

## Key Differences in Employment Law Northern Ireland and Great Britain April 2022

Northern Ireland (NI)	Great Britain (GB)
Qualifying period in order to claim unfair dismissal = <b>one year</b>	Qualifying period in order to claim unfair dismissal = <b>two years</b>
Unfair Dismissal Compensation = capped at £94,063 (2022/23)	Unfair Dismissal Compensation = one year's salary / £93,878 (lower)
NI retains the statutory dismissal procedure and the grievance procedure requirements are now contained in the LRA Code of Practice.	GB repealed all of the statutory dispute resolution procedures and replaced them with the ACAS Code of Practice.
Collective redundancy consultation 100+ employees = <b>90 days</b>  The law still requires for the employer to engage in <b>meaningful, genuine consultation in good time</b> with a view to reaching agreement about for example, looking at alternatives to redundancy etc.	Collective redundancy consultation 100+ employees = <b>45 days</b>
Mandatory routing of cases through Labour Relations Agency first before getting to Industrial/Fair Employment Tribunal – core aspect of Employment (NI) Act 2016. Early Conciliation has been available from January 2020 in NI whereby anyone wishing to lodge a claim with an Industrial Tribunal or Fair Employment Tribunal must first notify the Labour Relations Agency. Most potential claimants will not be able to proceed without at least considering Early Conciliation. Review to be carried out after one and three years to see whether or not it is making a difference in terms of dispute resolution culture in NI.	Mandatory routing of cases through ACAS first before getting to Employment Tribunal - Early Conciliation came into operation April 2014 (mandatory from May) in GB whereby anyone wishing to lodge a claim with an Employment Tribunal must first notify ACAS. Most potential claimants will not be able to proceed without at least considering Early Conciliation.

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Arbitration as an alternative to an Industrial Tribunal applies to nearly all jurisdictions (approx. 53).	Arbitration as an alternative to an Employment Tribunal applies in only <b>two</b> areas of claim (unfair dismissal and flexible working).
Flexible working requests for all employees are via the existing statutory process under the Employment Rights (NI) Order 1996.	Flexible working requests for all employees are via the ACAS guidance.
No back-stop limitation period for making backdated holiday pay calculations that have not included regularly worked and achieved contractual non-guaranteed overtime and voluntary overtime	From July 2015 Employment Tribunal claims will limit backdated holiday pay calculations that have not included regularly worked and achieved contractual non-guaranteed overtime or voluntary overtime limited to a two year backstop.
The law on TUPE transfers remains as it was in 2006 (also see The Service Provision Change (Protection of Employment) Regulations (NI) 2006. Not part of the Employment Act (NI) 2016.	There were six technical reforms came into effect to TUPE 2006 legislation in 2014.
No regulation of exclusivity clauses in zero hours contracts in NI.	Exclusivity clauses in zero hours contracts have been banned since January 2016.
There are no plans at the minute to reform law on either trade unions or industrial action.	Some reforms into trade union record keeping and lobbying have already been introduced, and the Trade Union Act 2016 has been gradually implemented during 2016, 2017 and 2018 and this has made major changes to industrial action ballots, notices, facility time reports.
There is no fee system for lodging and hearing industrial tribunal cases.	There was a fee system for lodging/hearing employment tribunal cases between 2014 - 2017. <b>This was scrapped in July 2017.</b>
Unfair dismissal cases heard by Employment Judge and two panel members.	Unfair dismissal cases heard by a single Employment Judge only and no panel members.

Northern Ireland (NI)	Great Britain (GB)
No financial penalty regime against employers who lose at an Industrial Tribunal where there are aggravating factors.	Harsher penalties in Employment Tribunals against employers who lose at Tribunal where there are aggravating factors, increased in April 2020 from £5K to £20k.
Industrial Tribunal – Costs, preparation time and wasted cost orders (£10k max), deposit cap £500 – part of Employment Act (NI) April 2016.	Employment Tribunal – Costs, preparation time and wasted costs regime (£20k max), deposit cap £1,000.
Tribunal effectiveness and efficiency – NI looking to mirror changes from the “Underhill Review” and some of these are reflected in the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (NI) 2020	Tribunal effectiveness and efficiency – GB has already a series of reforms implemented from mid-2017 emerging from the “Underhill Review” for example, Case Management Discussions, Pre-Hearing Reviews, increases in Deposits Hearings etc.
The law on compromise agreements and settlement processes remains as it was.	Relatively recent reforms in relation to “settlement” agreements and protected conversations which now operate in GB.
Inadmissible negotiations and settlement agreements – no policy decision yet. Not part of the Employment Act (NI) 2016	Ability to have protected conversations in pre-termination negotiations and settlement agreements (unfair dismissal context). Effectively, allows anything that is said between the employer and employee in that particular unfair dismissal context to be privileged, to be protected and to be inadmissible in tribunals as evidence because it is a protected conversation.
Employee-shareholders were not introduced in NI.	Employee-shareholders passed April 2013. More information can be found: <a href="https://www.gov.uk/guidance/employee-shareholders">https://www.gov.uk/guidance/employee-shareholders</a>
‘Better Regulation’ - Only two pieces of legislation selected and examined as part of the ‘Red Tape Challenge’.	Process known as the ‘Red Tape Challenge’ - 120 Regulations set aside to be examined to see where bureaucracy can be minimised in employment law context.
Desk-topping simple employment disputes – <b>not</b> under discussion.	Desk-topping simple employment disputes by legal officers – planned but currently ‘on hold’.

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Regional mediation pilot scheme for SME's – <b>not</b> in operation. May be examined in 2021.	Regional mediation pilot scheme for SME's – ran until December 2013 and other pilots ran throughout 2014.
Neutral Assessment <b>may</b> be developed – part of Alternative Dispute Resolution menu – Employment Act 2016 (Power to Labour Relations Agency).	Neutral Assessment is <b>not</b> being developed as part of the Alternative Dispute Resolution menu.
Continue to operate in NI.	The so-called “Swedish Derogation” Agency workers loop hole abolished from 6 <sup>th</sup> April 2020.
Does <b>not</b> apply in NI.	Holiday pay calculation reference period for holidays extends from 12 weeks to 52 weeks to smooth out peaks and troughs in bonuses/overtime – 6 <sup>th</sup> April 2020.
<b>Not</b> operational in NI.	Right for <b>all workers</b> and <b>employees</b> to receive Statement of Written Particulars from Day One – 6 <sup>th</sup> April 2020.
Statutory Parental Bereavement Leave and Pay legislation introduced in NI from 6 <sup>th</sup> April 2022.	Implementation of Statutory Parental Bereavement Leave – late March 2020 with operational date of early April 2020.