



FACTSHEET

FOR EMPLOYERS
AND MANAGERS
FROM ABHR LIMITED



Please note that the information below is general advice only. While every care has been taken in compiling this factsheet, ABHR cannot be held responsible for any errors or omissions; the notes are not intended to be a substitute for professional advice, which can be sought directly from ABHR.

EMPLOYMENT LAW UPDATE

It is that time of year again when changes are made to the laws and regulations relating to employment. To ensure that you do not fall foul of these amendments we have gathered together some key points in our handy factsheet. So what is changing and how will this affect your business?

Minimum statutory holiday entitlement increases - 1 April 2009

The statutory entitlement to paid holiday increases from 24 days (4.8 weeks) to 28 days (5.6), including bank holidays. Therefore if you currently provide full time employees with less than 28 days holiday including bank holidays per year, you need to increase their entitlement. If your holiday year runs from January to December then you need to pro-rata this entitlement from April onwards and we suggest you advise your employees of their new entitlement to prevent any confusion.

Statutory maternity, paternity and adoption pay increases - 5 April 2009

The standard rate of statutory maternity pay, statutory paternity pay and statutory adoption pay increases from £117.18 to £123.06. You therefore need to update your Family policies accordingly.

Statutory sick pay increases - 6 April 2009

Statutory sick pay (SSP) increases from £75.40 to £79.15 per week.

Right to request flexible working – 6 April 2009

With the current economic crisis there has been much hesitation over the plans to extend the current flexible working provisions. At one stage these were put on hold until at least April 2010, however the government have now confirmed that the right to request flexible working will be extended to parents of children up to the age of 16 in April 2009. Therefore you need to amend your policies accordingly and advise line managers of the change.

Revised ACAS Discipline and Grievance Code of Practice comes into force - 6 April 2009

Probably the most significant change is the new Disciplinary & Dismissal Procedures. The Employment Act, comes into force and abolishes the current statutory grievance and disciplinary procedures. Instead, a new ACAS Code of Practice will govern grievance and disciplinary procedures. Currently failure to comply with the statutory procedures results in dismissals being automatically unfair. The new Code that replaces these statutory procedures will not be compulsory, although Tribunals will have regard to the Code in assessing whether a dismissal is unfair, and, significantly, where there is a breach of the Code of Practice, a tribunal can increase or decrease any award made by up to 25%. The Code particularly emphasises the need for resolving disputes in the workplace through communication and mediation. The Code is available on the ACAS website www.acas.org.uk

At ABHR we have spent a lot of time reviewing and discussing the Code and our experts believe that these changes should not significantly alter the day to day running of disciplinary and grievance processes within your business, as we feel the Code simply reflects best practise. We feel that the changes will be most noticeable at tribunal where failure to meet minor elements of the Code will not automatically result in a dismissal being considered unfair.

We therefore advise that you review your current procedures to ensure that they are compliant with the new Code and remove reference to the statutory procedures where applicable. Please note that transitional arrangements are

in place, which need to be considered when updating your procedures. For further assistance in dealing with disciplinaries and grievances during this transitional period please contact an ABHR consultant.

Increased penalties for failure to pay national minimum wage introduced - 6 April 2009

The Employment Act 2008 provides increased powers for the enforcement of the national minimum wage. These include increased remuneration where arrears of the national minimum wage have been outstanding over a period of time; increased penalties for failure to comply with an enforcement notice and increased powers for HM Revenue and Customs Officers. The National Minimum Wage rates effective 1st October 2008 are:

- Workers aged 22 and over - £5.73 per hour
- Workers aged 18-21 - £4.77 per hour
- Workers aged 16-17 - £3.53 per hour

Other Changes

Other changes have been made to Trade Union Membership rules, Employment Tribunal Order and regulations, and extensions to the right to time off for Public duties. If you feel that your business may be affected by these changes and require further information please contact us and we will be happy to discuss the implications for your business.

FUTURE CHANGES

Right to request time off for training is introduced - To be confirmed

A right to request time off to undertake training, similar to the right to request flexible working, is planned to be introduced. As with flexible working legislation employers will be required to consider the requests seriously but will be able to refuse a request where there is a good business reason for doing so. Employers will not be required to meet the salary or training costs to enable a request for time off for training to be met.

Weekly working time limits for doctors in training reduced to 48 hours - 1 August 2009

The Working Time (Amendment) Regulations 2003 amend the Working Time Regulations 1998 to provide for a 48-hour working time limit for doctors in training to be phased in over a period ending on 31 July 2009. This is a significant decrease from the current limit of 56 hours.

Safeguarding Vulnerable Groups Act - 12 October 2009

Postponed from 2007, this Act introduces a centralised vetting system for people banned from working with children and vulnerable adults. Employers will be able to make checks online, with information updated straight away when any individual is added to the list. There will be fines of up to £5,000 for employers that knowingly employ individuals on the list or fail to make the relevant checks.

Employers prevented from including tips in minimum wage- During 2009

We assume that when we leave a waiter or waitress a tip, that this is given to the individual or shared between the team as an additional reward for good service. However it has been in the news a lot recently that some employers were using tips, gratuities and service charges to top up staff's wages to meet the national minimum wage. Therefore the Government is currently consulting on National minimum wage legislation with the intention to stop this practise.

Maternity pay is extended to 12 months- April 2010

The Government intends to extend paid maternity leave from 39 weeks to 52 weeks.

Paternity leave and pay is extended - April 2010

The Government intends to allow fathers to benefit from up to 26 weeks' paid additional paternity leave if the mother of the child returns to work before the end of the maternity leave period to which she is entitled.



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