

PEOPLE BUSINESS NEWSLETTER

Employment Law Update

From 1st October 2012 we will see a number of changes to employment law. A summary of the changes taking place are detailed below as well as proposed changes further ahead.

Employment Law changes 1st October 2012

National minimum wage increases

- 21 and over £6.19 per hour up by 11p
- 18-20 year olds: £4.98per hour no change
- 16-17 year olds: £3.68per hour no change
- Apprentices: £2.65 per hour up by 5p

Staging for pensions auto-enrolment begins

The Pensions Act 2008 and the Pensions Act 2011 require employers to auto-enrol eligible jobholders not already participating in a workplace pension scheme into a qualifying pension scheme or the National Employment Savings Trust.

The duty to auto-enrol is implemented in stages: the employer's staging date is dependent on how many employees there are.

Employers will need to:

- Automatically enrol certain eligible workers into a pension scheme
- Make contributions on their workers' behalf
- Register with The Pensions Regulator ('the regulator')
- Provide workers with certain information about the changes and how they will affect them

Employers may postpone enrolment for three months, although employees will be able to opt in during the postponement period.

The table below sets out the revised automatic enrolment dates for all employer sizes.

Employer size	Automatic Enrolment duty date	
	From	To
250 or more employees	1 October 2012	1 February 2014
50 to 249 employees	1 April 2014	1 April 2015
Test section for less than 30 employees	1 June 2015	30 June 2015
30 to 49 employees	1 August 2015	1 October 2015
Less than 30 employees	1 January 2016	1 April 2017
Employers without PAYE schemes	1 April 2017	- - -
New employers Apr 2012 to Mar 2013	1 May 2017	- - -
New employers Apr 2013 to Mar 2014	1 July 2017	- - -
New employers Apr 2014 to Mar 2015	1 August 2017	- - -
New employers Apr 2015 to Dec 2015	1 October 2017	- - -
New employers Jan 2016 to Sep 2016	1 November 2017	- - -
New employers Oct 2016 to Jun 2017	1 January 2018	- - -
New employers Jul 2017 to Sep 2017	1 February 2018	- - -
New employers Oct 2017	Immediate duty	- - -

Smoke-free (Signs) Regulations 2012 come into force

These Regulations revoke the Smoke-free (Signs) Regulations 2007 and replace the detailed requirements for no smoking signs prescribed by the 2007 Regulations with a simple requirement for there to be at least one legible no-smoking sign displayed in all smoke-free vehicles and in all smoke-free premises.

Other proposed changes (dates yet to be confirmed) include the following:

Parental leave increases from three to four months

The permitted period of parental leave following the birth or adoption of a child increases from three to four months, and at least one of the four months will not be transferable between parents. The Directive comes into force on 8 March 2012, but the Government has confirmed that it will rely on the exception that allows member states an extra year for implementation, and that it will implement the change by March 2013.

Reform of access to work

The Government's equality strategy confirms that the Government will reform the Access to Work scheme so that disabled people will be in a position to apply for jobs with funding already secured for adaptations or equipment that will assist them to perform the role.

Protected conversations introduced

Conversations between an employer and an employee or an offer made prior to the termination of employment, with a view to terminating employment on agreed terms, may not be taken into account by an employment tribunal when determining an unfair dismissal claim.

All potential employment tribunal claims referred to ACAS

The Enterprise and Regulatory Reform Bill requires potential claimants to lodge details of their proposed employment tribunal claim with ACAS in the first instance. ACAS will offer the parties the opportunity to engage in conciliation with a conciliation officer for a prescribed period. Where the conciliation officer concludes that a settlement is not possible, or where the prescribed period ends without reaching a settlement, the claimant will be issued with a certificate permitting him or her to issue proceedings.

Changes to The Cap

The cap on the compensatory award for unfair dismissal is to be reduced from £72,300 to the lower of the national median average earnings (currently £25,882) or an individual's annual net salary.

Changes/updates for 2013 include the following:

School leaving age is raised to 17

The Education and Skills Act 2008 changes the statutory framework to put a duty on all young people in England to participate in education or training until the age of 17 (increasing to 18 in 2015). It also amends legislation about the provision of adult education and training, and support for young people.

Eye tests for professional drivers

The Driving Licences Directive prescribes that holders of commercial driving licences will be required to have their eyes tested every five years. The UK must implement the Directive by 2013.

CRB process amended

Once a Criminal Records Bureau (CRB) check has been conducted, the results will be available online to enable employers to confirm that no new information has been added since the check was originally made. This means that an employee will not have to obtain a new check each time he or she starts a new job.

Fees for tribunal claims introduced

Claimants who issue a claim against their employer in the employment tribunal are required to pay a fee. There are two levels of claim, depending on the complexity of the case. The claimant pays an initial fee to issue a claim and a further fee if the claim proceeds to a hearing. The tribunal may order the fees to be repaid to the claimant if he or she is successful with his or her claim. Fees are also payable for appeals submitted to the Employment Appeal Tribunal.

Directive on protection of healthcare workers must be implemented

Member states must implement legislation that gives increased protection to healthcare workers by 11 May 2013. The increased protection includes provision to prevent injuries caused by sharp objects.

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