



Ireland: Elected employee representatives are on the way

Traditionally, in Ireland's industrial relations system, permanent "employee representatives" *generally* meant only one thing: union representatives, whether they be full-time officials or employees who acted on behalf of the union, such as shop stewards.

I say *generally* because there have been plenty of employees who are not union representatives serving on health and safety committees, but these are not seen as "mainstream" industrial relations bodies, more as technical fora, though this could change in the future as new issues such as workplace stress crowd onto the agenda. (See the Commission [second stage consultation](#) on the proposed *Quality Jobs Act*.)

The one experience that many companies have had with employee representatives who are not union representatives was when it came to collective redundancies where the law requires that representatives of employees be informed and consulted about the proposed redundancies. Where there were no representatives already in place, arrangements had to be made for the election of such representatives.

However, such representatives were ad-hoc and temporary. When the information and consultation process was completed, they stood down. As the law currently stands in Ireland, collective redundancy consultations can be over and done with in just 30 days.

Of course, there is the 2006 *Employees (Provision of Information and Consultation) Act 2006*, which transposes the EU's 2002 general information and consultation framework into Irish law. It allows for the establishment of employee fora to discuss general business and employment developments with management. For a forum to be established the process has to be triggered by either management or by a certain number of employees. There has not been much take-up of this law. The weekly *Industrial Relations News* calculates that there are less than 20 of them in existence.

Are things about to change?

But could things be about to change? The answer is a definite yes. Businesses in Ireland will soon be confronted with the need to deal with elected employee representatives, and such representatives will not be "one and done" as in collective redundancies. They will be there on a longer-term basis.

European Union law is the reason for this potential development which could significantly change the contours of labour relations in Ireland. Laws enacted, or in the pipeline, that require engagement with employee representatives include:

- *The Pay Transparency Directive (which should be in force by now)*
- *The Platform Workers Directive (coming into force in December of this year)*
- *The Corporate Sustainability Reporting Directive*
- *The Corporate Sustainability Due Diligence Directive*

- *The AI Regulation (limited to information to employees/employee representatives)*

Potentially, in the pipeline could be laws on:

- *Remote work and the right to disconnect*
- *The governance of AI in the workplace*

As workplaces change as a result of AI and global competitive pressures, changing job architecture will like lead to an ongoing need for collective redundancy consultations.

For now, the most far reaching of the new laws when it comes to engagement with employee representatives is the Pay Transparency Directive. This should have been in force since June of this year but Ireland, like most EU member states, is behind in implementing it.

The Pay Transparency law will give employees the right to ask for information about pay either directly, or through a representative. Employees, or their representatives, will have to be advised about the methodologies being used to evaluate and grade jobs.

However, the most far-reaching provision of the Pay Transparency law is the requirement to engage with employee representatives in a joint pay assessment when the data shows a pay gap of more than 5% by grade or category which cannot be closed within six months of it being identified or which cannot be justified by objective, non-gender based reasons.

How to identify employee representatives?

The other laws mentioned above may also require extensive engagement with employee representatives depending on circumstances. These laws will cast their nets wide and all but the smallest of employers will be in scope of one or all.

There are many private-sector employers in Ireland who have positive relationships with trade unions. But there are few, if any, private sector employers where the totality of their workforce is unionised and the EU laws listed above apply to all employees and not just to union members. Unions in Ireland cannot represent employees who are not members, whatever may be the case in other EU countries.

So how, if they are needed, are employee representatives to be selected? The measures which should transpose the EU Directives into Irish law should deal with this issue and provide guidance to employers.

But, to date, we only have one such Irish law: [S.I. No. 336/2024](#) - *European Union (Corporate Sustainability Reporting) Regulations 2024*. When it comes to the issue of “employee representatives” the Regulation has this to say:

- (1) *The directors of an applicable company shall provide information to, and consult with, employees’ representatives at the appropriate level in relation to the sustainability information required under section 1590 and the means of obtaining and verifying such information.*
- (2) *Any opinion of the employees’ representatives in relation to the information referred to in subsection (1) shall be communicated, where applicable, to the directors of the applicable company.*
- (3) *For the purposes of this section, ‘employees’ representatives’, in relation to an applicable company, means:*

- a. *in the case of an applicable company to whom the [Employees \(Provision of Information and Consultation\) Act 2006](#) applies, the employees' representative within the meaning of that Act, or*
- b. *in the case of any other applicable company, any persons duly appointed or elected by employees of the company as an employees' representative for the purposes of this section.*

The 2006 regulation applies to any company with more than 50 employees.

Presumably, (3) a. means any company within the scope of the 2006 Act and not just companies that have already set up an employee forum as provided for in the Act. See: [2006 Employees \(Provision of Information and Consultation\) Act](#).

[Schedule 2](#) of the Act sets out how employee representatives are to be selected, which is through an electoral procedure based on proportional representation. Presumably, the same approach will be taken in all of the other legislation mentioned above.

Conclusion

This new development in Irish industrial relations is coming now and in the next few years, even if legislation is delayed. The delay will just be temporary. Taken together, these new laws will see all but the smallest companies in scope, one way or the other.

Management would be wise to [start planning ahead](#) now.

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