

Comparative Table of key differences between employment law in Great Britain, Northern Ireland and the Republic of Ireland

Topic areas:

- ▶ Contracts of employment
- ▶ Working status and work-life balance
- ▶ Reward, incentives and tax
- ▶ Termination/redundancy
- ▶ Dismissal, discipline and grievance
- ▶ Employee representation & participation
- ▶ Diversity, discrimination and pay reporting
- ▶ Miscellaneous
- ▶ Family rights

| | Great Britain (GB) | Northern Ireland (NI) | Republic of Ireland (ROI) |
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| Contacts of employment | | | |
| Written particulars of employment | All workers and employees are to receive a written statement of particulars of employment on the first day of a new job. | At present, only employees need to receive a written statement, which must be given within two months of commencing employment. Look forward: The 'Good Jobs' Consultation sets out proposals to require a written statement to be provided to all workers (not just employees), that there should be a requirement to provide it on or before the first day of employment, and for the written statement to include further information. Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard | Employees need to receive a written statement. Certain basic particulars of employment must be provided within five days of commencing employment. Additional information must then be provided within one month. |
| Pay statement | All workers have a right to receive an itemised pay statement. | Only employees have a right to receive an itemised pay statement. Employees on variable hours do not have a right to a breakdown of hours in an itemised statement. Look forward: | Employees have a right to receive a written pay statement. |

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| | | <p>The 'Good Jobs' consultation sets out proposals to extend the right to a paid statement to workers, and to require itemised pay statements with a breakdown of hours paid for employee/workers whose pay varies.</p> <p>Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | |
| Reward, incentives and tax | | | |
| National Living Wage (NLW) | <p>Look forward:</p> <p>The NLW jumped significantly in April 2024, but the new Labour government has already taken steps to ask the Low Pay Commission (which recommends minimum wage rates) to factor in the cost of living in its recommendations. The 18-20 age band is also set to be removed, something which looks to likely to take effect gradually.</p> <p>The Low Pay Commission will make recommendations in Autumn 2024 for the April 2025 rates</p> | <p>Look forward:</p> <p>As minimum wage rates apply across the UK, any change in GB would apply in NI.</p> | <p>Look forward:</p> <p>A national living wage will replace the national minimum wage from 2026. The living wage will be set at 60% of the median wage in any given year.</p> <p>The national minimum wage will remain in place until the 60% living wage is fully phased in. The national minimum wage will increase over the years as usual.</p> |
| Tips | <p>New laws and a Code of Practice on fair distribution of tips (including those paid by card), came into force on 1 October 2024.</p> <p>Lewis Silkin - Government backs new law on tips</p> | <p>Does not currently apply.</p> <p>Look forward:</p> <p>There are proposals under the 'Good Jobs' consultation that would require employers to fully and fairly pass on tips to their workers in a transparent manner, potentially involving employers having tipping policies, keeping records and making them accessible. This would not apply to cash tips which are out of the control and influence of employers.</p> <p>Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | <p>A law on the distribution of tips came into effect on 1 December 2022. This introduced new rules about how employers share tips, gratuities and service charges amongst employees. It also made it illegal for employers to use tips or gratuities to make up basic wages.</p> |
| Dismissal, discipline and grievance | | | |

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| Unfair dismissal | <p>Qualifying period to claim unfair dismissal is two years (save in certain situations where there is no qualifying period).</p> <p>Look forward:</p> <p>Labour's Employment Rights Bill gives employees the right not to be unfairly dismissed from "day one" of employment. Accompanying regulations are expected to set out a 'light touch' procedure allowing dismissal during an 'initial period'.</p> <p>The less onerous process is expected to apply where: (1) the termination date is no later than 3 months after the end of the initial period, provided notice was served during that period, and (2) the reason for dismissal is capability, conduct, illegality or some other substantial reason relating to the employee. This lighter process will therefore not apply to a redundancy dismissal.</p> <p>The exact duration of the "initial period" is to be determined but the government has expressed a preference for 9 months.</p> <p>Also, if requested, employers will need to give written reasons for dismissal to employees following the initial period (or 3 months after, if notice has been served in the initial period).</p> <p>The regulations need to be drafted, and the government have said they will extensively consult on this reform.</p> <p>These changes are not expected to take effect until at least Autumn 2026.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Qualifying period to claim unfair dismissal = one year (save in certain situations where there is no qualifying period).</p> | <p>Qualifying period to claim unfair dismissal = one year service (save in certain situations where there is no qualifying period).</p> |

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| Compensation | <p>Unfair dismissal compensation = capped at £115,115 (or one year's salary if less) (2024/25).</p> <p>In terms of the Employment Rights Bill, the government will be consulting on the compensation regime for dismissals during probation.</p> | <p>Unfair dismissal compensation = capped at £115,314 (2024/25) (a one-year salary cap does not apply).</p> | <p>Unfair dismissal compensation = maximum award of 104 weeks remuneration. Where no financial loss has occurred, the maximum amount of compensation allowed is four weeks remuneration. Where the dismissal is as a result of whistleblowing, the maximum compensation is five years' remuneration.</p> |
| Week's pay | <p>Calculation of a week's pay = £700 (from 6 April 2024).</p> | <p>Calculation of a week's pay = £729 (from 6 April 2024).</p> | <p>Week's pay is based on employee's normal weekly remuneration.</p> |
| Discipline and grievance | <p>The statutory dispute resolution procedures were repealed and replaced with the ACAS Code of Practice.</p> <p>If there has been failure to comply with the ACAS Code of Practice (as appropriate), then the tribunal may increase or decrease any award by no more than 25%.</p> <p>Look forward:</p> <p>The government has said that it will enable employees to collectively raise grievances about conduct in their place of work to Acas in line with the existing code for individual grievances. There is nothing on collective grievances in the Employment Rights Bill. However, the government has confirmed that this is one of their longer-term delivery reforms. This is a confusing proposal but suggests that there will be a new process for workforces to raise collective grievances, possibly including the right to be represented by a trade union official even in non-unionised workplaces.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>The statutory dispute resolution procedures apply (in terms of dismissal) with the grievance procedure requirements contained in the LRA Code of Practice. Breach is automatically unfair.</p> <p>If there has been failure to comply with the statutory dispute resolution procedure/relevant Code of Practice (as appropriate), the tribunal may increase or decrease any award by between 10% - 50%.</p> | <p>The Workplace Relations Commission (WRC) Code of Practice on Grievance and Disciplinary Procedures provides guidance to parties on the implementation of disciplinary procedures. While the Code is not binding, it is used as a measure of best practice in considering whether a process followed was procedurally fair or not.</p> |

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| Diversity, discrimination and pay reporting | | | |
| Fair employment | Does not apply. | <p>Fair employment registration, monitoring and three-yearly review applies.</p> <p>Lewis Silkin - Beyond borders: Navigating diversity monitoring in Great Britain, Northern Ireland and beyond</p> | There is no requirement for fair employment registration and monitoring in ROI. |
| Equality legislation | The Equality Act 2010 applies to all grounds of discrimination. | <p>There is no Equality Act – nine individual anti-discrimination pieces of legislation apply:</p> <ul style="list-style-type: none"> ▶ Equal Pay Act (NI) 1970 ▶ Sex Discrimination (NI) Order 1976 ▶ Race Relations (NI) Order 1997 ▶ Disability Discrimination Act 1995 ▶ Fair Employment and Treatment (NI) Order 1998 ▶ Section 75 Northern Ireland Act 1998 ▶ Employment Equality (Sexual Orientation) Regulations (NI) 2003 ▶ Equality Act (Sexual Orientation) Regulations (NI) 2006 ▶ Employment Equality (Age) Regulations (NI) 2006 <p>Look forward:</p> <p>The Northern Ireland Assembly’s Committee for the Executive Office is undertaking an inquiry into differences in equality legislation between Northern Ireland, other parts of the UK and the Republic of Ireland, which will run closed on 6 September 2024.</p> | <p>The Employment Equality Acts 1998-2015 prohibit discrimination under the nine grounds in employment, including vocational training and work experience. .A helpful summary of the legislation is available here.</p> <p>The Equal Status Acts 2000-2018 prohibit discrimination in the provision of goods and services, accommodation and education.</p> <p>Look forward:</p> <p>A public consultation on a review of the Equality Acts was held from July to December 2021. The aim of the review was to examine the operation of the Acts. Some notable changes which may derive from the review include:</p> <ul style="list-style-type: none"> ▶ consideration of the gender ground and whether new grounds should be added, such as the ground of socio-economic discrimination; ▶ changes to current definitions, including in relation to disability; ▶ amendments or removal of certain exemptions; and ▶ changes to the redress mechanisms. <p>On 12 July 2023, the Minister for Children, Equality, Disability, Integration and Youth published a summary of the submissions received in response to the public consultation.</p> <p>The Government has included a new bill, the Equality Acts Amendment Bill, (the purpose of which is to provide for legislative amendments arising from the review of the Equality</p> |

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| | | It is not yet known what, if any, changes to equality legislation may result from the enquiry at this stage. | Acts), for priority drafting in its legislative programme for the Autumn2024 session. However, this is still at very early stages (Heads of Bill still in preparation). |
| Brexit – Windsor Framework | Does not apply. | Following Brexit, special arrangements were put in place to allow NI to remain part of the European Union (EU) customs union and to protect certain “individual rights”. This means that various EU anti-discrimination and equality provisions continue to apply in NI. What the Protocol means for employment and equality law in Northern Ireland Lewis Silkin Insight | Does not apply. |
| Age discrimination in goods, facilities and services | There is a ban on age discrimination in goods, facilities and services. | Does not apply. | The Equal Status Acts 2000-2018 prohibit discrimination in the provision of goods and services, accommodation and education. |
| Disability discrimination | Disability legislation has been strengthened: <ul style="list-style-type: none"> ▶ The concept of ‘disability-related’ discrimination was replaced with protection against ‘indirect discrimination’ and ‘discrimination arising from disability’. ▶ The definition of disability was amended to make it easier for disabled people to fall within the definition of disability. ▶ Express protection was introduced for people, such as carers, who are subjected to direct discrimination or harassment due to their association with a disabled person or because they are wrongly perceived to be disabled. ▶ Pre-employment questions relating to health were prohibited, save in specified circumstances. | Does not apply: <ul style="list-style-type: none"> ▶ The concept of disability-related discrimination continues to apply, meaning that disabled people have less protection than disabled people in GB. ▶ The requirement for an employee to identify which of a list of specified “capacities” is affected by their impairment still applies, which makes it harder for them to fall within the definition of disability. ▶ Disability legislation does not protect people against associative or perceived discrimination. Employees have to rely on the ECJ case of <i>Coleman v Attridge Law</i> to seek protection in such cases. ▶ Pre-employment questions are not prohibited, which can deter disabled people from applying for jobs. | Disability is one of the nine prohibited grounds of discrimination under the Employment Equality Acts 1998-2015 and the Equal Status Acts 2000-2018. The definition of disability is very widely interpreted in ROI. Pre-employment questions relating to health are not prohibited by Irish employment equality legislation. However, where such questions reveal information relating to a disability, which does not impact on an employee’s ability to do the job (or which would not so impact were reasonable accommodation provided), and an employer decides not to offer such individual a position on the basis of the medical examination results, then this may constitute discrimination contrary to the legislation. |

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| Gender pay gap reporting | <p>Organisations with 250 or more employees must report on their gender pay gap figures annually.</p> <p>Lewis Silkin - Gender pay gap reporting</p> <p>Look forward:</p> <p>The Employment Rights Bill will require employers with 250+ employees to publish “equality action plans” including gender pay gap action plans. The regulations will include specific penalties for not doing so.</p> <p>Regulations will also require employers to identify the providers/employers of contract workers. This does not mean that gender pay gap data must include data reflecting what contract workers are paid. It is simply a requirement to name the providers/employers of those contract workers.</p> <p>The regulations expanding the scope of gender pay gap reporting need to be drafted, and we expect further consultation.</p> <p>Lewis Silkin - Labour’s employment law policy dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Does not apply.</p> <p>The Employment Act (Northern Ireland) 2016 made provision for regulations to be published to introduce gender pay gap reporting. This hasn’t happened.</p> <p>Look forward:</p> <p>Following the return of the NI Assembly, legislation introducing gender pay gap reporting is expected, which may be subject to consultation. There are some important differences with GB including a likely requirement to include ethnicity and disability statistics on workers within each pay band and, if there are differences, a requirement to publish an action plan to eliminate those differences.</p> <p>Lewis Silkin - Gender pay gap reporting in Northern Ireland</p> | <p>Since 2022, certain employers have been required to publish the gender pay and bonus gap for their workforce as a whole, their views on what is causing any gap and their plans for closing it.</p> <p>The threshold for reporting dropped in 2024 to organisations with 150 or more employees (it was 250 or more before this). The threshold will drop again in 2025 to organisations with 50 employees.</p> <p>Lewis Silkin - Gender pay gap reporting in Ireland – regulations finally published</p> <p>Lewis Silkin - Gender pay gap reporting in Ireland – updated guidance clarifies some (but not all) tricky issues</p> |
| Ethnicity/disability pay gap reporting | <p>Ethnicity pay gap reporting is not compulsory, although there is government guidance on how to do ethnicity pay gap reporting for companies that choose to do so on a voluntary basis.</p> <p>Lewis Silkin - Ethnicity pay gap reporting guidance published</p> <p>Lewis Silkin - Ethnicity pay gap reporting will not be mandatory</p> | <p>Look forward:</p> <p>When gender pay reporting is introduced, it is expected that there will be a requirement to include ethnicity and disability statistics on workers within each pay band. Disability reporting will be challenging to implement, and detailed consultation and equality impact assessment will likely be needed, which may take considerable time.</p> | <p>Ethnicity/disability pay gap reporting is not mandatory in ROI, but some organisations choose to report on these on a voluntary basis.</p> |

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| | <p>Look forward:</p> <p>The Employment Rights Bill doesn't deal with ethnicity or disability pay gap reporting but the Labour government plans to introduce this under a separate Bill, expected in Autumn 2024.</p> <p>Lewis Silkin - Disability reporting time to act</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Lewis Silkin – Gender pay gap reporting in Northern Ireland</p> | |
| Equal pay – pay discussions | <p>Equal pay provisions were strengthened to prohibit employers from preventing or restricting their employees from having discussions to establish if pay differences exist that are related to an equality ground (e.g. gender).</p> <p>Whilst not included in the Employment Rights Bill, the government plans to extend the equal pay regime allowing workers to bring equal pay claims on the basis of race or disability under separate legislation and a separate Bill on this is expected in Autumn 2024.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Does not apply.</p> <p>Look forward:</p> <p>The Equality Commission NI considers that the UK Government, further to its dynamic alignment obligations arising out of the Windsor Framework, must transpose the EU Pay Transparency Directive by 7 June 2026.</p> <p>ECNI and NIHRC Briefing Paper</p> | <p>Look forward:</p> <p>The EU Pay Transparency Directive came into effect on 6 June 2023 and EU member states have three years to transpose its provisions into domestic law. The Directive introduces wide ranging pay transparency measures, but also introduces some new individual rights, including a prohibition on contractual provisions intended to restrict employees from disclosing information or having discussions with each other about their pay.</p> |
| Equality Act changes | <p>From 1 January 2024, regulations amending the Equality Act 2010 ensure that discrimination protections derived from EU law are preserved after Brexit. Some of these changes are significant because they involve rights that have not regularly been applied in practice in the UK.</p> | <p>Does not apply.</p> <p>However, given the special arrangements put in place in NI after Brexit under the Windsor Framework, there should be no diminution of EU equality and anti-discrimination legislation in place in NI and general principles of EU law, such as direct effect, as well as the</p> | <p>Does not apply.</p> |

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| | Lewis Silkin - Government legislates to preserve EU-based discrimination law – what does this mean for employers? | doctrine of supremacy, will continue to apply in this area. What the Protocol means for employment and equality law in Northern Ireland Lewis Silkin Insight | |
| Sexual harassment | <p>Since 26 October 2024, a new proactive duty to take “reasonable steps” to prevent sexual harassment applies.</p> <p>There is no explicit obligation to protect employees against harassment from customers and other third parties under this duty.</p> <p>Look forward:</p> <p>The Employment Rights Bill will be strengthened to require employers to take “all” reasonable steps to prevent workplace harassment. The Bill gives the government powers to set out what amounts to “reasonable steps” in regulations.</p> <p>The Bill will also make employers liable for third party harassment unless the employer took all reasonably practicable steps to prevent this. This covers all types of harassment not just sexual harassment.</p> <p>The Bill would add disclosing sexual harassment to the list of what counts as a protected disclosure, making it more explicit that this can amount to whistleblowing – as long as it meets the public interest disclosure test.</p> <p>Lewis Silkin - The new law on sexual harassment has been passed</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>The new GB proactive duty does not apply.</p> <p>Employers in NI have a legal duty to prevent third-party sexual harassment, for example, by a customer or client. Specifically, an employer is liable if it knows that the employee has been sexually harassed in the course of their employment on at least two other occasions by a third party, and not taken reasonable steps to prevent it from happening to the employee again.</p> <p>Lewis Silkin: New guidance on eliminating workplace sexual harassment</p> | <p>The Employment Equality Acts 1998-2015 require employers to act in a preventative and remedial way. The employer has a duty to protect employees from harassment and sexual harassment.</p> <p>It is a defence for the employer to prove that they took reasonably practicable steps to prevent the harassment, to prevent the victim from being treated differently in the workplace or in the course of employment, and to reverse any effects of the harassment.</p> <p>Where an employer becomes aware of harassment or sexual harassment without a complaint being made (for example by way of exit interviews), they have a duty to act, even in the absence of a complaint.</p> |

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| | Lewis Silkin - Employment Rights Bill unveiled | | |
| Non-disclosure agreements | <p>The Victims and Prisoners Act 2024 received Royal Assent on 24 May 2024. Under this Act people who believe they are the victim of a crime can disclose information related to this with the police, lawyers, other support service which operate under confidentiality principles and certain immediate family for support; provisions in an agreement seeking to prevent this are void (provided the purpose of the disclosure is not simply to bring the information into the public domain). This legislation is not yet in force and will require regulations to do so.</p> | <p>There are no developments regarding the use of non-disclosure agreements save for universities, who pledged to end their use of non-disclosure agreements in summer 2022.</p> | <p>Look forward:</p> <p>A general scheme for the <i>Maternity Protection (Amendment) and Miscellaneous Provisions Bill 2024</i> was approved by the Government on 24 July 2024. The proposed law aims to address the power imbalance that can occur between employers and employees and the practice of NDAs being used to conceal harassment or discriminatory behaviour.</p> <p>The legislation will amend the Equality Employment Act to state that an employer shall not enter an NDA with an employee where the employee has made allegations of discrimination, harassment or sexual harassment.</p> |
| Sexual harassment guidance | <p>On 26 September 2024 the UK Equality and Human Rights Commission published updated workplace sexual harassment guidance, outlining the steps that employers in GB will be expected to take. This emphasises that employers must anticipate scenarios when workers may be exposed to risk and undertake regular risk assessments. It also makes clear that the preventative duty covers harassment by third parties. Breach of this aspect of the duty would be unlikely to lead to an uplift in compensation (as it would not attract legal liability for employers), but it could result in EHRC enforcement action (although a wide duty to prevent 3rd party harassment is proposed in the Employment Rights Bill).</p> <p>Employers will need to comply with the updated code and guidance to be in the best position to defend claim.</p> <p>Lewis Silkin - New duty to prevent sexual harassment in the workplace</p> | <p>The Labour Relations Agency and the Irish Congress of Trade Unions have published new guidance on eliminating sexual harassment from the workplace, containing detailed recommendations on steps employers should consider taking to prevent and deal with such behaviour.</p> <p>While the guidance is not legally binding, it can be into account by Industrial and Fair Employment Tribunals and used by claimants in evidence.</p> <p>Lewis Silkin: New guidance on eliminating workplace sexual harassment</p> | <p>The Irish Human Rights and Equality Commission introduced a Sexual Harassment and Harassment Code of Practice in 2022. It does not create new obligations but promotes best practice, such as recommending employers adopt and publish policies to ensure harassment-free workplaces and deal effectively with complaints. It also encourages training for employees on preventing sexual harassment and suggests that it may be practicable for organisations (depending on their size and resources) to have a senior level 'champion' outside of HR who advocates for diversity.</p> <p>In ROI, codes of practice are not legally binding, but they can be used in evidence against employers where they are not followed.</p> |

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| Family rights | | | |
| Bereavement leave: parents | <p>Parental bereavement leave: Employees are entitled to at least two weeks' leave following the loss of a child under the age of 18 or a stillbirth after 24 weeks of pregnancy. This is paid at the statutory rate if the employee has 26 weeks' continuous service.</p> <p>Lewis Silkin – Introduction of paid parental bereavement leave confirmed</p> <p>Paternity leave bereavement: A new law passed shortly before the election gives new rights to bereaved fathers and partners when the child's mother dies. See below on wider proposals for day one Bereavement Leave.</p> <p>Lewis Silkin - Paternity Leave (Bereavement) Act – the new law explained</p> | <p>Parental bereavement leave: The same position applies.</p> <p>Lewis Silkin - Introduction of paid parental bereavement leave in Northern Ireland</p> <p>Paternity leave bereavement (as introduced in GB) does not apply.</p> <p>Look forward:</p> <p>Following a public consultation and agreement on subsequent regulations, the parental bereavement rights are to be extended to include working parents who suffer the loss of a child through miscarriage. It is also proposed that working parents will become entitled to all rights from day one of their employment. These changes are to apply no later than 2026.</p> | <p>There is no statutory obligation on an employer to provide parental bereavement leave. In practice, many employers will provide some form of bereavement or compassionate leave.</p> <p>Look forward:</p> <p>Proposals are in place in the form of a private members bill to make provision for entitlement to bereavement leave to an employee who is a bereaved parent of a child who has died.</p> <p>The Bill has is currently before Dáil Éireann, Second Stage. Follow the Bill's progress here.</p> |
| Bereavement leave: general | <p>Look forward:</p> <p>The Employment Rights Bill will give the government the power to introduce a day one right to at least one week of bereavement leave for employees.</p> <p>Regulations will specify the necessary relationship with the deceased to qualify but we assume this is likely to follow the definition used in time off for dependants.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | No such proposals in NI. | As outlined above, there is currently no legal obligation on employers to provide general bereavement leave. However, in practice, many employers will provide some form of bereavement or compassionate leave. |

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| Domestic abuse | Domestic abuse leave is not available, and the government recently confirmed that it would not take forward proposals for statutory domestic abuse leave. | <p>Legislation is in place that will entitle victims of domestic abuse to 10 days paid leave each leave year. The commencement date of the new right remains to be confirmed. It introduces a right for victims of domestic abuse to have 10 days' paid leave per year off from work to make any necessary arrangements and provides for protection of their employment rights while absent.</p> <p>Lewis Silkin - Domestic abuse leave introduced in Northern Ireland</p> <p>Look forward:</p> <p>A Domestic Abuse - Safe Leave consultation was published by the Department for the Economy seeking views on how to operationalise entitling workers up to 10 days' leave for the purpose of dealing with that abuse.</p> <p>The consultation seeks views on various aspects of how the leave should work, including determining the definition of abuse and relationships covered, calculation of leave, circumstances when leave is appropriate and notice requirements. The consultation closes on 27 September.</p> <p>Lewis Silkin – Domestic Abuse ‘Safe Leave’ – how will it work and what does it mean for employers?</p> | <p>Since 27 November 2023, employees in ROI are entitled to five days paid domestic violence leave under the Work Life Balance and Miscellaneous Provisions Act 2023.</p> <p>Look forward:</p> <p>On 14 May 2024, an EU Directive on combating violence against women and domestic violence was published. The new rules aim to prevent attacks against women and protect them if they are victims of them, including in the workplace. Member States will have until 14 June 2027 to transpose the new provisions of this Directive into their national laws.</p> |
| Protection from redundancy | From 6 April 2024, employees who are pregnant or returning from maternity, adoption or shared parental leave gained priority status for redeployment opportunities in a redundancy situation. | Employees on maternity leave, shared parental leave or adoption leave have enhanced protection from redundancy through a right to be offered a suitable alternative vacancy (if available) before being made redundant. The protection currently only applies during the period of the leave. | <p>In ROI, employees who are pregnant or returning from maternity, adoption or shared parental leave do not have statutory priority status for redeployment opportunities in a redundancy situation, as is the case in the UK.</p> <p>However, the Maternity Protection Acts, 1994 and 2004 (the “Acts”) provide that any termination of an employee’s employment whilst the employee is absent from work on maternity leave is void. Furthermore, any notice of termination</p> |

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| | <p>Lewis Silkin - Redundancy protection to be extended to cover pregnancy and return from family leave</p> <p>Look forward:</p> <p>The Employment Rights Bill would give the government powers to introduce regulations to cover other dismissals (which are not redundancies) taking place during pregnancy, maternity leave or following a return to work.</p> <p>The protection will also apply to other forms of family leave such as adoption leave, shared parental leave, neonatal care leave and bereaved partners' paternity leave.</p> <p>It is unclear what the regulations will state but the explanatory notes to the Bill state this will ban dismissals of women who are pregnant, on maternity leave, and during a six month return to work period, except in specific circumstances</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Look forward:</p> <p>The 'Good Jobs' consultation, proposes that this right will be extended to cover:</p> <ul style="list-style-type: none"> • pregnant employees (from the point the employer is informed of the pregnancy); and • employees returning from maternity/adoption leave (and at least six weeks' shared parental leave) with protection lasting for 18 months from the date of birth/adoption. <p>This is not protection against selection for redundancy in the first place – it only relates to the offer of suitable alternative vacancies.</p> <p>Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' talking points – Pregnancy redundancy protection and other enhanced family leave proposals</p> | <p>of an individual's employment given while the employee is absent from work on maternity leave and expiring after such period of maternity leave, is also void. Therefore, the Acts render ineffective any attempt to actually terminate employment or any notice of termination given during a period of maternity leave. Furthermore, if an employee is pregnant when the employer proposes to serve a notice of termination, and the notice period doesn't expire before the employee's period of maternity leave begins, the notice period will be extended by the length of the employee's maternity leave.</p> <p>This does not preclude an employer consulting with an employee who is pregnant or on maternity leave.</p> |
| Carer's leave | <p>From 6 April 2024, employees gained a statutory right to a week's unpaid leave to care for a dependant with long-term care needs.</p> <p>Lewis Silkin - Carer's Leave - the new law explained</p> <p>Look forward:</p> <p>The government has confirmed it will conduct a full review of the parental leave system as well as reviewing the benefits of introducing paid carer's leave.</p> | <p>Rights in relation to being a carer are governed by existing legislation including flexible working, time off for dependants, time off in an emergency and disability discrimination legislation.</p> <p>Look forward:</p> <p>Under the 'Good Jobs' consultation, there is a proposal for NI to adopt a similar approach to that taken in GB. The Department for the Economy is also consulting as to whether this should be a paid leave.</p> | <p>An employee can avail of unpaid leave from their employment to enable them to personally provide full-time care and attention to a person who needs such care. The minimum statutory entitlement is 13 weeks, and the maximum is 104 weeks in respect of any one care recipient. More information can be found here.</p> <p>Separately, the Work Life Balance and Miscellaneous Provisions Act 2023 introduced a new right which came into effect on 3 July 2023 entitling employees to five days' unpaid leave in any consecutive 12-month period if they need to take time off work to deal with serious medical care for a child or</p> |

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| | <p>Any reviews are likely to take place in 2025 and beyond.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>Lewis Silkin – ‘Good Jobs’ Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – ‘Good Jobs’ talking points – Pregnancy redundancy protection and other enhanced family leave proposals</p> | <p>other “relevant person” like a family member. The leave is available to both parents and carers.</p> <p>Relevant persons can include the child, spouse, civil partner, cohabitant, parent, grandparent, sibling, or housemate of the employee who needs significant care or support for a serious medical reason.</p> |
| Paternity leave | <p>From 6 April 2024, new parents gained more flexibility to choose when to take statutory paternity leave.</p> <p>Lewis Silkin - Statutory paternity leave: new rules from April</p> <p>Look forward:</p> <p>The Employment Rights Bill will remove any length of service requirement for paternity leave.</p> <p>Employees will also be able to take paternity leave and pay even after they have taken shared parental leave and pay, which is not currently permitted.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>New fathers and partners are entitled to two weeks’ statutory paternity leave on the birth or adoption of their child. Leave must be taken in the first eight weeks and must be taken as a single chunk of either one or two weeks. To be eligible for leave and pay, employees need six months’ continuous service.</p> <p>Look forward:</p> <p>Whilst the April 2024 GB reforms don’t apply in NI, it is proposed under the ‘Good Jobs’ Consultation that fathers/partners will be able to take paternity leave at any point in the first year after birth/adoption and will be able to split it into two blocks of one week or a single block of two weeks.</p> <p>28 days’ notice will be required for dates of each leave period (but notice of entitlement must still be given 15 weeks before birth).</p> <p>Paternity leave is proposed as a right from the first day of employment.</p> <p>Lewis Silkin – ‘Good Jobs’ Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – ‘Good Jobs’ talking points – Pregnancy redundancy protection and other enhanced family leave proposals</p> | <p>New fathers and partners are entitled to two weeks paternity leave, which can be taken at any time in the 26 weeks’ following the birth of the child (or placement in the case of adoption).</p> <p>Since July 2022, parents have also had a statutory entitlement to parent’s leave. From 1 August 2024, this increased from seven weeks to nine weeks. The leave must be taken within two years of the birth (or, in the case of the adoption, the placement) of the child. Employers are not obliged to pay employees during this time, but the employee may be eligible to receive State benefit, subject to having the appropriate PRSI contributions. Parent’s leave is available to each parent.</p> |
| Neonatal care | <p>From April 2025, parents will have a right to 12 weeks’ leave and pay when their baby requires</p> | <p>Look forward:</p> | <p>Since 2017, the period of maternity leave and entitlement to State maternity benefit can be extended in cases where a baby</p> |

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| | <p>neonatal care in addition to existing parental leave entitlements.</p> <p>Lewis Silkin - Neonatal leave and pay - the new law</p> | <p>The 'Good Jobs' consultation proposes that NI take the same approach in relation to neonatal leave, as that taken in GB.</p> <p>Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' talking points – Pregnancy redundancy protection and other enhanced family leave proposals</p> | <p>is born prematurely. The extended period will be equivalent to the duration between the actual date of birth of the premature baby and the date when the maternity leave was expected to commence (i.e. ordinarily two weeks before the expected date of birth).</p> |
| Menopause | <p>Look forward:</p> <p>New regulations will require employers with 250+ employees to produce and publish menopause action plans. The regulations will include specific penalties for not doing so.</p> <p>The regulations need to be drafted, and we expect further consultation.</p> <p>Lewis Silkin - Menopause and mental health: addressing the invisible symptoms</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>No such proposals in NI.</p> | <p>There is a debate over whether legal protection for employees going through menopause should be extended to add menopause to the list of characteristics protected by the Equality Acts. It's more likely to appear as a type of gender discrimination as was initially the case with pregnancy, or even potentially as a disability due to the wide range of symptoms experienced and the broad meaning of disability under Irish law. The increased publicity on the menopause issue in recent years has resulted in many leading employers having already taken a proactive approach and adopted policies in the area. We expect to see an increasing number of employers follow this trend.</p> |
| Working status and work-life balance | | | |
| Back stop for holiday pay claims | <p>There is a two-year limit on unlawful deductions claims.</p> | <p>Does not apply - this means that liability can potentially date back to 1998 when the Working Time Regulations were introduced, or back to the date on which employees commenced employment, whichever is later.</p> <p>Lewis Silkin - Historic holiday pay claims: Supreme Court decision in Agnew</p> | <p>The time limit for bringing unlawful deductions claims is six months, unless there are exceptional circumstances, in which case it may be extended by a further six months.</p> |

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| Holiday pay calculation reference period? | A 52-week reference period applies. | <p>A 12-week reference period currently applies (although a 52-week reference period was deemed acceptable in the Agnew decision).</p> <p>Lewis Silkin - Working time changes in Northern Ireland: here's what it means for employers</p> <p>Look forward:</p> <p>The 'Good Jobs' consultation suggests bringing NI in line with GB, by extending the holiday pay reference period for workers with variable hours from 12 to 52 weeks.</p> <p>Lewis Silkin – 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' consultation – What are the key areas for employers to consider?</p> | A 13-week reference period applies. |
| Rolled up holiday pay allowed for part-year or irregular hours workers | <p>For holiday years from 1 April 2024, 'rolled-up' holiday is allowed for people working on a part-year or irregular hours basis.</p> <p>Lewis Silkin - Government to legislate on holiday entitlement and pay: here's what it means for employers</p> | Does not apply; rolled up holiday pay continues to be unlawful. | Does not apply. |
| New accrual system for part-year or irregular hours workers | For holiday years from 1 April 2024, people working on a part-year or irregular hours basis will accrue annual leave entitlement on the last day of each pay period at the rate of 12.07% of the number of hours that they have worked during that pay period. This is subject to a maximum of 28 days per year. | Does not apply. As set out by the Supreme Court in <i>Harpur Trust v Brazel</i> , paid holiday entitlement of part-year or irregular hours workers should not be pro-rated for the weeks they do not usually work. Therefore, the 12.07% method for calculating the holiday pay hours of casual workers on permanent contracts is not a valid approach. | Does not apply. Annual leave entitlement for part-time employees or employees with irregular hours is calculated by reference to three methods set out in the organisation of working time legislation, depending on the number of hours worked. |

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| | Lewis Silkin - Government to legislate on holiday entitlement and pay: here's what it means for employers | Lewis Silkin - Holiday pay for part-year workers should not be pro-rated | |
| Flexible work | <p>From 6 April 2024, employees have the right to request flexible working from “day one” of their employment. They can now make two requests in a 12-month period (previously one request) and the employer’s decision period has reduced from three to two months.</p> <p>Lewis Silkin - New laws and new guidance: (sm)all change for flexible working?</p> <p>Lewis Silkin - New flexible working rules: a flowchart</p> <p>Look forward:</p> <p>The Employment Rights Bill will require any refusal of a flexible working request to be reasonable, but the eight business reasons will remain the same. An employer must explain in writing what the ground for any refusal is and why their refusal is considered reasonable. There is no change to the penalty for breaching the flexible working regime.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>The right to request flexible working remains covered by the statutory procedure and retains the eight reasons for refusing a request. Employees with 26 weeks’ service can make a flexible working application. Importantly the requirement remains to hold a meeting within 28 days, give reasons in writing within 14 days, then an appeal within 14 days.</p> <p>Look forward:</p> <p>The ‘Good Jobs’ consultation proposes a similar approach to flexible working as taken in GB.</p> <p>The proposals would make this a day one right for employees, allowing an employee to make two flexible working requests in a 12-month period, although it is proposed that a second request could not be made until the first is dealt with by the employer. There is also a proposal to remove the requirement for the employee to explain the effect of the request on the employer.</p> <p>Lewis Silkin – ‘Good Jobs’ Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – ‘Good Jobs’ talking points – Pregnancy redundancy protection and other enhanced family leave proposals</p> | <p>Since 7 March 2024, employees who are parents (biological, adoptive or having parental responsibility) or caregivers have a statutory right to make a request for a flexible work arrangement. Employees can make this request from day one, but they must have six months’ service before the arrangement can commence (unless an earlier commencement date is agreed by the employer).</p> <p>All employees (regardless of their parental or caring responsibilities) have a right to make a request for a remote working arrangement. Such a request can also be made from day one, but employees must have six months’ service before the arrangement can commence (unless otherwise agreed).</p> <p>For more information:</p> <p>Lewis Silkin - Right to request remote and flexible working comes into operation today</p> |
| Predictable work | The new Workers (Predictable Terms and Conditions) Act, allowing certain workers, agency workers and employees will have a | Does not apply, although see below ‘zero hours’ for potential reform, including a proposed right to request a more stable or predictable contract and the right to | The European Union (Transparent and Predictable Working Conditions) Regulations 2022 came into effect on 16 December |

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| | <p>new statutory right to request a predictable working pattern did not come into force.</p> <p>In its place, the Employment Rights Bill introduced other measures aimed at guaranteeing hours and requiring reasonable notice of work schedules and compensation for late cancellation/ changes See 'zero-hours contracts' below.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>reasonable notice of work and/or compensation if they are expected to work but don't receive it.</p> | <p>2022, transposing the Transparent and Predictable Working Conditions Directive.</p> <p>The Directive provides minimum rights for workers with on-demand, voucher-based or platform jobs. The Directive proposes more predictable hours and compensation for cancelled work, and an end to "abusive practices" around casual contracts and a reduction in lengthy probationary periods.</p> <p>The Regulations provide that employers are not allowed to prevent their employees from pursuing other employment opportunities outside of their current job. Furthermore, employees are safeguarded from experiencing any negative consequences as a result of engaging in such additional employment.</p> <p>An employer can restrict an employee from taking up additional employment if the restriction is proportionate and based on objective grounds.</p> <p>Where an employee has at least six months' continuous service and has completed their probationary period, they may submit a request for a form of employment with more predictable and secure working conditions. The employee can make this request once in any 12-month period.</p> <p>A copy of the Regulations can be found here.</p> <p>For further information see Lewis Silkin - Ireland: implementation update on the Transparent and Predictable Working Conditions Directive</p> |
| Zero hours | <p>Exclusivity clauses in zero-hours contracts are void and unenforceable.</p> <p>Look forward:</p> <p>The Employment Rights Bill does not seek to define, and ban, "exploitative" zero-hours contracts, as had been expected.</p> | <p>Look forward:</p> <p>Currently, zero-hours contracts, including exclusivity clauses, are permitted but there could be significant restrictions or limitations on the use of zero-hours contracts through proposals in the 'Good Jobs' consultation including;</p> | <p>The use of zero-hour contracts is prohibited in most cases, save in limited circumstances (where either the work involved is casual in nature, the employee is essential for providing coverage in emergency situations or for short-term absences). Banded working hours on a statutory basis also applies.</p> |

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| | <p>Rather, it sets out a range of provisions including:</p> <p>Right to guaranteed hours</p> <p>The Bill sets out detailed and complex rules which require employers to make an offer of guaranteed hours to a qualifying worker after the end of every reference period (to be defined but likely to be 12 weeks). Key details are yet to be determined.</p> <p>A qualifying worker is someone under a zero-hours contract and someone with a low number of guaranteed hours who regularly exceeds those hours (exactly how, to be defined in the regulations)</p> <p>The offer of guaranteed hours must reflect the hours worked during the reference period – further details of how this will apply will be set out in the regulations.</p> <p>There will be limited exceptions for short term labour needs.</p> <p>A worker not offered hours on these terms could bring an employment tribunal claim.</p> <p>Right to reasonable notice of work and proportionate compensation</p> <p>The Bill introduces a right to reasonable notice of a shift an employee is required to work, including the time, day and how many hours are to be worked. This duty will apply to workers employed on a zero hours or minimum hours basis, as well as workers who do not have a set working pattern.</p> <p>There will also be a right to reasonable notice of changed or cancelled shifts, and there is a duty on employers to make payment each time a worker's shift is cancelled or changed at</p> | <ul style="list-style-type: none"> • an outright ban on zero-hours contracts, or use in limited circumstances; • ability for some workers to transition from zero-hours contracts to banded hours contracts; • ability for some workers to request a more stable or predictable contract; • whether the qualifying period to be able to make these requests should be 12 weeks, 26 weeks, or 12 months; • a requirement for employers to give reasonable notice of work; • a code of practice to promote good practice; • an obligation for employers to pay compensation to workers when they are expected to work but do not receive it and whether this should apply to other categories of workers; and • whether there should be a ban on exclusivity clauses in zero hours contracts and/or for those whose contracts do not guarantee income above the Lower Earnings Limit. <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' talking points: How is the Department for the Economy proposing to reform zero-hours contracts?</p> | |

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| | <p>short notice. Compensation is likely to be proportionate to the cancellation or curtailment.</p> <p>There will need to be further consultation on notice to be given and how compensation should be calculated.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | | |
| Employment status reform | <p>Labour's long-term plan is to abolish the UK's current three-tier system for employment status.</p> <p>The Employment Rights Bill did not address this issue; however, its companion Next Steps document discusses plans to move to a two-tier system removing the distinction between 'employees' and 'workers'.</p> <p>This is expected to undergo further consultation during 2025 at the earliest,</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Look forward:</p> <p>There are no specific proposals being put forward in the 'Good Jobs' consultation in relation to this, but views and evidence are being sought to inform policy in this area to provide greater certainty to workers about terms and conditions and their employment status.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | <p>There is no legal concept of "worker" in ROI. Individuals are either employees or independent contractors.</p> <p>A long-awaited decision of the Supreme Court in the <i>Revenue Commissioners v Karshan Midlands Limited t/a Domino's Pizza</i> was published on 20 October 2023 and has important implications for workers in the gig economy in ROI. In its ruling, which overturned the decision of the Court of Appeal, the Supreme Court found that Domino's Pizza delivery drivers are employees, not independent contractors, for tax purposes.</p> <p>The Supreme Court reframed the tests traditionally applied by the courts in determining employment status and established a new a five-stage analysis that should be applied to determine whether the relationship is one of a contract for services or a contract of service.</p> <p>New Revenue "Guidelines for Determining Employment Status for Tax Purposes" were published on 22 May 2024.</p> <p>Look forward:</p> <p>The WRC Code of Practice on Determining Employment Status is currently being updated by the Revenue, the Department of Social Protection and the WRC, to incorporate the Karshan judgment.</p> |
| Self-employment | <p>Labour has said that it will give self-employed people the right to a written contract, action to tackle late payments and extend health and safety and blacklisting protections to them. Self-employed workers would also be given</p> | <p>No such proposals in NI, although see 'Written particulars of employment' above which outlines the proposal to extend the</p> | <p>No such proposals in ROI.</p> |

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| | <p>the same. However, this did not appear in the Employment Rights Bill.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>right to a written statement of particulars to all workers from day one.</p> | |
| Right to disconnect | <p>The Labour government had indicated it intended to introduce a new right to switch off outside of working hours and not be contacted by an employer.</p> <p>This was not mentioned in the Employment Rights Bill, but the Next Steps document indicates that the government is still expected to deliver a right to switch off through a statutory Code of Practice.</p> <p>Consultation on this is expected to take place in 2025.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>There is currently no specific legislation governing the right to disconnect outside of working times, rather, more general rules surrounding working hours and rest entitlements are set out in the NI Working Time Regulations.</p> <p>Look ahead:</p> <p>The 'Good Jobs' consultation does not explicitly set out a proposal for increased legislation to formalise the right to disconnect, but rather seeks views on whether the current legislation is enough to promote a healthy work/life balance. The Department is also seeking views on whether a potential new Code of Practice on the right to disconnect would be effective.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' consultation – What are the key areas for employers to consider?</p> | <p>Since April 2021, ROI has had a Code of Practice on the Right to Disconnect which aims to create a culture of good work-life balance and break bad habits where people feel obliged to respond to messages out of hours.</p> <p>The Code of Practice has meant that employers should ensure they are monitoring hours of work in a more visible and transparent way. Many employers have also introduced right to disconnect policies to help establish an organisational culture in which the line between work and leisure time is visibly respected and taken seriously.</p> <p>While the Code of Practice is not legally binding, it can be used as evidence against employers in claims for breach of employment rights.</p> |
| Termination/redundancy | | | |
| Collective redundancy consultation | <p>Collective redundancy consultation 100+ employees = 45 days</p> <p>Look forward:</p> <p>The Employment Rights Bill removes references to "at one establishment", meaning that employers would need to count</p> | <p>Collective redundancy consultation 100+ employees = 90 days</p> <p>Look ahead:</p> <p>Whilst the 'Good Jobs' consultation does not address changes to thresholds for collective consultation purposes, it does propose</p> | <p>Must be initiated at the earliest opportunity and at least 30 days before the first notice of dismissal is given.</p> <p>On 1 July 2024, legislation was introduced delivering on commitments made by the Irish government, as part of its 2021 Action Plan, to enhance protections and ensuring transparency for employees in insolvency situations.</p> |

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| | <p>redundancies across all sites/workplaces. There is no change to the number of redundancies that will trigger collective consultation or to the principle that redundancies are counted by reference to each employer (i.e. not aggregated across a group of companies involving multiple employers).</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>reducing the threshold for employers to inform and consult with employees about the employer's economic situation (ICE requirements). The proposal is to reduce the threshold for initiating ICE rights from 10% to 2% of employees, across the business as a whole and apply to smaller/satellite offices within larger organisations.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | <p>Lewis Silkin - Changes to the collective redundancy legislation and clarity on employers' consultation obligations in recent Labour Court decision</p> |
| Settlement | <p>The ability to have protected conversations in pre-termination negotiations applies (in unfair dismissal cases). This effectively allows anything that is said between the employer and employee in a particular unfair dismissal context to be inadmissible in tribunals as evidence because it is a protected conversation.</p> | <p>The law on compromise agreements and settlement processes remains unchanged. The provisions relating to protected conversations and settlement agreements have not been implemented.</p> | <p>The principles relating to settlements agreements remains unchanged.</p> |
| Fire and rehire | <p>A new statutory code on fire and rehire is to come into effect later this year. The code stresses that fire and rehire should be the last resort and urges employers to first engage in thorough and open information and consultation processes.</p> <p>Lewis Silkin - New Code of Practice published on 'fire and rehire'</p> <p>Look forward:</p> <p>The Employment Rights Bill will severely restrict employers' ability to use fire and rehire to change terms and conditions.</p> <p>It would make any dismissal automatically unfair where the reason for dismissal is that the employee did not agree to the employer's attempt to vary their terms and conditions of</p> | <p>Look forward:</p> <p>NI had not previously adopted a code on fire and rehire, however, the 'Good Jobs' consultation seeks views on whether further legislation or regulation in this area is necessary.</p> <p>The consultation proposes either a code of practice which would set out guidelines relevant to the practices, or new legislation which would allow remedies at industrial tribunals for victims of these practices. This may include a direct prohibition on employers taking steps construed to be dismissal and re-engagement.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | <p>Does not apply.</p> |

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| | <p>employment, or because they intended to employ another person on varied terms to carry out substantially the same role.</p> <p>The Bill provides a limited qualified exception for employers acting in response to financial difficulties affecting their ability to carry on business as a going concern.</p> <p>The government will also consult on proposals to lift the cap of 90 days' pay on protective awards for failure to inform and consult in relation to collective redundancies in the context of fire and rehire exercises, as well as the potential role of interim relief as a remedy.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | | |
| Employee representation & participation | | | |
| Agency workers | <p>The government is consulting on whether the criminal prohibition on employment agencies supplying agency workers to cover for workers on strike or workers covering for those on strike should be repealed.</p> <p>This prohibition was previously repealed between the summer of 2022 and the summer of 2023. However, the legislation that enacted that change was quashed by the High Court on the basis that the government had failed properly to consult on its proposals.</p> <p>Lewis Silkin - Ban on use of agency workers during strikes to be reinstated following government defeat</p> <p>Look forward:</p> | <p>The ban on using agency workers during legal strike action still applies.</p> | <p>Does not apply.</p> |

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| | Labour has indicated that it will repeal these regulations. | | |
| Union liability | <p>A union's potential liability for unlawful industrial action has quadrupled to a maximum of £1,000,000.</p> <p>Lewis Silkin - Unions financial liability increased and government moves to repeal agency worker ban</p> | The limit for a union's potential liability remains at £250,000. | <p>There is no statutory limit in respect of a union's potential liability for unlawful industrial action.</p> <p>However, immunity from prosecution is afforded to a person or persons who are involved in the organisation of industrial action provided such action is in contemplation or furtherance of a trade dispute and that certain procedures have been followed.</p> |
| Minimum service levels | <p>The government will use the Employment Right Bill to repeal the legislation giving ministers the power to impose minimum levels of staffing during industrial action in key services</p> <p>Lewis Silkin - Strikes Bill on minimum service levels becomes law</p> <p>The Bill will also ease restrictions on industrial action, make ballot mandates easier to secure. It has recently confirmed that it will do this by repealing the Trade Union Act 2016.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | Does not apply. | <p>Does not apply.</p> <p>The WRC Code of Practice on Dispute Resolutions (including Essential Services) provides that, while the primary responsibility for the provision of minimum levels of services rests with management, the Code recognises that there is a joint obligation on employers and trade unions to have in place agreed contingency plans and other arrangements to deal with any emergency which may arise during an industrial dispute. Employers and trade unions should co-operate with the introduction of such plans and contingency arrangements.</p> |
| Turnout requirement and voting threshold | In general, a union will have a valid mandate if at least 50% of members voted. If it's an important public service at least 40% of those entitled to vote must have voted in favour. | There is no turnout requirement and the threshold remains a simple majority of those voting. | Does not apply. Simple majority applies. |
| Notice of strike action period | Notice of strike must be given to the employer at least 14 days in advance. | <p>Notice should be given to employers at least seven days in advance.</p> <p>Look forward</p> | Where notice of a strike or any other form of industrial action is being served on an employer, the Code of Practice on Dispute Resolutions (including Essential Services) recommends a |

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| | | The 'Good Jobs' consultation seeks views on reducing the period of notice required to be given to employers of ballots on industrial action from seven days to five days, and whether the current system of providing notice of industrial action is fit for purpose. | minimum of seven days' notice should apply except where agreements provide for a longer period of notice. |
| Timeframes for ballots in favour of industrial action | Ballots in support of industrial action are only effective for six months, or nine months with the agreement of the employer. There then needs to be a further ballot. | Ballots in support of industrial action are effectively indefinite and do not expire provided action begins within four weeks of the outcome of a ballot, or no longer than eight weeks if agreed between the union and the member's employer. | No restrictions on effectiveness of ballots. The Industrial Relations Act 1990 requires trade unions to have its own internal rules and procedures. Once industrial action is sanctioned by a ballot, the trade union's executive or controlling authority may make decisions regarding the commencement, organisation, participation in or support of proposed industrial action. Where there is a ballot in favour of industrial action, the trade union must give not less than one week's notice of the intention to take action. |
| Inducements | <p>A worker has the right not to have an offer made to him by his employer if the acceptance of the offer would result in the workers' terms of employment, or any of those terms, no longer being determined by collective agreement negotiated by or on behalf of the union (Section 145A/B Trade Union and Labour Relations (Consolidation) Act 1992).</p> <p>Cases differ on the application of this section. Some cases suggest that it is an inducement if it is made while the collective bargaining process is ongoing (and that payment is made) while another has suggested that if the process is over, it is then acceptable to make a payment to employees.</p> <p>Lewis Silkin - When is collective bargaining exhausted and a direct offer of new employment terms allowed</p> | Same provisions (under Article 77A/B Employment Rights (Northern Ireland) Order) but untested in a court of law within NI. | Does not apply. |
| Organisational differences | The Central Arbitration Committee (CAC) helps to resolve collective disputes in England, Scotland and Wales, where such disputes cannot be agreed voluntarily. The CAC is a | The Industrial Court assists with applications about legal recognition and derecognition of trade unions for collective bargaining | The main collective dispute mechanism is the Labour Court, which adjudicates on collective industrial disputes. Responsibility for promoting good industrial relations in ROI rests with the Workplace Relations Commission, which provides |

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| | tribunal for the Department for Business, Energy & Industrial Strategy. | purposes, where such recognition cannot be agreed voluntarily. | a range of industrial relations services around preventing and resolving workplace disputes and disagreements involving groups of workers, individual workers, employers and their representatives. |
| Proposals | <p>Look forward:</p> <p>The Employment Rights Bill includes has far-reaching expansions to trade union rights including introducing sectoral collective bargaining by way of Fair Pay Agreements; repealing the Trade Union Act 2016 and associated restrictions on industrial action in adult social care; simplifying the process of union recognition; creating new rights and protections for trade unions to undertake their work; enhancing the obligation on employers to notify workers of their right to join a union; improving protection for workers against detriments short of dismissal for taking part in industrial action; and enhancing rights of access to the workplace.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>Look forward:</p> <p>The 'Good Jobs' consultation sets out an intention to develop, enhance and modernise the operation of trade unions, and sets out number of proposed changes in this regard. The most significant relate to</p> <ul style="list-style-type: none"> ▶ increasing workplace access for trade unions (which is currently very limited) including accessing workplaces to promote membership and ensure compliance with employment law. ▶ Enhanced recognition - reducing the threshold for trade unions to seek recognition from 21 to 10 employees. <p>Other proposed changes related to introduction sectoral bargaining, changes to balloting and notice requirements for industrial action, enhanced protection for trade union officials and those taking part in industrial action and a proposed code of practice on principles and behaviours of trade unions for employers.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' consultation – What are the key areas for employers to consider?</p> | <p>Look forward:</p> <p>A high-level working group, the Labour Employer Economic Forum (LEEF), was set up in March 2021 to review the collective bargaining and industrial relations landscape in ROI. The LEEF report was published on 6 October 2022 and provides that there should be an obligation on employers to engage "in good faith" with trade unions, even where employers do not typically recognise trade unions. It provides that the minimum threshold for collective bargaining is 10% of the workforce with no minimum limit on the number of employees.</p> <p>A number of other recommendations were outlined in the report to improve the adequacy of the industrial relations framework which include:</p> <ul style="list-style-type: none"> ▶ Improving the existing Joint Labour Committee (JLC) system; ▶ Improving the process for referring disputes to the Labour Court under Part 3 of the Industrial Relations (Amendment) Act 2015; ▶ Setting out a proposed process for good faith engagement by employers. <p>The EU Adequate Minimum Wages Directive, which aims to improve the adequacy and increase the coverage of minimum wages, while also strengthening collective bargaining as the main instrument to ensure fair wages and working condition, must be implemented by EU member states by 15 November 2024. The Directive requires member states to take various measures aimed at increasing collective bargaining coverage. Where less than 80% of workers are covered by collective bargaining, they will need to establish an action plan to increase this.</p> |
| Miscellaneous | | | |

| | Great Britain (GB) | Northern Ireland (NI) | Republic of Ireland (ROI) |
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| <p>The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)</p> | <p>In January 2014, various changes to TUPE came into effect including narrowing the application of TUPE in the context of dismissals and changing terms and conditions of employment; permitting a change of location post-transfer to be an economic, technical or organisational reason entailing changes in the workforce; extending the period for providing employee liability information from 14 to 28 days; and providing for the transferee to be able to start collective redundancy consultation pre-transfer in certain circumstances.</p> <p>From 1 January 2024 changes extend the circumstances when employers can consult with employees directly (provided there are no existing employee representatives in place).</p> <p>Lewis Silkin - Government to legislate TUPE consultation requirements and to clarify record keeping requirements</p> <p>Look forward:</p> <p>Under the Employment Rights Bill, private sector workers working on outsourced public contracts will need to be offered terms and conditions no less favourable than the ex-public sector workers who have transferred. Also, any transferring ex-public sector workers should be treated no less favourably than they were as workers of the contracting public authority where they transferred from.</p> <p>Detailed regulations and a Code of Practice will be introduced relating to outsourcing public service contracts.</p> <p>More generally, there will be a Call for Evidence to examine TUPE and how it is implemented in practice. This is expected in 2025.</p> | <p>TUPE applies with the exception of the part dealing with Service Provision Changes. In NI separate regulations, the Service Provision Change (Protection of Employment) Regulations (NI) 2006 deal with such matters.</p> <p>Look forward:</p> <p>The 2014 and 2024 amendments that were made to TUPE were not introduced in NI, however, the 'Good Jobs' consultation seeks views on whether some GB changes outlined are now required in NI, specifically, whether to remove the requirement to elect representatives for TUPE consultation in two scenarios:</p> <ul style="list-style-type: none"> • If the employer has fewer than 50 employees • If the transfer involves fewer than 10 employees, irrespective of the size of the business <p>The Department is also seeking views on whether more clarity is required in law that TUPE only applies to employees and whether there is a need to remove the obligation to split employment contracts between multiple employers where a service is transferred to more than one new business.</p> <p>The Department also invites comments on whether any other changes to the TUPE legislation should be considered.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> <p>Lewis Silkin – 'Good Jobs' consultation – What are the key areas for employers to consider?</p> | <p>There are no corresponding amendments to the TUPE regime in ROI. The legislation governing this is the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003. The TUPE Regulations in ROI do not automatically apply on a service provision change. Whether TUPE applies in this type of a situation is a matter for interpretation by the WRC and is very fact/situation specific.</p> |

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| | Lewis Silkin - Employment Rights Bill Dashboard | Lewis Silkin – ‘Good Jobs’ talking points: What proposals are in place for TUPE in NI and how does this differ from TUPE in GB? Lewis Silkin – TUPE & the SPC Regulations in NI | |
| Working time/record keeping | <p>From 1 January 2024, the Working Time Regulations have been amended to clarify that employers do not have to record the daily working hours of their workers. The obligation remains to keep “adequate” records.</p> <p>Lewis Silkin - Government to legislate TUPE consultation requirements and to clarify record keeping requirements</p> | <p>Does not apply. Existing record keeping requirements remain.</p> <p>Look ahead:</p> <p>The ‘Good Jobs’ Consultation asserts there is a lack of clarity regarding the specific records employers should maintain and questions the effects of a more rigorous record – keeping regime, particularly on smaller businesses.</p> <p>The Department for the Economy seeks views on experiences with record keeping and whether a lack of it has resulted in disputes over hours or pay. The consultation also seeks views over whether government action in this area is necessary.</p> <p>Lewis Silkin - ‘Good Jobs’ Employment Rights Bill Consultation Dashboard</p> | <p>The Organisation of Working Time Act 1997 imposes an obligation on employers to keep detailed records of their employees’ daily and weekly working hours.</p> |
| Employee shareholders | <p>Employee-shareholder status applies (an employee shareholder being an employee who has agreed to have different employment rights, in return for being issued shares in the employer’s company).</p> | <p>Does not apply.</p> | <p>Does not apply.</p> |
| Apprenticeships | <p>Statutory apprenticeships apply; common law apprenticeships rarely apply.</p> <p>Lewis Silkin - Apprenticeships jurisdictional variations</p> <p>Lewis Silkin - Apprenticeships</p> <p>Look forward:</p> | <p>Apprenticeships are generally common law apprenticeships.</p> <p>Lewis Silkin - Apprenticeships jurisdictional variations</p> <p>Lewis Silkin - Apprenticeships</p> | <p>Common law and statutory apprenticeships apply.</p> |

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| | <p>The new Labour government has said that it will reform the apprenticeship levy and create a new, flexible, growth and skills levy.</p> <p>Lewis Silkin - New Deal talking points: What are Labour's plans for apprenticeships?</p> | | |
| Sick pay | <p>The Employment Rights Bill will remove the waiting period so that statutory sick pay must be paid from day one of sickness (rather than day four) and remove the lower earnings limit so that very low earners qualify for sick pay.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - Employment Rights Bill unveiled</p> | <p>As statutory sick pay provisions come under HMRC this change would apply nationally.</p> | <p>Since 2022, employers, regardless of size, are required to provide statutory sick pay to qualifying employees. Since 1 January 2024, employees have been entitled to five days' statutory sick pay per year. This was expected to increase to seven days in 2025 and ten days in 2026, but is currently under review by the Government so it is not clear if those increases will be implemented within those timeframes.</p> <p>The rate of payment is 70% of an employee's wage, subject to a daily maximum threshold of €110.</p> <p>Employees are entitled to statutory sick pay from day one of their certified sick leave.</p> |
| Tribunal time limits | <p>The new Labour government is expected to increase the time limits for bringing tribunal claims from 3 to 6 months.</p> <p>This was not mentioned in the Employment Rights Bill.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | <p>No such proposals in NI.</p> | <p>No proposals for change in ROI. In most cases, the standard time limit for bringing most employment claims to the WRC is six months. This period can be extended to a further six months, but only if there is a reasonable cause for the delay.</p> |
| State enforcement body | <p>The Employment Rights Bill will establish a new state enforcement agency called the Fair Work Agency. The Next Steps document says that the Fair Work Agency will bring together existing enforcement functions, including minimum wage and statutory sick pay enforcement; the employment tribunal penalty scheme; labour exploitation and modern slavery; as well as introducing the enforcement of holiday pay policy.</p> | <p>No such proposals in NI.</p> | <p>The WRC already has responsibility for carrying out workplace inspections to assess employment compliance with Irish employment law and to impose fines/penalties for non-compliance.</p> |

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| | <p>The Bill sets out a range of enforcement powers, including powers to enter business premises to obtain documents.</p> <p>It's likely to take a number of years for the practical arrangements for the Fair Work Agency to be fully up and running</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | | |
| Surveillance technology | <p>Labour plans to require employers to consult worker representatives before introducing surveillance technologies.</p> <p>This was not mentioned in the Employment Rights Bill. The Next Steps document indicates there will be a consultation on workplace surveillance technologies and associated union and staff consultation provisions.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> | No such proposals in NI. | No such proposals in ROI. |
| Agency workers | <p>The "Swedish Derogation" was abolished. Agency workers are entitled to receive equal pay as their permanent equivalents, once a 12-week employment period has passed, whether or not they are paid between assignments.</p> | <p>Look forward:</p> <p>The "Swedish Derogation" still applies, however, the 'Good Jobs' Consultation proposes removing this provision in line with the approach in GB.</p> <p>Lewis Silkin - 'Good Jobs' Employment Rights Bill Consultation Dashboard</p> | <p>Agency workers are entitled to equal treatment to workers hired directly by the hirer in respect of pay, working time, rest periods, night work, overtime, holidays, etc. This is a day one right (i.e. there is no 12-week qualifying period) and there is no "Swedish Derogation" loophole.</p> |
| Internships | <p>Look forward:</p> <p>Labour has indicated that it will introduce a ban on unpaid internships except as part of an education or training course.</p> | No such proposals in NI. | <p>In ROI, there is no legal definition of an internship. Apart from the employment of close family relatives and the engagement of registered industrial apprentices, there is no exemption in law from the obligation to pay the national minimum hourly rate of pay if the individual is carrying out work for another person and</p> |

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| | <p>This was not included in the Employment Rights Bill, but the government has committed to a Call for Evidence in relation to unpaid internships.</p> <p>Lewis Silkin - Employment Rights Bill Dashboard</p> <p>Lewis Silkin - New Deal talking points: Will a ban on unpaid internships make a difference?</p> | | <p>meets the definition of an “employee” working under a “contract of employment”.</p> |

This Comparative Table includes some potential and future employment law changes proposed following the election of a new Labour Government and publication of the Employment Rights Bill. Our updated tracker of key pledges is: [Lewis Silkin - UK election 2024 employment law reforms](#)

Changes to NI employment law are proposed under the Department for the Economy’s ‘Good Jobs’ Employment Rights Bill consultation. Our tracker for proposed changes is: Northern Ireland – [‘Good Jobs’ Employment Rights Bill Consultation Dashboard](#)

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Disclaimer: The content of this Comparative Table is up to date as of 23 October 2024. The Comparative Table should be treated as general guidance and should not be taken as legal advice. This Comparative Table does not contain a full analysis of all legislative and case law differences between the jurisdictions.

For more information, please contact:



Ciara Fulton

Partner, Lewis Silkin

+44 (0)28 9069 8870

ciara.fulton@lewissilkin.com



Paul Gillen

Partner, Lewis Silkin

+44 (0)28 9089 7620

paul.gillen@lewissilkin.com



Síobhra Rush

Partner, Lewis Silkin Ireland

+353 1566 9874

siobhra.rush@lewissilkin.com



Christine Quinn

Knowledge Partner, Legal Island

+44 (0)28 9446 3888

christine@legal-island.com


 **Legal Island**


 twitter.com/legalisland

 linkedin.com/company/legal-island

legal-island.com

Find out more

 twitter.com/lewissilkin

 linkedin.com/company/lewis-silkin

lewissilkin.com