the Court whether the refusal to grant the woman paid leave from employment constituted a breach of EU anti-discrimination rules.

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5 C-363/12.
In his opinion, Advocate General Nils Wahl distinguished the case from the situation of a pregnant worker falling under the scope of the Pregnant Workers Directive which provides for maternity leave of at least 14 weeks in order for a woman to recover from childbirth and take care of her newborn. According to the Advocate General, the differential treatment at the expense of the woman was neither based on sex nor on disability, but rather on the refusal of national authorities ‘to equate her situation with that of either a woman who has given birth, or an adoptive mother’. He outlined that she could not benefit from the rights of an adoptive mother because EU Member States had not yet harmonised the right to paid leave for adoptions. Advocate General Wahl also added that where national law foresees the possibility of paid adoptive leave, the national court should assess whether the application of differing rules to adoptive parents and to parents who have a child through a surrogacy arrangement constitutes prohibited discrimination contrary to that national law.

A legal opinion on a separate case, *CD v. ST*, issued in September is also relevant. The case originated in the UK, where a woman took legal proceedings before a British court when she was denied paid maternity or adoptive leave on the basis that she had a child via surrogacy. The UK does not have specific rules on maternity leave for the woman who assumes responsibility for the child’s care after it is born, which is described with the term ‘intended mother’. However, Advocate General Juliane Kokott took a different view, saying that an intended mother who has a baby through a surrogacy arrangement has the right to maternity leave provided under EU law. However, she pointed out that maternity leave that the surrogate mother has taken must be deducted from the leave of the intended mother. In any case, the leave of the intended mother must amount to at least two weeks. Both the surrogate mother and the intended mother must be given at least two weeks of paid leave each, Kokott said. The remaining 10 weeks of the EU’s required 14 must be shared between the two, taking into account the protection of ‘the woman who has recently given birth and the child’s best interests’.

The opinions by the advocate generals are not binding on the Court but it more often than not (80 per cent of cases) follows the advice in its final rulings. With this marked divergence of legal opinion, it will be interesting to see what transpires in those final CJEU rulings.

In the Irish case, Advocate General Wahl has left an opening for the national court to assess whether differing rules constitute discrimination where adoptive leave is paid. In Ireland an adopting mother or sole adopting father is currently entitled to 24 weeks’ paid adoptive leave. This means that it is likely that the Irish courts will be required to reassess this case in light of this point.

**iv Age discrimination developments**

In May 2013 the Labour Court issued its determination in the case of *Hospira v. Roper and Others*. This decision has clarified the law relating to reduced redundancy payments paid to employees close to retirement age. The Labour Court held that differences in

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6 C-167/12.

7 [2013] 24 E.L.R. 263.
the level of redundancy payments paid to the complainants, which were lower when compared with their younger comparators, fell within the exception to age discrimination permitted by the Employment Equality Acts, 1998–2011. The Act allows an employer to pay a different rate of severance payment to an employee, which takes into account the period between the employee's age at termination and his/her compulsory retirement age, provided that it does not constitute gender discrimination.

The complainants’ employment was terminated upon the redundancy of their positions when Hospira decided to close its plant in 2005–2006. A redundancy package was agreed with the representative trade unions. Each of the five complainants were close to retirement age at their termination date and Hospira paid them a package representing the amount of salary which they would have earned had they remained in employment until their normal retirement age of 65. Given their periods of service, the package paid to them was lower than what they would have received had it been based purely on their periods of continuous service. The five complainants brought a complaint of age discrimination to the Equality Tribunal, which found in their favour and held that it was necessary for the employer to provide objective justification for its treatment of the redundancy payments. Hospira appealed the Equality Tribunal’s decision to the Labour Court.

The Labour Court upheld Hospira’s appeal. It found that the relevant European Directive provides that Member States, rather than individual employers, may provide for differences in treatment on the grounds of age where such differences are objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. It was held that the Irish parliament had provided for differences in treatment based on age in respect of severance payments in its enactment of the Employment Equality Acts. The Court commented that the rationale underlying the legislative provision was that workers close to retirement are in a substantially different position to younger workers who have longer periods during which they could expect to remain in the labour force and that, accordingly, as a matter of social and labour market policy, the difference in treatment could legitimately be reflected in the construction of redundancy packages.

It is likely that this determination will be relied upon by employers in defending claims of age discrimination where employment is terminated upon an employee reaching normal or compulsory retirement age. In a number of cases the Equality Tribunal has held that an employer must provide objective justification for the imposition of a compulsory retirement age, notwithstanding that no such requirement is imposed upon employers by the Employment Equality Acts. It is conceivable that the Labour Court determination in the Hospira case may impact on the issue of age discrimination in the imposition of retirement ages.

iv Developments in collective redundancies

In June 2013 the High Court issued judgment in the case of Tangney and Others v. Dell Products, Limerick. This was an appeal on a point of law from a determination of the Employment Appeals Tribunal to the effect that the respondent had failed to comply
Ireland

with its obligation to consult with employees in accordance with the Protection of Employment Act 1977 (the 1977 Act) regarding a proposed collective redundancy. Dell Products Limerick embarked on a rationalisation process in 2009 which resulted in 1,900 redundancies in Ireland, due to the closure of its manufacturing facility in Limerick. On 8 January 2009, the company issued a written communication to employees containing information in relation to the proposed redundancies. The applicants’ case was that the communication on 8 January 2009 effectively constituted a notice of dismissal and therefore any consultation which took place subsequent to that date did not comply with the company’s statutory obligations under the 1977 Act (to consult with employees with a view to trying to avoid the redundancies).

While the High Court ultimately disallowed the appeal on the basis that the grounds of appeal advanced were matters of fact, rather than law, the judgment nonetheless considered (to some degree) when the obligation to consult arises in the context of collective redundancies.

Although the case does not make it absolutely clear when the statutory consultation process in respect of collective redundancies should be commenced, it seems that, at the very least, the employer should have made a strategic decision regarding its business which required it to consequently consider the likelihood of ensuing collective redundancies (subject to consultation), prior to the commencement of any consultation process. With regard to the content of any communication to employees, while employers are required to outline certain information under the terms of the Directive, any communication should avoid the possible inference that collective redundancies are a fait accompli prior to commencing the consultation process.

IV BASICS OF ENTERING AN EMPLOYMENT RELATIONSHIP

i Employment relationship

Under the Terms of Employment (Information) Act 1994, all employers in Ireland are obliged, within two months of the commencement of employment, to provide their employees with a written statement setting out certain fundamental terms of their employment as follows:

a date of commencement of employment;
b full name and address of employer and name of employee;
c the employee’s place of work;
d the job title or a description of the nature of the work;
e if a temporary or fixed-term contract, the expiry date;
f details of pay including overtime, commission and bonus and methods of calculating these;
g whether pay is to be weekly, monthly or otherwise;
h the pay reference period;
i terms and conditions relating to hours of work and overtime;
j holiday or other paid leave entitlement;
k notice requirement;
l details of rest periods and breaks;
m details regarding sickness and sick pay;
The statement must be signed by or on behalf of the employer and must be retained by the employer during the employment and for one year after the employee’s employment has ceased. Any change to the statutory particulars must be notified to the employee, in writing, within one month.

In addition to this, however, it is recommended that employers consider whatever other terms might be necessary and appropriate and prepare comprehensive contracts. Other relevant terms will depend on the seniority of the employee in question, and will range from intellectual property and exclusivity of service provisions, to post-termination restrictive covenants. Any changes or amendments to the employment contract of a material nature can only be implemented, generally speaking, with the agreement of both parties.

ii Probationary periods

There is no Irish legislation that expressly deals with probationary periods. As a matter of contract law, a probationary period will only be effective if expressly provided for in the employment contract. The terms of the probationary period, including duration, the length of notice applicable during the period, and whether or not the employer has discretion to extend it, should also be set out in the contract.

While there is no statutory limit on how long an employee can be retained on probation, he or she will be covered by the Unfair Dismissals Acts 1977–2007 once 12 months’ continuous service is accrued, which will include any period of notice of termination. Accordingly, the right to protection against unfair dismissal will apply once the 12-month service threshold has been reached, even if the employee is still on probation. Employers will therefore usually seek to conclude the probationary period before the employee acquires 12 months’ service, as there is little to be gained from extending it beyond this point. In considering the maximum length of a probationary period, employers should ensure that the aggregate of this period when added to the period of notice to which the employee is entitled is less than 12 months.

iii Establishing a presence

There is no specific requirement for an employer to be registered as an entity or otherwise based in Ireland. In practice, and for varying tax and regulatory reasons, a large number of Irish employees across all sectors are employed by and report to foreign entities based outside Ireland.

A foreign employer will, however, be required to register for pay-as-you-earn (PAYE) income tax in Ireland where the income of its employees is within the scope of the Irish PAYE system. In addition to registration, the employer must deduct the amount of income tax due from the employees directly, and remit such amounts to the Revenue Commissioners.

Income from non-Irish employment that is attributable to the performance in Ireland of the duties of that employment is also chargeable to Irish income tax and is within the scope of the PAYE system.
V RESTRICTIVE COVENANTS

The Competition Act 2002 prohibits agreements between undertakings that prevent, restrict or distort competition. Since employees are considered to be part of an undertaking and are not undertakings themselves, the Competition Authority (which enforces competition law in Ireland) considers that employment agreements are not covered by the competition rules. However, once an employee leaves an employer and sets up his or her own business, he or she will then be regarded as an undertaking. The Competition Authority has set out guidelines as to what types of non-compete provisions, in particular, will be acceptable in such situations. Generally, they must be reasonable in subject matter, geographical scope and duration.

The common law is also of relevance to the issue of restrictive covenants. The basic position applied by the courts in this regard is that such covenants are, prima facie, unenforceable for being unduly in restraint of trade, unless the party seeking to rely on them can demonstrate that the restrictions in question are no more than what is strictly necessary to protect a legitimate business interest and are not otherwise contrary to the public interest.

VI WAGES

i Working time

The Organisation of Working Time Act 1997 (OWTA) deals with maximum working hours and other matters relating to working time. Pursuant to the OWTA an employer may not permit an employee to work for more than an average of 48 hours per week, although this can generally be averaged over a period of four months. Working time should only take account of time spent working (i.e., it should exclude rest and meal breaks). The averaging period for night workers is two months; for employees working in agriculture and tourism, six months; and it can be up to 12 months for employees covered by an approved collective agreement.

Employees cannot opt out of the 48-hour average working week, as in other countries such as the UK. The legislation does, however, provide a particular exemption for senior or specialist employees, who can be said to determine their own working time, such that they are not subject to the restriction. The contracts of such employees should generally provide expressly that they are exempt from this part of the OWTA.

ii Overtime

Generally speaking, there is no statutory entitlement to overtime under Irish law, or to payment for overtime. In certain cases, however, specific categories of workers may be entitled to overtime pay if covered by a registered employment agreement (REA) or employment regulation order (ERO). REAs and EROs are essentially industry-specific collective agreements that are registered in the Labour Court, and bind all employers and employees in that industry or sector.

For those employees not covered by either REAs or EROs which are still valid, they will only be entitled to paid overtime if such an entitlement is contained in their employment contract or has been established by custom and practice in the employment
concerned. Section 14 of the OWTA provides that employers that require employees to work on Sundays must pay them a premium for so doing (the level of which is not defined).

VII FOREIGN WORKERS

EEA nationals do not require employment permits to work in Ireland. Nationals of Switzerland are also exempt from any requirement to obtain an employment permit to work in Ireland. There are different types of employment permits available depending on the circumstances. An employment permit will not be granted where to do so would result in more than 50 per cent of a company’s employees being non-EEA nationals. This rule does not apply, however, where the employee, rather than the employer, makes the application. Special dispensation may also be made where the employer is a multinational in a start-up phase.

Intra-company transfer permits can be granted to senior executives, key personnel or employees engaged in a training programme. Green cards can be granted to individuals earning €60,000 or more, or in limited circumstances between €30,000 and €59,999. Work permits are also available in limited circumstances. The Employment Permits Acts 2003 and 2006 apply significant penalties for employing non-EEA nationals without a valid employment permit. The maximum penalty for such an offence is a fine of up to a maximum of €250,000, up to 10 years’ imprisonment, or both.

VIII GLOBAL POLICIES

The Unfair Dismissals Acts 1977–2007 require employers to provide employees with written notice setting out the procedure to be applied if their dismissal is contemplated within 28 days of the commencement of employment. While the particulars to be contained in such a procedure are not prescribed, the concepts of natural justice and due process, which derive from the Irish Constitution, are implicit in employment contracts in Ireland if not provided for otherwise. In addition, a Code of Practice concerning grievance and disciplinary procedures in the workplace was introduced in 2000, which provides general guidelines in relation to the preparation and application of disciplinary procedures. While not obligatory, a failure to apply the guidelines (in the absence of any other express procedure) could be held against an employer in the event of an employee disputing his or her dismissal.

Employers are not required to obtain the approval of employees in relation to the preparation or implementation of disciplinary procedures, although agreement in relation to such matters will often be obtained where collective bargaining takes place. A disciplinary policy must not discriminate against employees contrary to the Employment Equality Acts 1998–2011 (i.e., on grounds of gender, family status, age, disability, sexual orientation, race, religion, civil status or membership of the Traveller community), and must otherwise be fair and reasonable (i.e., provide that an employee is made aware of all the charges against him or her, is afforded a reasonable opportunity to rebut such charges and is afforded adequate representation throughout the process). In addition to this the level of sanctions should be staggered to reflect the seriousness of the offence. It
will generally suffice for the disciplinary policy to be available on an employer’s intranet, provided employees are advised of this at the commencement of employment. If the employer does not have this facility, employees should be advised in their contracts or letters of appointment, or by way of the staff noticeboard, of where they can obtain a copy of the policy. The policy should generally, as a matter of best practice, be available in English and in any other language spoken by employees. Disciplinary procedures do not have to be filed with any state or government authority.

IX TRANSLATION

There is no statutory requirement in Irish law for employers to translate employment documents into other languages, and traditionally employers have provided these documents in English only. Best practice, however, and a decision of the Equality Tribunal in 2008, suggests that it may be prudent to make such documents available in different languages, depending on the circumstances. In *58 Named Complainants v. Goode Concrete Limited*, non-national employees contended that their contracts and safety documentation were defective on the basis that they were unable to understand them, and that this constituted discrimination. The Equality Officer found that the employees were treated less favourably than Irish employees in relation to their employment contracts. It was held that employers should have in place clear procedures to ensure non-national employees are able to understand their employment documentation and are not treated less favourably than Irish employees.

The Equality Officer did find that if an employer is not in a position to have these documents translated, it should arrange to have the contracts and other documentation explained to all employees by someone who speaks a language they understand. In this situation it would be good practice to have the employee sign a form to acknowledge their contract has been explained to them and that they understand its contents.

In the absence of any legislative guidance in the area, there is no clear direction on exactly which documents are required to be translated or explained. The *Goode* decision, however, and common sense would dictate that this should be done in respect of employment documents such as the contract of employment and any documentation ancillary to it, health and safety materials and disciplinary materials.

The Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012 is an example of new employment codes and guidelines building on the *Goode* decision. The Code of Practice outlines that employers should ensure that staff have access to equality policies, including by means of certain measures ‘to provide, where necessary, for the translation of policies and procedures into languages other than English as appropriate with provision of interpreters’.

In the absence of legislation, the formalities to be observed in respect of such translations are not set in stone and may vary depending on the circumstances and on the resources available to the employer. In general terms, however, and while certified translators would obviously be best where possible, employers should be guided by the

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9 DEC-E2008-020.
principle of ensuring equality as between Irish and non-national workers and endeavour to ensure all employees understand all documents relating to their employment.

Where that principle is not complied with, employers face the risk of discrimination claims, and of awards to employees who bring such claims of up to two years’ gross remuneration.

X EMPLOYEE REPRESENTATION

The concept of employee representation under Irish law relates to both unionised and non-unionised employees and is derived from a number of sources, both statutory and otherwise.

i Trade union representation
Any employee has the right to join a trade union, although trade unions may not legally compel employers to recognise and negotiate with them. The degree to which trade unions may embark upon industrial action (either to try and gain recognition from employers, or for any other reason) is regulated principally by the Industrial Relations Act 1990.

ii Information and consultation representation
In addition to any local representation arrangements that may exist (whether with trade unions or otherwise), employees may also be entitled to representation in certain circumstances as a matter of statute. This form of representation can arise in transfer of undertakings, collective redundancy situations, or alternatively where the employees are covered by a local or European-level works council.

The Transnational Information and Consultation of Employees Act 1996 (which implemented Council Directive 94/45/EC on European Works Councils), requires multinational employers of a certain size to set up European works councils to inform and consult with their employees on a range of management issues relating to transnational developments within the organisation. The Act applies to undertakings with at least 1,000 employees in the EU and 150 or more employees in each of at least two Member States.

The Employees (Provision of Information and Consultation) Act 2006 obliges employers with at least 50 employees to enter into a written agreement with employees setting down formal procedures for informing and consulting with them, or with their elected representatives, on an ongoing basis, covering a broad range of issues affecting the business. The legislation will only apply if a prescribed minimum number of employees request it.

The Protection of Employment Act 1977 (as amended) provides for consultation for a minimum of 30 days between employers and employees prior to the implementation of collective redundancies. Such consultations should consider the possibility of avoiding the redundancies or reducing their number, as well as the criteria to be applied in selection for redundancy.

The European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 require both parties to a transaction to inform and
consult with staff affected by the transfer in relation to certain aspects of it. In particular, both the transferor and the transferee are required to inform employee representatives of the reasons for the transfer, the legal, economic and social implications of the transfer for the employees, and of any measures envisaged in relation to them as a result of the transfer. If any such measures are envisaged, the employer is obliged to consult with employee representatives 30 days before the transfer, or otherwise in good time prior to it.

XI DATA PROTECTION

i Requirements for registration

Issues regarding the keeping and disclosing of personal data relating to employees are covered by the Data Protection Acts 1988 and 2003 (DPAs). Under the DPAs, an employer established in Ireland that gathers, stores and processes any data about employees on any computerised or in a structured manual filing system is deemed to be a ‘data controller’.

Data controllers must follow eight fundamental data protection rules:

1. obtain and process information fairly;
2. only keep the information for one or more specified and lawful purposes;
3. use and disclose the information only in ways compatible with these purposes;
4. keep the information safe and secure;
5. keep the information accurate, complete and up to date;
6. ensure that the information is adequate, relevant and not excessive;
7. retain the information for no longer than is necessary; and
8. provide a copy of the employee’s personal data if that employee requests a copy.

Employees have a right to obtain a copy of any personal data relating to them that are kept on the employer’s computer system or in a structured manual filing system by any person in the organisation. Employees are required to make a written request to their employer to obtain such data.

The default position in Ireland is that every data controller must register with the Data Protection Commissioner if not exempted from doing so. The DPAs require that certain types of data controllers must register even if the exemption applies. Registration is compulsory where a data controller holds or processes personal data by computer and falls within one of the following categories:

1. government bodies or public authorities;
2. banks and financial or credit institutions;
3. insurance undertakings (not including brokers);
4. persons whose business consists wholly or mainly of direct marketing;
5. persons whose business consists wholly or mainly of providing credit references;
6. persons whose business consists wholly or mainly of collecting debts;
7. internet access providers;
8. telecommunications network or service providers;
9. anyone processing genetic data;
10. certain health professionals processing personal data related to mental or physical health; or
anyone whose business consists of processing personal data for supply to others, other than for journalistic, literary or artistic purposes.

ii Cross-border data transfers
Ireland, like many other European states, restricts the transfer of personal data from Ireland to jurisdictions outside the EEA that do not ‘ensure an adequate level of protection’, unless the transfer meets one of a number of conditions, including but not limited to:

a the transfer is pursuant to the ‘standard contractual clauses’ that have been specifically adopted by the European Commission for international transfers of data;
b the transfer is to an entity that has registered under the US-EU Safe Harbor Program operated by the US Department of Commerce; or
c the transfer is necessary for the performance of a contract between the data controller and the data subject.

iii Sensitive data
The DPAs define sensitive personal data as including data concerning racial or ethnic origin, political opinion, religious belief, trade union membership, mental or physical health, sexual life or data concerning the committing of an offence or proceedings in relation to an offence. The DPAs provide for additional conditions, one of which must be satisfied prior to the processing of sensitive personal data. One of these conditions provides that explicit consent of the data subject be given before a data controller can process the data.

iv Background checks
Employers can carry out a number of background checks on applicants for employment. These can include reference checks, criminal-background checks (although only in limited circumstances), credit-history checks, education verification, verification of entitlement to work in Ireland and also pre-employment medical assessment. Prior to carrying out a credit-history check, an education verification or a pre-employment medical assessment, the explicit consent of the applicant is required. In respect of any method utilised by the employer to verify a prospective employee’s background, it should be ensured that such method is applied consistently to all applicants, and is not discriminating on any one of the nine grounds protected by the Irish equality legislation.

XII DISCONTINUING EMPLOYMENT

i Dismissal
An employer can, at common law, terminate the employment contract without cause, provided this is done in accordance with its terms. If a term of the contract is breached, however, this can give rise to a claim for damages at common law, or even to a claim for injunctive relief in certain circumstances. In addition, and notwithstanding any express contractual right to terminate that the employer has, employees are afforded statutory
protection against unfair or discriminatory dismissal. Pursuant to the Unfair Dismissals Acts 1977–2007, an employer cannot lawfully dismiss an employee unless substantial grounds exist to justify the termination of the employment contract. In addition to this, it is essential for an employer to be able to establish that fair procedures have been followed prior to the making of any decision to dismiss. Subject to certain exceptions, employees must have at least 12 months’ continuous service to qualify for protection under these Acts.

To justify a dismissal, an employer must generally be able to show that it resulted wholly or mainly from one or more of the following grounds:

a. the capability, competence or qualifications of the employee for the work concerned;
b. the conduct of the employee;
c. the redundancy of the employee; or
d. the employee being prohibited by law from working or continuing to work (for example, not holding a valid work permit where one is required).

If the dismissal is not due to any of the grounds listed above, there must be some other substantial grounds to justify it. If an employee believes he or she has been unfairly dismissed he or she may bring a claim to the Rights Commissioner or the EAT. The Rights Commissioner and the EAT can award redress in the form of compensation (subject to a maximum of two years’ remuneration), reinstatement or re-engagement.

Where an employee is alleging that he or she has been dismissed in a discriminatory manner (i.e., on one of the nine grounds upon which discrimination is prohibited by the Employment Equality Acts 1998–2011), he or she may bring a claim before the Equality Tribunal and subsequently before the Labour Court on appeal. Either of these bodies may award compensation (subject to a maximum of two years’ gross remuneration) or reinstatement. In gender discrimination cases, a claim may be made directly to the Circuit Court, which can, in theory, award unlimited compensation. There is no minimum service threshold for an employee to be covered by this legislation.

Minimum periods of statutory notice of termination must be given to an employee who has been in continuous service for at least 13 weeks. The minimum length of the notice period that must be given by an employer to terminate an employment contract will depend on the employee’s length of service as follows (although greater periods of notice can be provided for by contract):

a. service of less than two years: one week’s notice;
b. service of two years or more, but less than five years: two weeks’ notice;
c. service of five years or more, but less than 10 years: four weeks’ notice;
d. service of 10 years or more, but less than 15 years: six weeks’ notice; and
e. service of 15 years or more: eight weeks’ notice.

An employee may waive his or her right to notice and accept payment in lieu of notice. Alternatively, the contract can stipulate a right for the employer to pay the employee in lieu of his or her notice period. An employer may dismiss an employee without notice or payment in lieu of notice if the employee has fundamentally breached the employment contract amounting to a repudiation of the employment contract, or where he or she is guilty of gross misconduct.
To settle a dispute, compromise or claim, the parties can enter into a settlement agreement. As a matter of contract law, there are certain basic elements that must be provided for, the most important of which is good consideration, which requires that the employee must receive something over and above what he or she might be entitled to in any event, either as a matter of contract, or by virtue of some statutory provision. Similarly, the employee should generally be given the opportunity to obtain independent legal or other appropriate professional advice in relation to the terms and conditions of the severance and settlement.

ii Redundancies

The Protection of Employment Act 1977 must be complied with when an employer intends to implement collective redundancies. A collective redundancy means dismissals that are effected for reasons unconnected with the individual employee where, in any period of 30 days, the number of such dismissals is:

a at least five in an establishment normally employing more than 20 and fewer than 50 employees;

b at least 10 in an establishment normally employing at least 50, but fewer than 100 employees;

c at least 10 per cent of the number of employees at an establishment normally employing at least 100, but fewer than 300 employees; and

d at least 30 in an establishment normally employing 300 or more employees.

Where collective redundancies are proposed, the employer must first enter into consultation with employee representatives, with a view to reaching an agreement in relation to matters such as the possibility of avoiding or reducing the numbers to be made redundant and the criteria to be used in selecting employees for redundancy. Such consultation must commence at least 30 days before notice of the first redundancies is issued. The Minister for Jobs, Employment and Innovation must also be notified at least 30 days in advance of the first redundancy taking effect.

The Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 established a redundancy panel to which employees or employers may refer certain proposed collective redundancies for an opinion and possible Labour Court hearing in circumstances where it is alleged that the dismissed employees will be replaced by new employees on lesser terms and conditions of employment. Should such a finding be made and the employer proceed with the redundancies nonetheless, it will be exposed to significantly increased liabilities, *inter alia*, if claims are brought by the dismissed employees under the Unfair Dismissal Acts.

While there is no express statutory form of consultation required for individual redundancies, it is generally recommended that this take place as a matter of best practice. In this regard, it is also recommended that employers make at least some effort to locate an alternative position for the employee, if possible. As with any other form of dismissal (other than in cases of gross misconduct), notice of termination by reason of redundancy or payment in lieu thereof must be given. In all cases of redundancy, whether collective or individual, a statutory form (form RP50) should be served on both the employee and the Department of Jobs, Enterprise and Innovation.
XIII TRANSFER OF BUSINESS

The European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (the Regulations) apply in circumstances where there is any transfer of an undertaking, business or part of an undertaking or business from one employer to another employer as a result of a legal transfer or merger. It is important to note that the Regulations include an assignment or forfeiture of a lease. Outsourcing of a service has also constituted a transfer within the meaning of the Regulations. The Regulations apply to any transfer within the EU, although a recent UK case suggests that they might also apply to transfers outside the EU or EEA, in respect at least of the obligations of the party to the transfer located within the EU. It should be noted that there is no Irish decision yet on this point. This extraterritorial aspect of the Regulations is particularly relevant in the context of outsourcing. The importance of the Regulations and the need to assess carefully whether they apply in any given scenario cannot be underestimated.

Transfer is defined as ‘the transfer of an economic entity which retains its identity’. Where a transfer within the meaning of the Regulations occurs, the acquiring party will be obliged to employ the employees of the disposing party on terms and conditions no less favourable than those previously enjoyed by them, and with their prior service intact. It is important to note that a lapse in time between the transferor ceasing business and the transferee resuming the business does not necessarily prevent there being a transfer of the business for the purposes of the Regulations. In assessing whether or not the Regulations apply at all, consideration must be given to the type of business concerned, whether there has been a transfer of assets, whether any employees have been transferred, whether customers have transferred and to what extent the activity carried on pre- and post-transfer is similar.

Where a transfer is taking place, it is important that the transferor and transferee take steps to ensure that the employees are informed in advance of the transfer. In practice, employee representatives must be informed of the reasons for the transfer and the legal, economic and social implications of the transfer for the employees, and also of any measures that are envisaged in relation to the employees. This information must be communicated at least 30 days in advance of the transfer, where possible, in order to enable the representatives to be consulted with in relation to any measures concerning the employees.

The Regulations do make provisions for transfer-related dismissals where the dismissals are due to economic, technical or organisational reasons that result in changes in the workforce. However, this defence is generally only available to the transferee. This makes it difficult for employers to implement changes prior to a sale of their business in order to make the business more attractive to prospective purchasers.

With regard to breaches of the Regulations, employees may bring complaints to the Rights Commissioners, with a right of appeal to the EAT. There is also a right of appeal to the High Court, from the EAT, on a point of law only. Unlike other employment provisions, such as the law on unfair dismissals, employees must first take their claim to the Rights Commissioner. There is no option to elect to take a complaint directly to the EAT.
In December 2013, Ireland left the EU/IMF Programme without further supports. It is anticipated that the Irish economy will continue to make a slow recovery once expenditure is not stifled by further tax increases. It is anticipated that job creation will continue at the current levels and that the number of redundancies in the private sector in 2014 will remain static or potentially decrease.

In 2011 the Minister for Jobs, Enterprise and Innovation launched the consultation phase of a reform process to consolidate the five existing employment rights institutions into two simplified and streamlined bodies. Employment lawyers welcomed the planned introduction of a simpler structure and streamlined processes, which would build on the recognised strengths of the functions already carried out by the five employment bodies. The new Workplace Relations Bill was expected to be published by the end of 2013. However, this much anticipated piece of legislation which has been subject to considerable delays in drafting and publication, will not be published until 2014. It is difficult to say with any precision whether the reformed structures will be in place by the end of 2014. However, the recent practical changes such as amalgamation of the workplace bodies websites into one, and the creation of the Single Complaint Form which amalgamates all first instance complaints to the Rights Commissioner Service, the Employment Appeals Tribunal, the Equality Tribunal and the Labour Court, suggest that the reformed structures may well be established in 2014.

The Protected Disclosures Bill 2013 is currently passing through various stages in the Irish parliament. It is anticipated that the Bill will be enacted at some point in 2014. However, there are a number of issues for employers including the lack of a public interest requirement in protected disclosures, and limits on the standards of good faith required for employees to make a disclosure, depending on who it is made to, that may warrant amendments in advance of enactment. Ireland has learned from the UK where its whistle-blower’s legislation, the Public Interest Disclosure Act 1998, had to be amended in 2013 to clarify that relevant disclosures would have to be limited to those made in the public interest. As such, Irish employers can take some comfort that the proposed legislation, when enacted, will not open the floodgates for individual complaints about terms and conditions of their own employment.

The government has announced its plans for a Family Leave Bill which will consolidate all family leave legislation (parental leave, maternity leave, adoptive leave and carer’s leave) into one Act. The Bill has not yet been published. However, it is listed in the current government legislation for publication and we anticipate that the bill will be published and potentially enacted during 2014.

We await the outcome of the CJEU rulings on the surrogacy cases, Z v. A Government Department and the Board of Management of a Community School10 and CD v. ST11 (see Section III.iii, supra). The opinions by the advocate generals are not binding on the court but in 80 per cent of cases the Court follows their advice in its final rulings. With this marked divergence of legal opinion, it will be interesting to see what transpires.

10 (C-363/12).
11 (C-167/12).
in those final CJEU rulings. In the Irish case, Advocate General Wahl has left an opening for the national court to assess whether differing rules constitute discrimination where adoptive leave is paid. In Ireland an adopting mother or sole adopting father is currently entitled to 24 weeks’ paid adoptive leave. This means that it is likely that the Irish courts will be required to reassess this case in light of this point. This may result in women having children through surrogacy arrangements being entitled to paid adoptive leave.

Since the enactment of the Protection of Employees (Temporary Agency Work) Act 2012, there have been just four Labour Court decisions under the legislation. The most recent case, in late 2013 had the highest award to date amounting to around €20,000. There are similar cases to be considered in the area and with further high pay-outs being potentially awarded, there may well be a steady stream of future claims.

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12 Team Obair Ltd v. Costello Determination No. AWD 134 (AWC/13/17).
Appendix 1

ABOUT THE AUTHORS

BRYAN DUNNE
Matheson

Bryan is a partner and head of the employment practice at Matheson. He advises on a variety of aspects of employment law, both contentious and non-contentious. This work includes advising on senior executive service agreements and termination strategies for international employers, defence work in contentious employment litigation matters and all employment aspects of commercial transactions. He also regularly advises employers on internal grievance and disciplinary processes, with particular focus on senior executive level employees.

Bryan’s clients include a broad base of leading international companies and financial institutions, requiring diverse advice on compliance, operational and management issues in running their Irish business. Due to his involvement in some of the largest Irish and cross border corporate transactions in recent years, Bryan has also built up considerable experience in the employment aspects of commercial projects and reorganisations when acting for foreign purchasers, including TUPE, employee relocation and post-acquisition restructuring. He has also led the employment due diligence on a number of high value private equity investments and acquisitions, covering numerous industry and regulated sectors in both the public and private sector.

As a fluent Spanish speaker, Bryan also advises many leading Spanish companies on employment law issues in their Irish operations.

GEORGINA KABEMBA
Matheson

Georgina is an associate in the employment pensions and benefits group. Georgina previously trained with the Irish Business Employers Confederation and has also practised as a senior HR consultant in the financial services sector.

Georgina advises on all aspects of employment and equality law, both in contentious and in non-contentious employment matters. She specialises in corporate immigration
law, advising international clients doing business in and through Ireland. Georgina is also responsible for maintaining the group’s extensive employment precedents, training, and monitoring legal developments and changes in employment law.

MATHESON
70 Sir John Rogerson’s Quay
Dublin 2
Ireland
Tel: +353 1 232 2000
Fax: +353 1 232 3333
bryan.dunne@matheson.com
georgina.kabemba@matheson.com
www.matheson.com