

# Employment Update

## February 2011 - Issue One



**Welcome...** to the first edition of the *Employment Update Newsletter* from the HR office at Church House in London. We hope that you will find these updates helpful and informative. They have been designed to give you a snapshot of what has occurred in employment law recently and what is coming up over the next year. In order to understand the changes coming up in 2011 it is therefore important to read the major changes that have occurred in 2010 below...

### Major Changes to Employment Law in 2010

- **Fit Notes** - or New Statements of Fitness for Work replaced the traditional 'sick notes' issued by doctors across the UK – from 6<sup>th</sup> April 2010. GPs are able to advise people who are on sick leave for over 7 days whether, with extra support from their employer, they could return to work earlier. This might mean discussing: a phased return to work; flexible working; amended duties and/or workplace adaptations. The GP will also provide general details of the functional effect of the individual's condition.
- **Equality Act 2010** - came into force on 1<sup>st</sup> October 2010. This Act brings together existing legislation on discrimination and equality and introduces new provisions, which address outstanding discrimination issues and support wider work to promote equality. The Act covers all groups already covered by existing anti-discrimination law: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Please note that gender reassignment, marriage, civil partnership, pregnancy and maternity are currently protected under sex discrimination law. The key concepts of the Act include:
  - \* Extending positive action so that employers can take into account, when selecting between two equally qualified candidates for recruitment or promotion, under-representation of disadvantaged groups (this provision will take effect in 2011 – see below for more information).
  - \* Limiting the circumstances when you can ask health-related questions before you have offered an individual a job (you will still be able to ask if you need to make any reasonable adjustments for the candidate in order for them to undertake the selection process).
  - \* Extending the protection from harassment by third parties that currently applies to sexual harassment to the other protected groups.
  - \* Banning secrecy clauses which prevent people from discussing their pay with colleagues.
  - \* Protecting against discrimination by association, for example making it unlawful to discriminate against someone because they care for an elderly relative.
  - \* Strengthening protection from discrimination for disabled people.
  - \* The Government is also currently consulting on whether the Bill should contain provision for multiple discrimination claims, for example alleging discrimination against an older woman (and therefore being able to claim on both sex and age discrimination).



Please see Acas for more information on the Equality Act: <http://www.acas.org.uk/index.aspx?articleid=3017>

- **National Minimum Wage rates** - increased from 1<sup>st</sup> October 2010: the standard adult rate (which was extended to cover workers aged 21 and above) to £5.93, the development rate (for workers aged 18-21) to £4.92 and the youth rate (for workers aged 16-17) to £3.64. An apprentice minimum wage of £2.50 per hour was introduced for the first time – it applies to apprentices under 19 years, or those aged 19 and over in the first year of their apprenticeship.
- **Statutory Maternity, Paternity and Adoption pay** - standard rates increased to £124.88 a week – from 4<sup>th</sup> April 2010. (The standard rate of statutory sick pay (SSP) remained unchanged at £79.15 a week.)

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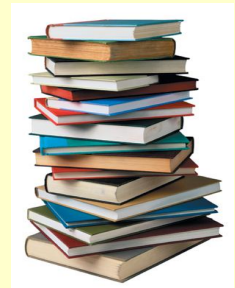


### Forthcoming Changes in Employment Law: January – May 2011

- **Employment Tribunal Award Limits** - will increase from 1st February 2011. The maximum compensatory award for unfair dismissal will rise from £65,300 to £68,400; and the maximum week's pay from £380 to £400 - this figure is used for calculating statutory redundancy payments and the basic award in an employment tribunal.

This now means that the maximum unfair dismissal award can be £80,400 (basic award plus compensatory award). Please bear in mind that there is still no limit to the amount that can be awarded for unfair dismissal for certain health and safety reasons, and for discrimination claims.

- **Additional Paternity Leave** - due to come into force on 3<sup>rd</sup> April 2011, will allow eligible employees whose children are due (or who are notified of a match in an adoption situation) on or after this date, to take additional paternity leave up to a maximum of three months paid at the statutory rate and three months unpaid. This allows the father (or mother's partner) to take part of the mother's maternity leave, to allow the mother to return to work.
- **Default Retirement Age (DRA)** - to be phased out from 6<sup>th</sup> April 2011, together with the removal of the associated statutory retirement procedures. (An employer that issues a notification of retirement before 6<sup>th</sup> April 2011 will be able to retire the employee if his or her retirement date is before 1<sup>st</sup> October 2011). Employers will only be able to retain a compulsory retirement age if they can objectively justify it (e.g. - police officers - a possible profession where having a retirement age could be justifiable).
- **Right to Request Flexible Working** - will be extended to parents of children under 18 from 6<sup>th</sup> April 2011. The Government will consult further on extending this right to all employees in the future.
- **National Insurance contributions** - will increase from 6<sup>th</sup> April 2011. The rates of NI contributions paid by employees, employers and the self-employed will increase by 1%. The level at which employees start to pay NI contributions will increase by £570.
- **Right to make a request in relation to study or training for organisations with fewer than 250 employees** - to be introduced on 6<sup>th</sup> April 2011. All employees (with at least 6 months service) will have a right to make a request for time off for study or training - which they believe will make them more productive and effective at work. Employers will be obliged to consider seriously requests that they receive, but will be able to refuse a request where there is a good business reason for doing so. (The right to make a request for time off in relation to study or training was introduced for employees in organisations with 250 or more employees on 6<sup>th</sup> April 2010).
- **Statutory Maternity and Sick Pay** - will increase in on 6<sup>th</sup> April 2011. Statutory Maternity, Paternity and Adoption Pay, and Maternity Allowance, will increase from £124.88 to £128.73 per week; and Statutory Sick Pay from £79.15 to £81.60 per week. The weekly earnings threshold for these payments will also increase from £97 to £102.
- **Provisions of The Equality Act 2010** - relating to positive action in recruitment and promotion comes into force in April 2011. This enables employers to make their organisations more representative by giving them the option, when faced with two or more candidates of equal merit, to choose a candidate from a group that is under-represented in the workforce.



### Further Changes in Employment Law: June – December 2011

- **The Agency Workers Regulations 2010** - are due to come into force from 1<sup>st</sup> October 2011. Temporary agency workers will receive equal treatment to comparable permanent employees after 12 weeks in a job.
- **National Minimum Wage** - increases (to be confirmed in February) will take effect in October 2011.

Further information to follow in the next Employment Update...