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EmployNet update

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Each year brings with it numerous legislative changes - here's the annual round up for 2015.

1. Shared parental leave and pay begins
Shared parental leave and pay will be available to couples with a baby due; children placed for adoption; or parents to a child placed under a parental order on or after 5th April 2015. Parents will be able to share the mother's maternity leave and, if available, maternity pay.

2. Changes to statutory adoption leave and pay
The 26-week qualifying period to be eligible to take adoption leave will be removed, bringing it into line with the eligibility requirements for maternity leave.

Surrogate parents and parents of a child under a parental order will become eligible for adoption leave where the child is matched for adoption on or after 5th April 2015.

3. New right to take time off to attend adoption appointments
The Children and Families Act 2013 introduces a new right to attend adoption appointments.

4. Child's age limit for parental leave rises to 18
From 5th April 2015, parents with sufficient qualifying service will have the right to 18 weeks' unpaid parental leave up to the child's 18th birthday.

5. New Fit for Work service available for employees with sickness absence of 4 weeks or more
The new Fit for Work service is scheduled to be introduced in England and Wales in 2015, offering employers access to free occupational assistance for employees who have been off sick for 4 weeks or more.

6. Removal of restrictions on defined-contribution pension schemes
From April, certain restrictions will be removed in respect of how individuals can draw benefits from their defined-contribution pension pots after 55.

7. Statutory maternity pay, ordinary paternity pay and adoption pay increases on 5th April 2015

8. Statutory sick pay increases on 6th April 2015

For advice on any of these forthcoming changes, contact our team of specialist solicitors.

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Unison loses its fight to overturn tribunal fees, but will appeal

As 2014 drew to a close, the High Court rejected a judicial review brought by trade union Unison to have tribunal fees ruled unlawful.

In his ruling, the Hon. Mr Justice Foskett admitted that although it is likely there have been instances where individuals have been refused access to justice as a result of the fees, the "assessment has to be seen as speculative until convincing evidence to that effect is uncovered".

It is the second time Unison has failed in a legal challenge against the validity of the fees, after a court ruled its first attempt was "premature" in February 2014.

Business groups unite to condemn new HMRC red tape on flexible workers

UK business groups have come together to express their deep concerns about new regulations introduced by HMRC.

Sounding the alarm on the new regulations are IPSE (Independent Professionals and the Self-Employed), REC (Recruitment and Employment Confederation), FCSA (Freelance and Contractor Services Association) and APSCo, (Association of Professional Staffing Companies.)

The proposals, which follow the 'onshore intermediaries' legislation introduced earlier this year will mean recruitment firms will have to collect, verify and report sensitive information about self-employed workers and company directors to HMRC. Whilst some reporting is needed to enforce the changes, these obligations will create a huge administrative burden and introduce risks in handling personal data.

Holiday pay regulations offer hope for employers (but not until July 2015)

The Department for Business, Innovation and Skills (BIS) has implemented the Deduction from Wages (Limitation) Regulations 2014 following assessment of the possible impact of the Employment Appeals Tribunal's landmark Bear Scotland ruling on the inclusion of overtime in holiday pay calculations.

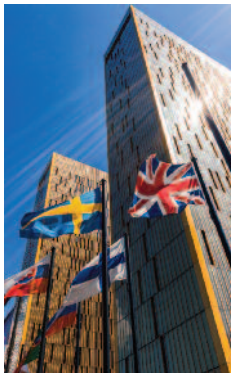
The Regulations have imposed a 2 year limit which means that claims for unlawful deductions from wages can only relate to deductions made in the two years before the claim is lodged.

However, the 2 year limit will only take effect from 1st July 2015 leaving employees with a window to bring claims before that date and therefore potential higher financial exposure for employers. Although the practical risk for most employers in this interim period is thought to be low.

The Regulations also state that the right to paid holiday is a statutory right and not a contractual right incorporated as a term in employment contracts. This technical point means that employees will be prevented from getting around the new 2 year limit by bringing contractual claims in the civil courts.

For help reviewing your business's methods of calculating holiday pay and ensuring compliance, contact our team of specialist solicitors.

Obesity can be considered a disability, ECJ rules



Ruling on the case of Karsten Kaltoft, a Danish childminder who claimed he was sacked for being too fat, the ECJ said that if obesity hinders "full and effective participation" at work, it could count as a disability.

The ruling means that any effects of obesity can be classed as a disability, and, as such, workers who suffer from obesity-related problems will be protected by the European Equal Treatment Framework Directive, and cannot be dismissed because of their weight.

Mr Kaltoft, who weighs around 25 stone, brought a discrimination case against his employers, Billund local authority, after he was dismissed during a round of redundancies. He claimed that he did not view himself as disabled, and accused the authority of discriminating against him for being overweight.

Because the ruling is binding across the EU, UK employers will have to ensure that obese staff are treated fairly and that reasonable adjustments are made where the impact of obesity hinders them from doing their job.

For more information on how this ruling could impact on your business, please contact our team of specialist solicitors.

Are we heading for a digital meltdown?

Digital cracks are predicted to appear in the workplace in 2015 as organisations grapple with the need to embed new technology.

On the face of it new technology sounds like a good idea, but the challenge will be whether organisations can adopt new technologies quickly enough to satisfy employee's needs while ensuring employees of all ages are empowered by the technological innovations.

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