



EmployNet

New Employment Bill

The government finally published its Employment Bill on 7th December 2007. The Bill, which will probably be the most talked about employment related Bill of 2008 aims to strengthen and clarify key aspects of employment law.

The first part of the new Bill repeals the existing Statutory Dispute Resolution and follows the recommendations of Michael Gibbons, who was appointed by Alastair Darling to investigate the system for resolving employment disputes and how they could be improved (see EmployNet issue 5).

One of Michael Gibbons' key recommendations included resolving disputes at an earlier stage. In response to this the Bill introduces a new fast track procedure for settling monetary disputes. Employees and employers will be expected to follow the Code of Practice for resolving disputes by the Advisory, Conciliation and Arbitration Service (ACAS). If either party fails to comply with the relevant Code of Practice employment tribunals will be able to increase or reduce the compensation by up to 25%.

The Bill also proposes tough new laws for rogue employers not adhering to national minimum wage (NMW) law and for agencies exploiting workers. Under the existing law all arrears are paid to the worker at the NMW rate applicable in the year when the offence occurred, and the maximum fine a company would have to pay is £5000. The new Bill proposes that all arrears are paid at the current NMW rate and that the maximum penalty is unlimited for serious offenders.

Finally, trade unions would be permitted to expel individuals or refuse membership on the basis of their current or former membership of a political party.

The Bill is expected to receive Royal Assent this summer but is unlikely to become law until April 2009.

Key Provisions of the Bill

- Replacement of the 2004 compulsory dispute resolution procedures
- New National Minimum Wage enforcement powers
- Strengthening the Employment Agencies Act 1973
- Rights of unions to expel members.

New measures to prevent illegal working

UK immigration law is to be dramatically overhauled and ultimately simplified for employers over the next five years.

As mentioned in EmployNet issue 5, the new point tier system will be introduced in April 2008. This will reduce the point of entry from 80 possible routes to just 5. The government is also tackling the problem by introducing compulsory ID cards for migrants and by carrying out tougher checks before migrants travel to the UK.

In addition to this the government has recently announced that from February 2008 employers who negligently hire illegal workers face a fine of £10,000 for each illegal worker employed. Those that knowingly hire illegal workers could incur a prison sentence and an unlimited fine.

Meet the team

Andrew & Co. have a dedicated team of employment specialists available to help you. Please contact us if you need assistance.



Phillip Hoskins

Phillip is Managing Partner of Andrew & Co and Team Leader for the Employment and Dispute Resolution Team.

Phillip specialises in employment law, general commercial work and commercial disputes.

He deals with the drafting of employment documents and policies and also handles employment disputes right across the employment law spectrum including cases on TUPE and union cogtion.

Contact Phillip on: 01522 781474; email: phillip.hoskins@andrew-solicitors.co.uk



Annette P Wood

Annette is a Partner in the Employment and Dispute Resolution Team, she is also an accredited Commercial mediator.

Annette specialises in employment law, general and commercial disputes, particularly property and partnership / business disputes.

She drafts employment contracts and policies and advises generally on non-contentious employment matters, but also employment disputes. She regularly advises regarding compromise agreements.

Contact Annette on: 01522 781476; email: annette.wood@andrew-solicitors.co.uk

ANDREW & CO
S O L I C I T O R S

www.andrew-solicitors.co.uk
3-5 St Swithin's Square Lincoln LN2 1HB.
Tel: (01522) 512123

National Minimum Wage Flouting - First conviction



Some 150,000 British workers claim to not be receiving the minimum wage from their employers, according to a recent independent research survey conducted by the Trades Union Congress (TUC).

HM Revenue and Customs (HMRC) are trying to crack down and recently fined an owner of a children's nursery £2,500 plus £5,000 costs after she pleaded guilty in the first criminal prosecution for breach of the National Wage law. The owner refused access of staff records to compliance officers from HMRC when they searched her premises.

Andy Millican, Criminal Investigation Team Leader for HMRC said, "This prosecution sends a clear message to employers that HMRC will actively pursue those we suspect of flouting the National Minimum Wage laws."

Pension Bill

A new Pension Bill had its first reading in the House of Commons on 5th December 2007. Currently stakeholder pensions are legally required for employers employing 5 or more staff but crucially employees have to 'opt in' to participate and employers are not obliged to make any contributions.

If the proposed updated Bill is passed employees will be automatically registered to an enrolment scheme, whilst having the option to 'opt out' should this be desired. Employees would have to contribute at least 4% of their earnings whilst employers would have to contribute at least 3% of the employee's earnings.

Flexible working - to be extended?

After the Queen's speech on 6th November 2007 the government announced a proposal to extend the right to request flexible working to parents of children up to the ages of either 9, 12 or 17.

Imelda Walsh, director of HR at Sainsbury's, has been commissioned to undertake the independent review.

The results are expected this Spring.



UPDATE

Corporate Manslaughter and Corporate Homicide Act 2007

This has finally been passed by the House of Commons and is due to become law from 6th April 2008. The Act will allow the prosecution of an organisation where their activities and commercial practices ultimately lead to a person's death.

The offence is based on corporate liability and will not be on an individual basis, with the sentence being a fine rather than an individual custodial sentence.

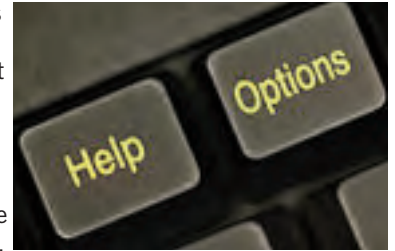
On the web...

New website pages on disability in the workplace launched

The Health and Safety Executive's official website has recently launched new web pages to assist disabled people and their employers.

The new pages have information on disability discrimination, advice for people doing risk assessments, Health & Safety law, general advice and links to other disability related websites and information.

For more information please visit the website - <http://www.hse.gov.uk/disability>



New guide on anti-bullying policies

The Trades Union Congress (TUC) has made available a new anti-bullying guide via their website.

Of interest to employers will be the advice on what should be included in an anti-bullying policy.

For more information please visit their website - http://www.tuc.org.uk/h_and_s/tuc-13809-f0.cfm

On the case...

Age Discrimination

Age discrimination legislation originally arose to protect older workers, however in a first of its kind case, a 20 year old woman was successful in bringing an action for being too young.

The woman was sacked from her job as a membership secretary for being too young to deal with its members. Her claim fell under the Employment Equality (Age) Regulations 2006. The claimant was awarded compensation of approximately £2000 for injury of feelings and unpaid notice.

Statutory increases...

Sick Pay

From 6th April 2008 statutory sick pay will increase to £75.40 per week.

Maternity, Adoption and Paternity Pay

From 6th April 2008 statutory maternity, adoption and paternity pay will increase to £117.18 per week.

Unfair Dismissal

The maximum compensatory award for unfair dismissal goes up from £60,600 to £63,000 as from 1st February this year.

Did you know..?

On 1st December Employment Tribunal Chairmen had a title change – these professionals are now to be referred to as Employment Judges.