

# What's New

## The McCann FitzGerald **Employment, Pensions & Incentives Group** Update

### Key Contacts

19 October 2021



**Terence McCrann**

*Partner*

+353 1 607 1336

[terence.mccrann@](mailto:terence.mccrann@mccannfitzgerald.com)

[mccannfitzgerald.com](http://mccannfitzgerald.com)



**Mary Brassil**

*Partner*

+353 1 607 1279

[mary.brassil@](mailto:mary.brassil@mccannfitzgerald.com)

[mccannfitzgerald.com](http://mccannfitzgerald.com)



**Eleanor Cunningham**

*Partner*

+353 1 607 1723

[eleanor.cunningham@](mailto:eleanor.cunningham@mccannfitzgerald.com)

[mccannfitzgerald.com](http://mccannfitzgerald.com)

Welcome to the McCann FitzGerald Employment, Pensions & Incentives update. Below is an update on some of the latest developments.

### Budget 2022 – Key Takeaways for Employers

- The Employment Wage Subsidy Scheme (“EWSS”) income support will be extended until the end of April 2022. However, a two-rate structure of €151.50 and €203.00 will apply from December until the end of February, falling to €100.00 for March and April. A reduced rate of employers’ PRSI will no longer apply for the final two months of the EWSS, with the scheme closing to new applicants from 1 January 2022.
- There will be an income tax deduction of 30% of the cost of vouched expenses for broadband, electricity and heating in respect of costs incurred while working from home.
- The weekly income threshold for the higher rate of employer’s PRSI will increase from €398.00 to €410.00 to ensure that there is no incentive to reduce the working hours for a full-time employee on the increased minimum wage (from 1 January 2022).
- Parent’s Benefit and Parent’s Leave will increase by two weeks to seven weeks from July 2022, while a universal subsidy for parents has been extended to all children aged under 15 to help meet the costs of childcare.
- The national minimum wage hourly rate of pay will increase to €10.50. Working age welfare payments, including the jobseeker’s allowance, will also rise by €5.00 a week.

## Key Contacts

(Continued)



**Stephen Holst**

*Partner*

+353 1 511 1517  
[stephen.holst@mccannfitzgerald.com](mailto:stephen.holst@mccannfitzgerald.com)



**Catherine Austin**

*Consultant*

+353 1 607 1492  
[catherine.austin@mccannfitzgerald.com](mailto:catherine.austin@mccannfitzgerald.com)



**Roisin Finn**

*Associate*

+353 1 511 1663  
[roisin.finn@mccannfitzgerald.com](mailto:roisin.finn@mccannfitzgerald.com)

---

### [Blocklayer awarded €30,000 for exclusion from trade union](#)

The Court of Appeal has awarded €30,000 in general damages to a blocklayer against the Building and Allied Trades Union (“**BATU**”) over a breach of his right to earn a livelihood and loss of opportunity by not admitting him to membership of BATU after a probationary period. The award includes €7,500 in exemplary damages as an indication of the Court’s disapproval of the union’s treatment of the appellant, who was also awarded the bulk of his legal costs and expenses against BATU. The plaintiff held a C2 certificate from Revenue entitling him to work as a self-employed subcontractor on building sites. His BATU membership lapsed during the 1990s when he went abroad, but he sought to rejoin the union on his return to Limerick in 1997. BATU, at that point, applied a policy limiting its membership to employees of building contractors who could provide confirmation from Revenue that they did not hold a C2 certificate. When his C2 certificate expired in 1999, the appellant applied again for membership of BATU, this time furnishing the requisite confirmation from Revenue. He was granted union membership for a probationary period, commencing on 1 November 1999. However, when this probation period ended on 31 December 1999, he was not granted full membership status. The appellant claimed that BATU had severely diminished his ability to earn a living and that his constitutional right to work had been infringed, because being refused membership of BATU meant he could not find work in the Limerick area. The Court allowed the appeal concerning failures to award damages for loss of opportunity and to consider and assess, adequately, the claim for exemplary damages.

---

### [Dismissal for theft of hand sanitizer upheld](#)

In **Israr Ahmed v Bidvest Noonan Services Group Limited (ADJ-00030617)**, the complainant removed 10 ten bottles of hand sanitiser from a premises where he was stationed as a security guard during the early days of the Covid-19 pandemic. The complainant stated he took bottles when he was living with several friends and family, all of whom were exposed to the virus and argued that he could not risk contracting the virus given the dependence on his remittances on the part of his family back home in Pakistan. The respondent did not supply hand sanitiser at a time when the use of such was considered vital at this point in the pandemic. The respondent met with the complainant to inform him of his suspension on full pay pending an investigation. In the investigative meeting, the complainant admitted to taking the bottles and was remorseful. The respondent, however, stated it could not place him at another site in the knowledge that he had stolen client property and he was dismissed. The Workplace Relations Commission (“**WRC**”) found that the “total responsibility” of the complainant as security officer was the protection of the client’s premises and property and he had

fundamentally breached his contract in this regard, which it described as a “vital cornerstone” of the employment relationship. The employer was given cause to lose faith in him as an employee. The WRC decided that the claimant had not been unfairly dismissed and the complaint was not well founded.

---

### [Updated WRC Guidance for visitors in face-to-face hearings](#)

The WRC has published updated guidance for oral/face-to-face hearings. The WRC have put arrangements in place to ensure hearings are conducted in line with public health guidance, including physical distancing and hygiene protocols. One of the key points in the WRC guidance is that each hearing will be allocated a time slot of 2.5 hours in duration, regardless of the location. The WRC is of the view that most hearings can be disposed of or significantly progressed within the time allowed. If the case is not disposed of on the day, the Adjudication Officer will adjourn the matter and arrange for it to be relisted at the earliest opportunity. The WRC guidance also provides that to ensure social distancing can be fully observed, each party should not consist of more than **three persons**, including the named party, representative(s) and/or witnesses. Where additional witnesses are required, they should remain in the immediate vicinity outside the building until called. The lead representative on each side must have the means to communicate with that witness to enter the WRC hearing room at the appropriate time.

---

### [Government publishes Report of the Commission on Pensions](#)

On 7 October 2021, the Government published the Report of the Commission on Pensions. Some of the recommendations put forward in the report include the need for a coherent long-term strategy on State Pension reform, delaying any increases to the State Pension Age until 2028 (with a gradual increase to follow thereafter), introducing legislation that allows but does not compel an employee to stay in employment until State pension age and raising PRSI contributions. The Pensions Commission’s report will now be referred to the Cabinet Committee on Economic Recovery and Investment for consideration over the next six months with a view to bringing a recommended response and implementation plan to Government by end of March 2022.



---

**Principal Office**

Riverside One, Sir John Rogerson's Quay  
Dublin 2 D02 X576  
+353 1 829 0000

**London**

Tower 42, Level 38C, 25 Old Broad Street  
London EC2N 1HQ  
+44 20 7621 1000

---

**New York**

One Rockefeller Plaza, 30th Floor  
New York, NY 10020  
+1 646 952 6001

**Brussels**

40 Square de Meeûs, 1000 Brussels  
+32 2 740 0370

This document is for general guidance only and should not be regarded as a substitute for professional advice. Such advice should always be taken before acting on any of the matters discussed.