

# COVID-19 and Labour Law: Ireland

## David Mangan\*

### Abstract

Similar to many other European countries, businesses in Ireland are largely working remotely if they are not shut temporarily (with the exception of food stores and pharmacies). The government has implemented a plan for businesses and workers (including the self-employed) centring on income support. Many questions remain to be openly discussed such as when businesses may start to re-open, how this may be done safely; not to mention the longer term impact.

**Keywords:** Covid-19; Labour Law; Remote work; Income support; Health and Safety.

### 1. Overview.

On 28 February 2020, Ireland reported its first case of Covid-19<sup>1</sup>, with the first death reported on 11 March 2020<sup>2</sup>. The Irish Government's<sup>3</sup> first national action was taken on 12 March 2020 with the closure of in-person tuition at schools and universities (teaching was immediately moved online) as well as the closure of childcare facilities, initially until 29 March 2020, in order to support efforts to contain the spread of Covid-19<sup>4</sup>. School closures were part of a larger effort to put in place social distancing amongst the population (a

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\* Maynooth University (Ireland). All sites last accessed on 9 April 2020.

<sup>1</sup> Raidió Teilifís Éireann (RTÉ), 'All those in close contact with Covid-19 patient 'notified' (28 February 2020) <https://www.rte.ie/news/ireland/2020/0228/1118104-coronavirus-ireland/>. RTÉ is the national broadcaster for Ireland.

<sup>2</sup> Fergal Bowers, 'First death of patient in Ireland with Covid-19' RTE (11 March 2020) <https://www.rte.ie/news/2020/0311/1121526-harris-Covid-19/>.

<sup>3</sup> The general election of 8 February 2020 did not produce a clear majority for any one party. This was the first time in almost a century that neither of the two main parties (Fianna Fáil and Fine Gael) won a majority. This result may be largely attributed to the rise in votes (and seats) for Sinn Féin (a party that has historical ties with the Irish Republican Army). Fianna Fáil and Fine Gael remain in discussions on a joint government policy document that would then be provided to other parties with seats (aside from Sinn Féin) for their support: Mícheál Lehane, 'Government policy could be agreed this week' <https://www.rte.ie/news/politics/2020/0331/1127700-fine-gael-fianna-fail-talks/> (1 April 2020).

<sup>4</sup> Department of Education & Skills, 'Covid-19 - Statement from the Department of Education and Skills' (12 March 2020) <https://www.education.ie/en/Press-Events/Press-Releases/2020-press-releases/12-march-2020-statement-from-the-department-of-education-and-skills.html>.

recommended distance of six feet with a minimum of three feet separation)<sup>5</sup>. In addition to school closures, Taoiseach Leo Varadkar also recommended the cancellation of indoor gatherings of 100 or more and outdoor gatherings of 500 or more. Education and childcare closures were extended to 19 April 2020 on 24 March 2020<sup>6</sup>. Soon after school closures, the government asked bars to shut down (15 March 2020)<sup>7</sup>, and by 28 March 2020 a 'lockdown' was in place affecting all but essential businesses and movement for food and medical appointments<sup>8</sup>. A 'state of emergency' has not been officially declared, though Taoiseach Leo Varadkar has described the situation as the 'Coronavirus Emergency'<sup>9</sup>.

The Irish Government announced a National COVID-19 Income Support Scheme on 24 March 2020. With an initial estimated cost of €3.7 billion over a 12-week period, the Irish Government took this action 'to ensure social solidarity with workers and their families affected by the crisis'<sup>10</sup>. Touching on social security, the government also announced enhanced protections for people facing difficulties with their mortgages, rent, and utility bills<sup>11</sup>. As it pertains to the workplace, the next section outlines some of the key points. As of early April 2020, it remains unclear what impact measures such as closing the majority of businesses temporarily and social distancing have had. The number of those who have Covid-19 have continued to increase since the aforementioned steps were taken. However, this in itself does not suggest the failure of these steps for questions such as how Covid-19 is transmitted remain unanswered.

The following detail is important to note. Ireland runs a two-tier healthcare system. A medical card is available for those who qualify (low income earners, retirees) and it entitles the holder to a range of free medical services. The majority of the population does not qualify and private health insurance has been a widely purchased commodity<sup>12</sup>.

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<sup>5</sup> This step is notable because the neighbouring United Kingdom initially endorsed 'herd immunity'. Keep in mind the Republic of Ireland is on the same land as a portion of the United Kingdom (Northern Ireland).

<sup>6</sup> Department of Education & Skills, 'Covid-19 - Statement from the Department of Education and Skills' (24 March 2020) <https://www.education.ie/en/Press-Events/Press-Releases/2020-press-releases/PR20-03-24.html>.

<sup>7</sup> RTE, '40 new cases of Covid-19 confirmed, pubs asked to close' (15 March 2020) <https://www.rte.ie/news/coronavirus/2020/0315/1123356-coronavirus-ireland/>

<sup>8</sup> Rory Carroll, 'Stay home!': Varadkar announces sweeping two-week lockdown' *The Guardian* (27 March 2020)

<https://www.theguardian.com/world/2020/mar/27/stay-home-varadkar-urges-irish-in-drastic-lockdown>

<sup>9</sup> See for example, Department of the Taoiseach, 'Speech of An Taoiseach Leo Varadkar TD, Government Buildings, 27 March 2020' <https://www.gov.ie/en/speech/f27026-speech-of-an-taoiseach-leo-varadkar-td-government-buildings-27-march/>

<sup>10</sup> Department of Business, Innovation and Enterprise, 'Government announces National Covid-19 Income Support Scheme' (24 March 2020) <https://dbei.gov.ie/en/News-And-Events/Department-News/2020/March/24032020.html>.

<sup>11</sup> Department of Business, Innovation and Enterprise, 'Government announces National Covid-19 Income Support Scheme' (24 March 2020) <https://dbei.gov.ie/en/News-And-Events/Department-News/2020/March/24032020.html>.

<sup>12</sup> The question is whether or not those suffering from Covid-19 would have 'access, for as long as required, to adequate health care and services of a preventive and curative nature' as set out in ILO, *ILO Standards and Covid-19* (23 March 2020), vers.1.2, 14-15.

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## 2. Income Support.

Three income support<sup>13</sup> arrangements are largely in use to assist businesses and workers: a temporary wage subsidy, unemployment allowance, and sick pay.

Eligible employers will be supported through a temporary wage subsidy of up to 70% of an employee's take home pay (on incomes up to €76,000 or twice average earnings) up to a maximum weekly tax free amount of €410 per week to help affected companies keep paying their employees (equivalent to €500/week pre-tax). For incomes between €38,000 and €76,000 support will be capped at €350/week. The Government expects employers to make best efforts to maintain pay as close to 100% of normal income as possible. To be eligible for this Scheme, employers (without restriction to any industries) must have 'experienced significant negative economic disruption due to Covid-19, with a minimum of 25% decline in turnover, and an inability to pay normal wages and other outgoings'<sup>14</sup>. Employees must have been on the payroll for February 2020. The National Scheme of 24 March 2020 also enhanced the Covid-19 Pandemic Unemployment Payment for workers who lost their jobs due to the crisis. These individuals will receive €350 per week, increased from €203, and the payment is in place for 12 weeks (from 24 March 2020)<sup>15</sup>. Self-employed individuals will also be eligible for the Covid-19 Pandemic Unemployment Payment of €350 directly from the Department of Employment Affairs and Social Protection. The Department of Employment Affairs and Social Protection and the Revenue Commissioners administer the unemployment and temporary wage subsidy, respectively. These plans have been put in place with an initial timeline of 12 weeks, but they will likely 'be in place for the duration of the crisis'<sup>16</sup>.

Preliminary data (from 2 April 2020) from the Central Statistics Office (CSO)<sup>17</sup> suggests that the preponderance of workers (283,037) are being dealt with through the unemployment payment with 25,104 individuals being treated under the temporary wage subsidy. As of 27 March 2020, 12, 650 companies had applied for temporary wage subsidy<sup>18</sup>. A firm statement cannot be drawn from this difference in numbers because the numbers represent administrative arrangements by the CSO (where the Live Register, as it

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<sup>13</sup> Income support would seem to fit within the first objective of ILO Recommendation 205 (Employment and decent work for peace and resilience). Further elaboration is found in: ILO, *ILO Standards and Covid-19* (23 March 2020), vers.1.2.

<sup>14</sup> Department of Business, Innovation and Enterprise, 'Government announces National Covid-19 Income Support Scheme' (24 March 2020) <https://dbei.gov.ie/en/News-And-Events/Department-News/2020/March/24032020.html>.

<sup>15</sup> Department of Employment Affairs and Social Protection, <https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/>

<sup>16</sup> Department of Employment Affairs and Social Protection, <https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/>.

<sup>17</sup> 'The Central Statistics Office (CSO) is Ireland's national statistical office and our purpose is to impartially collect, analyse and make available statistics about Ireland's people, society and economy': <https://www.cso.ie/en/aboutus/howweare/>.

<sup>18</sup> Department of Business, Innovation and Enterprise, 'Minister Humphreys again urges employers to avail of the Wage Subsidy Scheme' (27 March 2020) <https://dbei.gov.ie/en/News-And-Events/Department-News/2020/March/27032020bc.html>.

is called, is not set up to speak to unemployment)<sup>19</sup>. As of 9 April 2020, the unemployment rate (treating all Covid-19 unemployment payment recipients as unemployed) is 16.5%<sup>20</sup>.

The National Scheme of 24 March 2020 also increased the Covid-19 illness payment to €350 per week. The usual six-day wait period has been waived for those with Covid-19 or those required to self-isolate<sup>21</sup>. The illness payment involves a medical diagnosis and qualifying documentation is sent directly from a family doctor to the government.

### 3. Health & Safety at Work.

The National Standards Authority of Ireland (NSAI) published, on 27 March 2020, a COVID-19 Guide which ‘specifies requirements to implement, maintain and improve an organisation’s ability to protect against, prepare for, respond to and recover from COVID-19 related disruptions when they arise’<sup>22</sup>. €2500 consultancy vouchers are also available for workplace improvement measures<sup>23</sup>. The combination is intended to assist employers in identifying and implementing the measures ‘needed to ensure they can continue to operate safely to provide necessary and essential goods and services for all’.

### 4. Looking ahead.

A common concern amongst most nations is the estimated 25 million lost jobs (as estimated by the ILO<sup>24</sup>) stemming from Covid-19. Itself a statement on the current state of affairs, the long-term economic impact of Covid-19 on countries remains a challenge to be tackled at some yet-to-be-determined future point.

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<sup>19</sup> See the CSO’s note of 1 April 2020 outlining the figures: Central Statistics Office, ‘Information Note on Implications of COVID-19 on the Live Register and the Monthly Unemployment Estimates’ <https://www.cso.ie/en/releasesandpublications/in/mue/inlrmue/>

<sup>20</sup> The Central Statistics Office, ‘Press Statement Monthly Unemployment March 2020’ (9 April 2020) <https://www.cso.ie/en/csolatestnews/pressreleases/2020pressreleases/pressstatementmonthlyunemploymentmarch2020/>. The CSO explains that those who receive the unemployment payments do not fit the definition of unemployed that traditionally is used (by the EU and the ILO): CSO, ‘Monthly Unemployment and COVID-19 Adjusted Estimates March 2020 Technical Note’ (9 April 2020) <https://www.cso.ie/en/methods/labourmarket/monthlyunemployment/monthlyunemploymentandcovid-19adjustedestimatesmarch2020technicalnote/>

<sup>21</sup> Department of Business, Innovation and Enterprise, ‘Illness Benefit for COVID-19 absences’ <https://www.gov.ie/en/service/df55ae-how-to-apply-for-illness-benefit-for-covid-19-absences/>.

<sup>22</sup> NSAI, *COVID-19 Workplace Protection and Improvement Guide* (27 March 2020). [https://www.n sai.ie/images/uploads/general/Covid-19\\_Workplace\\_Protection\\_and\\_Improvement\\_Guide.pdf](https://www.n sai.ie/images/uploads/general/Covid-19_Workplace_Protection_and_Improvement_Guide.pdf)

<sup>23</sup> Department of Business, Innovation and Enterprise, ‘New ‘Workplace Protection and Improvement Guide’ launched by Minister Humphreys’ (27 March 2020) <https://dbci.gov.ie/en/News-And-Events/Department-News/2020/March/27032020.html>.

<sup>24</sup> ILO, *COVID-19 and the world of work: Impact and policy responses* (18 March 2020).

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