

EmployNet update

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George Osborne announces Employment Law Reforms

Chancellor George Osborne announced, during his speech to the Conservative Party conference, two important changes to employment law. These changes are intended to reduce the number of employment tribunal claims, boost the economy and end the one way bet against small businesses.

Firstly, the qualifying period for unfair dismissal will be increased from 1 to 2 years with effect from 1st April 2012. This will be welcomed by employers making it easier for them to dismiss employees with less than 2 years service.

However, please be aware that this could spark an increase in the number of discrimination or whistleblowing claims because there is no qualifying period of employment needed for these.

The second change is that fees will be introduced for tribunal claims. Workers with grievances will face a fee of between £150 and £250 for lodging any claim against their employer, and a further £1,000 for proceeding to a hearing.

The exact amounts of the up-front fees and the arrangements for their payment are the subject of a consultation which will start at the end of November. Fees will then start to be charged from April 2013. There may be higher fees for cases where the compensation claimed tops £30,000. Any individual who wins their case will see the fees refunded. Those who lose will have their fee forfeited.

There is expected to be support offered for poorer claimants in the form of a fee-waiver or reduction. However, it will be important to get clarification on what form this will take following the consultation process. If the test for a fee-waiver is simply being on income-support, then most ex-employees will automatically qualify for the waiver (but those still in a job will not). It is also important to note that the proposed issue fee of £250 (and hearing fee of £1000) is substantially greater than the current small claims issue fee.

Despite arrangements for less well-off people to have the fee waived or reduced, lawyers have predicted that it will inevitably deter poorer people from seeking redress and will therefore deny access to justice for some people with meritorious claims.

For more information about employment tribunals or the forthcoming changes to employment law, feel free to contact us.

Meet the team



William Addis

William advises mainly employers ranging from SME's to PLC's on all aspects of employment law including day to day employment issues and tribunal claims.

Contact details:

E: william.addis@cwj.co.uk
T: 01689 887834



Rosa Brennan

Rosa has substantial experience acting for, and advising, employers and employees and has sat as a member of the Employment Tribunal.

Contact details:

E: rosa.brennan@cwj.co.uk
T: 01689 887872



Pritti Bajaria

Pritti's specialism is acting for employees. She has extensive experience of representing individuals, including directors and senior executives, covering a range of employment issues.

Contact details:

E: priti.bajaria@cwj.co.uk
T: 01689 887846



Yasmin Awan

Yasmin specialises in employment issues acting for both employers and employees. She has experience in representing commercial clients and individuals in various cases.

Contact details:

E: yasmin.awan@cwj.co.uk
T: 01689 887805



Clarkson Wright & Jakes Ltd
Solicitors and Notaries

Clarkson Wright & Jakes Ltd
Valiant House, 12 Knoll Rise, Orpington, Kent, BR6 0PG
Tel: 01689 887887 Fax: 01689 887888
E-mail: kim.ewins@cwj.co.uk
www.cwj.co.uk

Default retirement age is completely abolished

The default retirement age in the UK is now fully abolished after being phased out from April 2011. New legislation stops employers from compulsorily retiring workers once they reach the age of 65.

Employers may continue to prescribe a compulsory retirement age on or after 1st October 2011 only where they can cite reasons relating to capability, conduct, redundancy, illegality or other substantial reasons capable of justifying dismissal as detailed in Section 98, of the Employment Rights Act 1996.

New rules on treatment of agency workers

The Agency Workers Directive was implemented in the UK on 1st October 2011 and is set to have a significant impact on the rights of agency staff and serious financial implications for those companies that frequently engage them.

In short:

- The new rules affect agency workers contracted for 12 weeks or longer
- The qualifying period relates to the length of service with the hirer, irrespective of which agency provides the worker
- Compensation for breaches of the Regulations has no upper limit
- The Regulations do not provide any rights to employees.

National Minimum Wage 2011/2012 Increase

On 1st October 2011 the UK national minimum wage broke the £6 per hour barrier, rising to £6.08 from £5.93 per hour.

The Low Pay Commission's 2011 report says that this increase "take[s] account of the continued economic uncertainty while protecting the lowest-paid workers from falling further behind the average."

There are also increases to the national minimum wage "youth development rate" to £4.98 per hour, the "youth rate" to £3.68 per hour and the "apprentice" rate to £2.60 per hour.

Part-time employees sue companies for damaging their careers

Innovative tactics used to hold onto workers during the recession, such as moving staff onto shorter working weeks, has backfired as employees begin to sue companies for damaging their careers.

Official figures show the number of employment tribunal claims from part-time workers trebled in the year to March 2011, reaching 1,600 cases.

After the economic downturn, many employees were given no option but to take part-time hours or face job cuts. Some workers now feel that because of their reduced hours they have missed out on possible promotions and other benefits and so are looking to bring their employer to an employment tribunal.

The sorts of claims part-timers might make include not having access to the same benefits as permanent staff, such as the company car or equal holiday rights. Cases would be brought under the part-time workers regulations, introduced to give those on reduced hours the same protection and rights as those in comparable full-time roles.

Mental ill-health costs the UK billions a year, say Unite and Mind

Unite, the country's biggest trade union, teamed up with UK mental health charity Mind to examine how mental health is affecting workers. They estimate that 70 million working days are lost to absences due to mental health problems and that this costs British business £8.4 billion a year.

In fact at any one time 1 in 6 employees will be experiencing mental distress, depression or stress. Steps that employers can take to improve the management of mental health in the workplace include:

- Carry out appropriate risk assessments: identify psychological hazards and risks at work
- Identify a health problem early: assess an employee swiftly to see whether he or she needs to be referred to a health professional
- Provide training for line managers: to increase managers understanding of the clinical, legal, occupational and financial aspects of mental ill health
- Help and support employees to self-manage a health problem
- Promote a healthier lifestyle.



Hotel restaurant manager told: "Get rid of ugly, fat staff"

Amia Ismail, 58, restaurant manager for Radisson Edwardian Hotels, was told to get rid of 'ugly' older staff because bosses wanted 'young, sexy, blonde' girls 'with short skirts', an employment tribunal heard this month.

While working at one Radisson Edwardian central London hotel, he recalls the general manager, Charles Oak, remarking that he did not like the fact that in Mr Ismail's team, there were 3 Philippine ladies who according to him were "ugly, fat, old and short."

Mr Ismail is claiming unfair dismissal against the hotel chain and discrimination. Radisson Edwardian Hotels deny all claims.

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