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Employment Legislation Timetable

2008

1 FEBRUARY — INCREASES TO STATUTORY COMPENSATION LIMITS

- Limit on a week's pay for calculating the basic award for unfair dismissal and statutory redundancy pay increased from £310 to £330.
- The maximum statutory redundancy pay increased from £9,300 to £9,900.
- Limit on compensatory award for unfair dismissal increased from £60,600 to £63,000.

29 FEBRUARY — IMMIGRATION – PENALTIES FOR EMPLOYING ILLEGAL WORKERS

Penalties for employing illegal workers (who started employment on or after this date) increased:

- Employers found to have negligently hired an illegal worker liable for a fine of up to £10,000 per illegal worker.
- Employers found to have knowingly hired an illegal worker can receive an unlimited fine and a potential two year custodial sentence.

6 APRIL — CORPORATE MANSLAUGHTER

Offence of corporate manslaughter introduced. An organisation may be prosecuted if a gross failing by its senior managers to take reasonable care for the safety of its workers, or members of the public, causes a person's death. The penalty is an unlimited fine (*Corporate Manslaughter and Corporate Homicide Act 2007*).

6 APRIL — INFORMATION AND CONSULTATION

The Information and Consultation of Employees Regulations now apply to undertakings with 50 or more employees. Similarly, the Regulations requiring employers to consult with pension scheme members have been extended to cover undertakings with 50 employees or more (*The Occupational Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006*).

6 APRIL

MATERNITY, ADOPTION AND PATERNITY PAY

Statutory maternity, adoption and paternity pay increased from £112.75 to £117.18 per week.

6 APRIL

STATUTORY SICK PAY

Statutory sick pay increased from £72.55 to £75.40 per week.

6 APRIL

CHANGES TO THE SEX DISCRIMINATION ACT

Various changes to the Sex Discrimination Act introduced including:

- Widening the definition of harassment. A person bringing a harassment claim will only need to show that the alleged conduct was related to the sex of the victim, not that it was motivated by the victim's sex. It also enables claims to be brought by witnesses.
- Making it unlawful for employers to fail to take reasonably practicable steps to protect their employees from harassment by third parties.
- Amending the definition of discrimination on the grounds of maternity or pregnancy so that a comparator will not be needed.

For more information see the Spring 2008 edition:
http://www.mayerbrown.com/london/index.asp?nid=1569

SUMMER

IMMIGRATION – HIGHLY SKILLED MIGRANTS

The old Highly Skilled Migrants programme will be phased out and Tier 1 of the new points-based system (PBS) for immigration will take effect for all countries. Tier 1 covers highly skilled individuals who contribute to growth and productivity including entrepreneurs and innovators. Individuals qualifying under this category will be able to come to the UK without a job offer and look for work here.

More information on the new PBS system is available at:
www.bia.homeoffice.gov.uk/managingborders/managingmigration/apointsbasedsystem/

AUTUMN

IMMIGRATION – SKILLED WORKERS

Old work permit scheme phased out and Tier 2 of the new points-based system for immigration takes effect. Employers wishing to employ skilled migrant workers will need to have registered as a sponsor. The sponsorship register opened on 29 February 2008. Once the sponsorship application is approved, the employer (rather than the immigration authorities) will be able to issue certificates of sponsorship to those they wish to employ who satisfy the specified criteria.

More information on the new points-based system for Tier 2 skilled workers is available at:
http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/

1 OCTOBER

NEW DIRECTORS' DUTIES

Three new statutory duties on company directors (introduced by the Companies Act 2006) come into force. They are:

- The duty to avoid conflicts of interests.
- The duty not to accept benefits from third parties.
- The duty to declare to the other directors any interest in a proposed transaction or arrangement.

1 OCTOBER NATIONAL MINIMUM WAGE

The National Minimum Wage will increase from £5.52 to £5.73. The rate for 18 – 21 year olds will also increase from £4.60 to £4.77 and the rate for 16 – 17 year olds will rise from £3.40 to £3.53.

5 OCTOBER EXTENSION OF MATERNITY RIGHTS

Women whose expected week of childbirth falls on or after 5 October 2008 will have the right to the same terms and conditions during AML as they currently enjoy during OML. This change will mean that:

- Employers will be required by law to provide contractual annual leave above the statutory minimum and other fringe benefits such as health insurance, company cars, gym membership etc.
- Employers will be prohibited from discounting periods of AML for the purposes of calculating certain contractual benefits. This will be relevant for example, where employers use length of service when assessing pay awards or where holiday entitlement increases with seniority.
- Women may bring discrimination claims for failure to pro-rate a discretionary bonus to include the two week period of compulsory maternity leave.

WINTER SAFEGUARDING VULNERABLE GROUPS BILL

The Bill is due to come into force in the latter part of 2008. It will establish a new vetting and barring scheme for people working with children and vulnerable adults.

DURING 2008 SINGLE EQUALITY ACT

New single equality bill is expected to begin its passage through Parliament. The bill is intended to amalgamate all pieces of anti-discrimination legislation into one single statute with the objective of increasing clarity and improving guidance.

DURING 2008 PILOT SCHEMES FOR ALTERNATIVE FORMS OF DISPUTE RESOLUTION

Pilot schemes looking into possible alternative forms of dispute resolution will be run in three regions, in advance of the anticipated abolition of the statutory dispute resolution procedures in April 2009.

2009

APRIL EXTENSION OF RIGHT TO REQUEST FLEXIBLE WORKING

The Government intends to extend the right to request flexible working to parents of children up to the age of 16. It currently only applies to parents with a child under six or a disabled child under 18. A consultation is expected shortly.

APRIL ABOLITION OF STATUTORY DISPUTE RESOLUTION PROCEDURES

The statutory dismissal and grievance procedures introduced in 2004 are expected to be abolished. New measures to improve dispute resolution in the workplace will be introduced including:

- Right for employment tribunals to adjust compensation by up to 25% for unreasonable failure to comply with the new ACAS code of practice on discipline and grievance.
- Reversion to the pre-2004 position that dismissals where a fair procedure has not been followed will be unfair but that tribunals may reduce compensation to reflect the possibility that an employee would still have been dismissed even if a fair procedure had been followed.

APRIL — NATIONAL MINIMUM WAGE

Proposed introduction of unlimited fines for employers who fail to pay the national minimum wage. The method for calculating arrears for employees who have not been paid the national minimum wage will also be revised.

1 APRIL — INCREASE IN STATUTORY MINIMUM HOLIDAY ENTITLEMENT

Statutory minimum holiday entitlement (including bank holidays) will be increased from 24 to 28 days.

6 APRIL — DIRECTORS' REMUNERATION

Quoted companies will be required to explain in the directors' remuneration report *how* pay and employment conditions in the whole company and group have been taken into account when setting directors' remuneration (*The Large and Medium-sized Companies and Groups (Accounts and Reporting) Regulations 2008*).

2010

DURING 2010 — INCREASED RIGHTS FOR AGENCY WORKERS

The Government intends to introduce legislation which will entitle agency workers to equal treatment once they have been employed for 12 weeks. For further information, see the News section of this issue.

APRIL — EXTENSION OF MATERNITY, PATERNITY AND ADOPTION RIGHTS

- Paid maternity leave to be extended from nine months to 12 months.
- The Government proposes to introduce a new right of additional paternity leave of up to 26 weeks for employed fathers or partners (of either sex) of a mother or adopter following the birth or adoption of a child. The leave will be for the purpose of caring for a child after the mother or adopter has returned to work. People entitled to this additional paternity leave may also be entitled to additional statutory pay if the mother has not taken all their SMP when they return to work.

2011

AGE DISCRIMINATION

The Government will conduct an evidence based review of the default retirement age to determine whether or not it is still needed. This may be pre-empted by the result of the *Heyday* case. Heyday is challenging the mandatory retirement age in the European Court.

2012

PENSIONS

Proposed implementation of the Pensions Bill which includes duties on employers to register their employees in either the company's own qualifying scheme or a personal accounts scheme.

This is the current legislative programme as at July 2008. An updated version is issued with each edition of the Employment Update. For further information please contact Daniela Cohen or Sarah Shipley, Employment Group Professional Support Lawyers (Email: dcohen@mayerbrown.com or sshipley@mayerbrown.com) or your regular contact in the Employment Group.

This Mayer Brown publication provides information and comments on legal issues and developments of interest to our clients and friends. The following is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers shouldseek specific legal advice before taking any action with respect to the matters discussed herein.

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