

## European (& the GCC) Employment Law Update

Jurisdiction: Republic of Ireland  
Date: November 2017

Impact date	Development	Impact
2 October 2017	<i>Mediation Act 2017 (commencement date expected shortly)</i>	<ul style="list-style-type: none"> <li>• The Act reinforces existing provisions recognising mediation in the Irish High and Commercial Courts and in the Rules of the Superior Courts.</li> <li>• It places on a statutory footing the obligation to consider mediation and requires litigants to confirm to the Courts that they have considered mediation.</li> <li>• The provision authorising the imposition of costs sanctions (for unreasonably failing to engage in mediation) is intended to ensure that there is greater recourse to mediation as a method of dispute resolution.</li> <li>• This reform recognises that the mediation process has the potential to achieve better outcomes for the parties in many cases and can assist in alleviating the strain on the Courts system.</li> <li>• Disputes before the Workplace Relations Commission (WRC) are expressly excluded from the ambit of the Act. The WRC already provides a separate mediation service for disputes between employees and employers which, in keeping with the overall spirit of mediation, is voluntary. However the Act will apply to other employment related claims such as bullying and stress.</li> </ul>
19 October 2017	<i>Sectoral Employment Order for the construction industry</i>	<ul style="list-style-type: none"> <li>• This is the first Sectoral Employment Order under the revamped industrial relations legislation. The Order fixes the statutory minimum pay, pension and sick pay entitlements for craftsmen, construction operatives and apprentices employed in the construction sector and is effective immediately.</li> </ul>
25 October 2017 <ul style="list-style-type: none"> <li>• At committee stage on this date</li> </ul>	<i>Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017</i>	<ul style="list-style-type: none"> <li>• If passed, the Bill will require medium to large companies to publish information relating to the pay of employees for the purpose of showing whether there are differences in the pay of male and female employees and, if so, the nature and scale of such differences.</li> </ul>

<p>19 October 2017</p> <ul style="list-style-type: none"> <li>• <i>Bill published on this date</i></li> </ul>	<p>Finance Bill 2017</p> <ul style="list-style-type: none"> <li>• <i>Likely to be passed before end of December 2017</i></li> </ul>	<ul style="list-style-type: none"> <li>• This is a Bill to provide for the imposition, repeal, remission, alteration and regulation of taxation, of stamp duties and of duties relating to excise and otherwise to make further provision in connection with finance including the regulation of customs.</li> <li>• The passing of this Bill will mean additional costs for employers, who will have to provide information to the Revenue Commissioners on a real-time basis.</li> <li>• Under a new system being introduced in 2019, employees are to receive entitlements from tax allowances and credits more quickly.</li> </ul>
<p>2 November 2017</p>	<p>Criminal Justice (Anti – Corruption) Offences Bill 2017</p>	<ul style="list-style-type: none"> <li>• Part of a suite of measures designed to tackle white collar crime. One of the key features is that a company may be held criminally liable where one of its officers, managers, employees, agents or a subsidiary company has engaged in corruption with the intention of obtaining or retaining business, or business advantage on its own behalf.</li> </ul>
<p>May 2017</p>	<p><i>Lyons v Longford Westmeath Training Board</i> [2017] IEHC 272</p>	<p>The court held that where the outcome of an investigation is potential dismissal or an adverse impact on an employee's reputation the employee has the right to cross examine the individual accusing him of wrongdoing and the right to legal representation during the process. This was followed by two further High Court decisions on point in the cases of <u><i>EG v The Society of Actuaries Ireland</i></u> (the "<b>EG case</b>") [2017] IEHC 392 and <u><i>NM v Limerick and Claire Education and Training Board</i></u> (the "<b>NM case</b>"). The latter decisions are a welcome development from an employer's perspective. They clarify that not all internal investigations automatically give rise to courtroom-<i>esque</i> entitlements and that employers should be striving for fairness, not perfection, in conducting such investigations. The recent decisions have to some extent recalibrated fair procedures during investigations back to what employers were familiar with prior to the Lyons case.</p>
<p>August 2017</p>	<p><i>An area manager v A transport company</i> (ADJ0000577)</p>	<p>The Adjudication Officer (AO) held that a practice by which an employer topped up employees' salaries to full pay during maternity leave but not during paternity leave did not amount to discrimination on the ground of gender under the Employment Equality Acts 1998-2015. The AO found that maternity leave was different to paternity leave and the employer was entitled to make special provision for women in connection with pregnancy and maternity.</p>