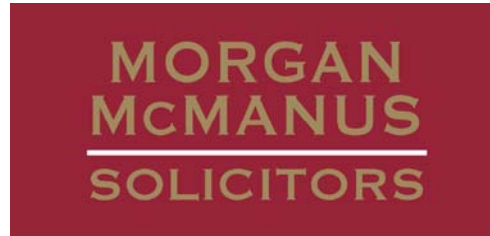


**MORGAN MCMANUS
EMPLOYMENT LAW**



**COMPARATIVE ANALYSIS
OF
EMPLOYMENT LAW IN NORTHERN
IRELAND AND THE REPUBLIC OF
IRELAND**

(Revised 28th November 2011)

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REPUBLIC OF IRELAND

NORTHERN IRELAND

EMPLOYMENT LAW

COMPARATIVE ANALYSIS OF EMPLOYMENT LAW

IN

NORTHERN IRELAND AND THE REPUBLIC OF IRELAND

This is a general summary of the Law which applies as of this date in Northern Ireland and the Republic of Ireland. It does not take account of anticipated changes in the Law; nor does it take into account exceptions which apply in certain circumstances. Furthermore, while certain regulations are quoted, other regulations which apply less often are not quoted.

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<p><u>JURISDICTIONAL ISSUES STATUTES</u></p>	<p><u>Contractual Obligations (Applicable Law) Act, 1991</u> <u>Contracts (Applicable Law), 1990</u></p> <p><u>Common Issues</u> The Acts, in implementing the Rome Convention of 1980 on the Law Applicable to Contractual Obligations, provide that the governing law clause in a contract of employment may not deprive an employee of the protections afforded to him by the mandatory rules of law which would have been applicable had he not chosen otherwise. Where the contract does not contain a governing law clause the contract will be governed by:</p> <p>A) The country in which the employee habitually carries out his work in the performance of the contract even if temporarily employed in another country; or</p> <p>B) If the employee does not habitually carry out his work in any one country, by the law of the country in which the place of business in which he was engaged in is situated;</p> <p>unless it appears from the circumstances as a whole that the contract is more closely connected with the law of another country in which case the contract shall be governed by the law of that country.</p> <p>Where an employee works both inside and outside the Jurisdiction, in determining where the employee ordinarily works, one should look at the terms of the Contract, express or implied in order to ascertain where, looking at the whole period contemplated by the Contract, the employee's base is to be. The Contract to be considered is that subsisting at the time of dismissal, and not any previous contract between the parties. In Addison .v. Denholm Ship Management (UK) Ltd. [1997] IRLR 389 it was held that the relevant location is the employer's operational base, not the actual base of work.</p>
<p><u>POSTED WORKERS DIRECTIVE 96/71/EC</u></p>	<p><u>Common Issues</u> This EC Directive applies to both Jurisdictions and applies</p>

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	to businesses which “post” workers to the territory of another Member State. The Directive ensures that the Laws in the Member States guarantee posted workers certain minimum terms and conditions of employment. The Definition of a “posted worker” means a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works.
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<u>EMPLOYMENT OF YOUNG PERSONS</u>	Republic of Ireland	Northern Ireland
a) Statutes	<u>Children and Young Persons(Protection of Young Persons Employment) Act, 1996</u>	<u>Northern Ireland Employment of Children’s Regulations 1996</u>
b) Codes of Practice	<u>Code of Practice concerning the Employment of Young Persons in Licensed Premises issued 24th June, 2001.</u>	

<u>MINIMUM WAGE</u>		
a) Statutes	<u>National Minimum Wage Act, 2000</u> Normal minimum hourly rate is €8.65	<u>The Minimum Wage Regulations 1998</u> Normal hourly rate is £6.18 from 01.10.2011

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<p><u>TERMS OF EMPLOYMENT</u></p> <p>Statutes</p>	<p><i><u>Terms of Employment (Information) Act, 1994 - 2001</u></i></p>	<p><i><u>Employment Rights (Northern Ireland) Order 1996</u></i></p>
	<p><u>Common issues</u></p> <p>Both sets of legislation set out minimum information requirements which an employer must give to an employee in a written Statement to be provided not later than two months from commencement of employment in relation to the following:</p> <ol style="list-style-type: none"> 1. Name and address of employer. 2. Place of work. 3. Job title/nature of work. 4. Date of commencement of employment. 5. Nature of the contract (temporary or fixed term). 6. Pay and pay intervals. 7. Hours of work. 8. Paid leave. 9. Pensions. 10. Notice entitlement. 11. Collective agreements. 	
<p>In the Republic of Ireland the following information must also be given to employees:</p>	<ol style="list-style-type: none"> 12. The pay reference period for the purposes of the National Minimum Wage Act, 2000. 13. The rest breaks to which the employee will be entitled. <p>Employee may request a written Statement of the average hourly rate of pay for a pay reference period.</p>	<p>An employer is required to produce evidence that he has paid the minimum wage on receipt of a written request from an employee.</p>
	<p><u>Common issues</u></p> <p>Where an employee is required to work outside the</p>	

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	<p>jurisdiction, either in the Republic of Ireland or in Northern Ireland, for a period of not less than one month the employer shall give to the employee prior to his departure from the relevant jurisdiction a Statement including the following information:</p> <ol style="list-style-type: none"> a. the period of employment outside that jurisdiction. b. the currency in which he shall be paid. c. Any benefits provided in respect of employment outside that jurisdiction. d. The terms and conditions governing the employees return to that jurisdiction. <p>Where there is any amendment to the written Statement such amendment must be notified to the employee in writing not later than one month.</p>	
<p>b) Codes of Practice</p>		<p><u>Labour Relations Agency – “Advice on Agreeing and Changing Contracts of Employment”</u> September 2008</p>

<p><u>THE ORGANIZATION OF WORKING TIME</u></p> <p>a) Statutes</p>	<p><u>The Organisation of Working Time Act 1997</u></p> <p>Workers shall not be required to work in excess of 48 hours per</p>	<p><u>Working Time Regulations (NI) 1998 (As amended)</u></p> <p>Workers cannot be forced to work more</p>
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	week.	than 48 hours a week on average. Workers can agree to work beyond the 48- hour limit. The Agreement must be in writing and signed by the workers. This is generally referred to an “op-out”
b) Codes of Practice	Labour Relations Commission Code on “ <i>Compensatory Rest Periods</i> ”	

<u>FIXED – TERM WORKERS</u>		
Statutes	<p><u><i>Protection of Employees (Fixed Term Work) Act, 2003</i></u></p> <p>Such employees not to be treated less favourably than a “comparable permanent employee”.</p> <p>Does not apply to agency workers placed by a temporary employment agency but does apply to persons employed directly by the agency.</p> <p><u><i>The EU Directive on Temporary Agents Work (Directive 2008/104/EC)</i></u></p>	<p><u><i>Fixed Term Employees (Prevention of less Favourable Treatment) Regulations (Northern Ireland) 2002</i></u></p> <p>Such Employees not to be treated less favourably than a “comparable permanent employee”.</p> <p>Pay and Pensions discrimination against fixed-term employees now illegal.</p> <p>This will be affected by <u><i>The Agency Workers Regulations (NI) 2010</i></u>, implemented</p>

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	<p>has not yet been implemented in ROI</p> <p>Where a fixed - term employee has completed three years continuous service, the employer may only renew the contract on one further occasion for one year.</p>	<p>under <i>EU Directive on Temporary Agency Work</i>, which will take effect from the 5th December 2011. Where agency workers are employed for a qualifying period of 12 weeks they will be entitled to the same basic employment and working conditions as if they had been recruited directly.</p> <p>Where a fixed - term employee has completed three years continuous service, the employer may only renew the contract on one further occasion for one year.</p>
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<p><u>PENSIONS</u></p> <p>Statutes</p>	<p><u><i>Pensions Acts 1990 to 2009</i></u></p> <p>Requirement on all employers to provide access to a standard Personal Retirement Savings Account (PRSA) to employees who are in that employment for in</p>	<p><u><i>Welfare Reform and Pensions Act (1999) and The Welfare Reform and Pensions (Northern Ireland) Order 1999</i></u></p> <p><u><i>The Pensions (NI) Order 2005</i></u></p> <p>Employers with five or more employees must provide access to stakeholders pensions for all relevant employees; this excludes those with less than three months' service,</p>
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	<p>excess of 6 months. Obligation to allow employees access to at least one PRSA provider and allow employees reasonable time off to consult with the provider. Obligation to make requested deductions from employees salary and to submit the contributions to the PRSA provider within 21 days.</p>	<p>non UK residents and those with earnings below the lower earnings limit. Employers are not obliged contribute to stakeholder pensions. Further changes are proposed under the <i>Pension Act 2008</i> (supplemented by the <i>Pensions Act 2011</i> effective from 1/10/2012 whereby employers will be required to enroll automatically employees (subject to a minimum earning threshold of approx £7,500.00) into a “Qualifying Workplace Pensions Scheme”.</p>
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<u>DATA PROTECTION</u>	<u><i>Data Protection Acts, 1988 -2003</i></u>	<u><i>The Data Protection Act, 1998</i></u>
	<p><u>Common Issues</u></p> <ul style="list-style-type: none"> • Apply to automated and manual data. • Because both Acts give effect to the EU Directive, 95/46/EC on the Protection of Individuals with regard to the Processing of Personal Data the same 8 principles, which must be adhered to by Data Controllers apply, namely • Data, or information constituting the Data, must be obtained and processed fairly. • Data must be accurate, complete and, where necessary, kept up to date. 	

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	<ul style="list-style-type: none"> • Data may only be obtained for one or more specified, explicit and legitimate purpose. • Data must not be further processed in any manner incompatible with the expressed purpose. • The Data must be adequate, relevant and not excessive regarding the purposes/s for which it is collected or further processed. • The Data must not be held for longer than is necessary for the purpose/s. • High security standards must be implemented and maintained in order to guard against unauthorised access to Personal Data, or unauthorised alteration, disclosure or destruction of the Data and to any other unlawful forms of Processing. These required safeguards apply, in particular, where the processing involves the transmission of Data over a network. • Data Controllers are also subject to additional obligations to ensure that the Processing of Personal Data is legitimate and must provide specified information to Data Subjects. Additionally, where an individual requests access to his/her personal information the individual must be supplied with a copy of the Personal Data held by the Data Controller. Data Controllers must also comply with requests for rectification, erasure or blocking.
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<p><u>FREEDOM OF INFORMATION</u></p>	<p><u><i>Freedom of Information Act, 1997</i></u></p> <p>From the 21st April, 1998 every person has a right to :</p> <ul style="list-style-type: none"> • Access official records held by Government Departments or certain public 	<p><u><i>Freedom of Information Act, 2000</i></u></p> <p>From January, 2005 every person has the right to:</p> <ul style="list-style-type: none"> • Access official records held by Public Authorities. This information will be retrospective. • Have personal
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	<p>bodies (not retrospective)</p> <ul style="list-style-type: none"> • Have personal information held relating to him/her corrected or updated where such information is incomplete, incorrect or misleading and, • Be given reasons for decisions taken by public bodies that affect him/her. <p>The right to “non-personal” information has been restricted by the Freedom of Information (Amendment) Act 2003.</p>	<p>information held relating to him/her corrected or updated where such information is incomplete, incorrect or misleading and, be given reasons for decisions taken by public authorities that affect him/her.</p>
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<p><u>DISCIPLINE/</u> <u>DISMISSAL</u></p> <p>a) Statutes</p>	<p><u>Unfair Dismissals Act, 1977-2001</u></p> <p>Time Limit - 6 months from the date of dismissal (may be extended to 12 months in exceptional circumstances).</p>	<p><u>Employment Rights (NI) Order 1996 and The Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations</u> as amended by <u>The Employment Act (Northern Ireland) 2011</u></p> <p>Time Limit - 3 months from the date of the dismissal or within such further period as the Tribunal considers reasonable where satisfied that it was not reasonably practicable for the</p>
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	<p>Compensation - up to a maximum of two years gross remuneration.</p>	<p>Complaint to be presented within 3 months.</p> <p><i>Under <u>The 2003 Dispute Resolution Regulations, as amended by the Employment Act (Northern Ireland) 2011</u>, where an employment dispute occurs, employers and employees are required to follow minimum procedures to attempt to resolve the dispute in the workplace. If they don't, a Tribunal may reject an Application or alter an award of compensation.</i></p> <p>Compensation - is calculated as follows: (i) a basic award which would usually equate to the amount an employee would have received had they been made redundant - £12,000 as from 01/02/2011. (ii) a compensatory award of an amount that is just and equitable and compensates the employee for loss suffered up to a maximum of £68,400(from 11/02/11)</p>
	<p><u>Common Issues</u> Qualifying service period is one year</p>	
		<p>The one year qualifying period in NI is subject to the rule that the dismissal should not be deemed to be “automatically unfair”. In such cases there is no qualifying period. Examples are : assertion of a Statutory Right (Art. 135) of Employment Rights (NI) Order, 1996, Public Interest Disclosure, Right to be</p>

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		accompanied at Disciplinary and Grievance Hearings, Trade Union Membership or activities.
	<p><u>Common Issues</u></p> <p>Dismissal will only be fair if the employer can show that it was for one of the following:</p> <ul style="list-style-type: none"> (a) An employee’s capability or qualifications (b) An employee’s conduct (c) Redundancy (d) A statutory duty or restriction which prevents the employment being continued; or (e) Some other substantial reason. 	
	<p>Employees entitled to written reasons for dismissal within 14 days of request.</p> <p>Remedies available are:</p> <ul style="list-style-type: none"> a) Re-engagement; b) Re-instatement; or c) Compensation. 	
(b)Codes of Practice	<p><u>Labour Relations Commission Code of Practice on Grievance and Disciplinary Procedures, 2000</u></p> <p>Provides guidelines on general principals which apply in the operation of grievance and disciplinary procedures.</p>	<p><u>Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures, 2011</u></p> <p>Provides guidelines on general principals which apply in the operation of the statutory grievance and disciplinary procedures.</p> <p><u>Labour Relations Agency – “Advice on Managing Poor Performance” August 2008</u></p>

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<u>HEALTH & SAFETY</u>		
b) Codes of Practice	<p><u>Safety Health & Welfare at Work Act 2005</u></p> <p><u>General Application Regulations 2007</u></p> <p><u>Labour Relations Commission Code on “Procedures for addressing Bullying in the Work Place” 2006</u></p> <p><u>Health and Safety Authority “Code of Practice” for Employers and Employees on the Prevent and Resolution of Bullying at Work” March 2007</u></p> <p><u>Labour Relations Commission Code of Practice on Victimisation August 2006</u></p> <p><u>Labour Relations Commission Guide to Work – Related Stress, October 2007</u></p>	<p><u>Health & Safety at Work (NI) Order 1978</u></p> <p><u>Management of Health and Safety at Work Regulations (NI) 2006</u></p> <p><u>Health & Safety (Consultation with Employees) Regulations (NI) 1996</u></p> <p><u>Health and Safety Offences Act 2008</u></p> <p><u>Harassment and Bullying in the Workplace 2006 (Joint Publication of NI Equality Commission and LRA)</u></p> <p><u>HSE Code of Practice on Management of Health and Safety at Work</u> (while this is an English publication it is approved for use in Northern Ireland)</p>

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<u>EQUALITY</u>		
<p>Statutes</p> <p>These Statutes outlaw discrimination in the workplace</p>	<p><i><u>The Employment Equality Act, 1998 and The Equality Act, 2004</u></i></p>	<p><i><u>The Sex Discrimination (NI) Order 1976, The Equal Pay Act (NI) 1970, The Race Relations (NI) Order, 1997, The Disability Discrimination Act, 1995, The Fair Employment and Treatment (NI) Order 1998, The Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003. The Equal Pay (Amendment) Regulations (NI) 2004 The Disability Discrimination (NI) Order 2006 The Employment Equality (Sex Discrimination) Regulations (NI) 2005 The Civil Partnership Act 2004 The Employment Equality (Age) Regs (NI) 2006 The Sex Discrimination Order 1976 (Amendment) Regulations (NI) 2008</u></i></p> <p><i><u>The Sex Discrimination Order (Amendment) Regulations (NI) 2011</u></i></p>
	<p>All discrimination issues are covered under these two Statutes.</p> <p>The 2004 Act extends protection afforded to certain categories of employees not covered by the 1998 Act, including self-employed persons and partners in partnerships.</p>	<p>Discrimination issues covered under various sections of the above Orders/Acts</p> <p>Time Limit - 3 months to issue Claim from date of Discrimination (with the exception of an equal pay claim which can be lodged at any time while the person is in the job or within 6 months of leaving it.</p>

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	<p>Time Limit - 6 months to issue Claim from date of Discrimination, but in exceptional circumstances can be extended to 12 months under the 2004 Act.</p> <p>The nine discriminatory grounds are - sex, race, religion, disability, age, marital status, family status, membership of the travelling community and sexual orientation. Political opinion is not a discriminatory ground.</p>	<p>There are six discriminatory grounds - sex, race (including membership of the travelling community) religious belief, political opinion and disability. The sixth ground of Age was enacted in 2007</p> <p>Discriminatory grounds of family status, marital status, and sexual orientation are not included.</p>
b) Codes of Practice	<p><u>Equality Authority Code of Practice on Sexual Harassment and Harassment at Work Code, 2002</u></p> <p>There are many more Publications on the Equality Authority website at www.equality.ie</p>	<p><u>Equality Commission "Model Harassment Policy and Procedure" issued April, 2003.</u></p> <p><u>Revised Code of Practice on Meaning of Disability 2006</u></p> <p>There are many more Publications on the Northern Equality Commission website at www.equalityni.org</p>

<p><u>GRIEVANCE PROCEDURES</u></p> <p>a) Statutes</p>	<p><u>Unfair Dismissals Acts, 1977 - 1993</u></p> <p><u>Industrial Relations (Amendment) Act, 2001</u></p>	<p><u>Employment Rights (NI) Order, 1996</u></p> <p><u>Industrial Relations (NI) Order, 1992 and The Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations</u></p>
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		<p>Under the 2003 Dispute Resolution Regulations, as amended by the <i>Employment Act (NI) 2011</i>, where an employment dispute occurs, employers and employees are required to follow minimum procedures to attempt to resolve the dispute in the workplace. If they don't, a Tribunal may reject an Application or alter an award of compensation.</p>
	<p><u>Common Issues</u> Legislation and Codes place great emphasis on procedural fairness when dealing with grievances. In some instances, a grievance may lead to a Constructive Dismissal if it is not handled correctly. A Constructive Dismissal occurs where, because of the conduct or actions of an employer, it is reasonable for the employee to terminate the employment contract and treat the termination as a Constructive Dismissal by the employer.</p>	
<p>b) Codes of Practice</p>	<p><u>Labour Relations Commission Code of Practice on Grievance and Disciplinary Procedures, 2000</u></p> <p><u>Labour Relations Commission Enhanced Code of Practice on Voluntary Dispute Resolution, 2004</u></p> <p><u>Labour Relations Commission Code of Practice on Victimization 2004</u></p>	<p><u>Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures, 2011</u></p>

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<u>LEAVE OF ABSENCE</u>		
<u>ANNUAL LEAVE</u>		
Statutes	<u>Organisation of Working Time Act 1997</u>	<u>The Working Time Regulations (NI) 1998, as amended by the Working Time (Amendment Regulations) NI 2007</u>
	4 weeks if working 1365 hours per year or 1.66 days per month if working 117 hours per month.	Employees are entitled to a minimum 28 days per year from 01/04/09
	9 public holidays	
<u>MATERNITY LEAVE</u>		
Statutes	<u>Maternity Protection Act, 1994 and 2004</u>	<u>Work and Families Order (NI) 2006</u>
	26 consecutive paid Weeks (Statutory Maternity Leave) with optional additional maximum of 16 weeks (Additional Maternity Leave) unpaid leave. (from 1 st March 2007)	All pregnant employees are entitled to 26 (Ordinary Maternity Leave) OML and 26 weeks (Additional Maternity Leave) ALM regardless as to length of service

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	<p><u>Statutory Instrument 94/446, Safety Health and Welfare at work (pregnant regulations employees etc.), 1994.</u></p> <p>If Health and Safety risks to pregnant employee cannot be avoided at work the employee must be given Health and Safety Leave.</p>	<p><u>The Management of Health and Safety at Work (Amendment) Regulations 1994.</u></p>
<p><u>ADOPTIVE LEAVE</u></p> <p>Statutes</p>	<p><u>Adoptive Leave Act, 2005</u></p> <p>24 consecutive paid weeks from date of placement with optional additional 16 weeks unpaid leave. (from 1st March 2007)</p>	<p><u>Work and Families Order (NI) 2006</u></p> <p>If they meet certain qualifying criteria an employee is entitled to take 52 weeks Statutory Adoption Leave and receive Statutory Adoption Pay (SAP) for 39 weeks when they adopt a child</p>
<p><u>PARENTAL LEAVE</u></p> <p>Statutes</p>	<p><u>Parental Leave Act, 1998 and Parental Leave (Amendment) Act 2006</u></p> <p>Entitles an employee, with one years continuous service, who is a natural or adoptive parent of a child to leave his/her employment for a period of 14 weeks unpaid leave to take care of child. Applies to</p>	<p><u>Work and Families Order (NI) 2006</u></p> <p>Parents are entitled to take 13 weeks unpaid parental leave up to a child's 5th birthday. Parents of disabled children or parents of a child who has been adopted within the past 5 years are entitled to take 18 weeks unpaid parental leave up to the child's 18th birthday.</p>

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	<p>children born on or after 3rd June, 1996. Amendment Act extends leave entitlements to persons acting in loco parentis & extends force majeure provisions to include same-sex partners</p>	
<p><u>FLEXIBLE WORKING ARRANGMENTS</u></p>	<p>No formal entitlements</p> <p><u>Carer's Leave Act, 2001</u></p> <p>- Provides for temporary absences from employment of employees for the purpose of the provision of full-time care and attention to a "relevant person", i.e. person with Disability requiring full-time care/continual supervision. Absence from work not to exceed 65 weeks. Unpaid leave.</p>	<p><u>Work and Families Order (NI) 2006</u></p> <p>Right to request flexible working – qualifying employees who have caring responsibilities for an adult, spouse, partner, civil partner, near relative or an adult living at the same address.</p> <p><u>The Flexible Working (Eligibility, Complaints and Remedies) (Amendments) Regulations (NI) 2007</u></p>

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<u>TERMINATION OF EMPLOYMENT (REDUNDANCY)</u>		
Statutes	<u>Unfair Dismissal Act, 1977 - 2001</u>	<u>Employment Rights (NI) Order, 1996</u>
	<u>Minimum Notice and Terms of Employment Acts, 1973 – 2001</u>	<u>Employment Rights (NI) Order, 1996</u>
	<u>Redundancy Payments Acts, 1967 - 2007</u>	<u>Employment Rights (NI) Order, 1996</u>
	Service from age 16 is counted in calculating statutory redundancy payments	Service below the age of 18 may not be included in calculating statutory redundancy payments.
	Statutory redundancy pay is subject to a ceiling in weekly pay of €600.00 per week.	Statutory redundancy pay is subject to a ceiling in weekly pay of £400.00 (from 01/02/11)
	Qualifying period - minimum of 104 weeks continuous employment.	Qualifying period - minimum of 104 weeks continuous employment.
	<u>Protection of Employment Act, 1977 (including European Communities Regulations S.I. No. 488 of 2000)</u>	<u>Trade Union and Labour Relations (Consolidation) Act 1995.</u>
	The Act applies to all persons in employment in a workplace normally employing more than 20 employees. It relates to collective redundancies.	The duty of an employer to consult in relation to Redundancies is set out in Section 118(1) of the Act.

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	<p><u><i>Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007</i></u> – Brought into effect to cover the “Irish Ferries” situation where a large number of employees are being made redundant and, for instance, replaced by cheaper migrant workers.</p>	<p>Employers should note that once the duty to consult is triggered, they must consult with the representatives of the affected employees.</p> <p><u><i>The Collective Redundancies (Amendment) Regs (NI) 2006</i></u></p> <p>Employer must notify the Department of Enterprise Trade and Investment <u>before</u> Notices are issued to staff.</p>
b) Codes of Practice	<p>See Employment Rights Authority <u><i>Guide to the Redundancy Payments Scheme</i></u> issued July 2007</p>	<p><u><i>LRA Code of Practice on Redundancy Consultation and Procedures 2002</i></u></p> <p><u><i>LRA Advice on Handling Redundancy October 2007</i></u></p>

<p><u>TRANSFER OF UNDERTAKINGS</u></p> <p>Statutes</p>	<p><u><i>European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003 [SI 131 of 2003]</i></u></p>	<p><u><i>The Transfer of Undertakings (Protection of Employment) Regulations 2006.</i></u></p> <p><u><i>The Service Provision Change (Protection of Employment) Regulations (NI) 2006</i></u></p> <p>And</p> <p><u><i>The Transfer of Undertakings and Service Provision Change (Protection of Employment)</i></u></p>
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	<p><i>(Consequential Amendments etc.) Regulations (NI) 2007</i></p>
	<p><u>Common Issues</u></p> <p>Apply to any transfer of an undertaking, business or part of a business from one employer to another employer as a result of a legal transfer or merger. The original employer and the new employer must inform the representatives of their employees affected by the transfer of :</p> <ul style="list-style-type: none"> The date or proposed date of transfer. The reasons for the transfer. <p>The legal implications of the transfer for the employees and a summary of any relevant economic and social implications of the transfer for them, and</p> <p>Any measures envisaged in relation to the employees.</p> <p>Information must be given not later than 30 days before transfer, where reasonably practicable. Enforcement Procedures available to employees requiring compliance/compensation payable to employee.</p>

<p><u>PUBLIC DISCLOSURE</u></p> <p>Statute</p>	<p><u>Prevention of Corruption (Amendment) Act 2010</u></p> <p>Provides specific protection for employees who disclose suspected corruption offences. The 2010 Act provides that employees who make disclosures in good faith will be</p>	<p><i><u>The Public Interest Disclosure (NI) Order, 1998.</u></i></p> <p>Provides protection for workers who are dismissed or victimised as a result of making certain disclosures.</p>
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	<p>protected from civil liability and also from penalisation by their employer.</p> <p>The Act however only provides protection for employees who disclose information in relation to corruption, as defined by the Prevention of Corruption Acts 1889-2010.</p>	
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<u>HUMAN RIGHTS</u>	<p><i><u>The European Convention and Human Rights Act 2003.</u></i> Enacted in June 2003 with a deferral to 30th December 2003 but provision for retrospective effect. Also confers right to fair trial and right to private and family life.</p>	<p><i><u>The Human Rights Act, 1998</u></i> Article 6 gives the Right to a fair trial. Article 8 confers the right to respect for private and family life - may impact on workforce monitoring.</p>
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<u>INDUSTRIAL RELATIONS</u>	<p>Statutes</p> <p><i><u>Industrial Relations Acts 1946 – 1990, The Industrial Relations (Amendment) Act 2001 and The Industrial Relations (Miscellaneous Provisions) Act, 2004</u></i></p>	<p><i><u>The Employment Relations Order (Northern Ireland) 2004</u></i></p>
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<u>INFORMATION AND CONSULTATION</u>		
Statutes	<p><u><i>EU Directive 2002/14/EC</i></u></p> <p><u><i>Employees (Provision of Information and Consultation) Act 2006</i></u></p> <p>This Act implemented the terms of EU Directive 2002/14/EC in the Republic of Ireland as and from the 24th July 2006</p> <p>Obligation to inform and/or consult with Employee Representatives in certain circumstances.</p> <p>From September 2006 applied to undertakings with in excess of 150 employees.</p> <p>From March 2007 applied to undertakings with in excess of 100 employees.</p> <p>From 23rd March 2008 applies to undertakings with in excess of 50 employees.</p>	<p><u><i>Information and Consultation of Employees Regulations (NI) 2005</i></u> (effective from 6/04/05)</p> <p>These Regulations implemented the terms of EU Directive 2002/14/EC in Northern Ireland as and from the 6th April, 2005</p> <p>Obligation to inform and/or consult with Employee Representatives in certain circumstances.</p> <p>From April, 2005 applied to undertakings with in excess of 150 employees.</p> <p>From April, 2007 applied to undertakings with in excess of 100 employees.</p> <p>From April, 2008 applies to undertakings with in excess of 50 employees.</p>
b) Codes of Practice		<p><i>LRA Disclosure of Information to Trade Unions for Collective Bargaining Purposes 2007</i></p>

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<u>MIGRATION AND EMPLOYMENT PERMIT ARRANGEMENTS – WORKERS FROM OUTSIDE EU</u>		
Statutes	<p><i><u>Employment Permits Acts 2003/2006</u></i></p> <p>5 alternative Permits</p> <ul style="list-style-type: none">• The Green Card Scheme• The Work Permit• Intra-Community Transfer Permit• Spouses and Dependent Permits• Medical <p>Further information on website of Dept of Jobs, Enterprise & Innovation at www.djei.ie</p> <p>Obligations</p> <p>Seek original Passport and Birth Certificate of Migrant Worker</p>	<p><i><u>Immigration, Asylum and Nationality Act 2006</u></i></p> <p>Came into force on 29th February 2008</p> <p>For further information see Guidance and Codes of Practice contained on Border and Immigration Agency's website www.bia.homeoffice.gov.uk</p>