



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

April 2011



WELCOME TO THE SECOND NEWSLETTER FOR 2011

In This Issue

Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support. All newsletters are on the website www.workmattershr.co.uk ensuring easy access to current information just click on the newsletter you wish to view.

This Quarter the focus is on the changes in law which will affect your business during the next quarter

- This includes the new rates for Maternity, Adoption and Paternity.
- Implementation date for Bribery Act delayed.
- The right of employees to request time off for training is on hold for smaller businesses .
- Employers Tribunal Reforms
- Amendment to retirement age reform

Our helpful tip this month is giving you information about avoiding the Employment Tribunal, there is a need for you to ensure you

are happy with your grievance and disciplinary procedures and feel comfortable following them, as it these that if followed will keep you out of the Tribunal.

We think you'll find the articles very interesting. Please call us on 01442 870742 to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website www.workmattershr.co.uk and email us from there or on info@workmattershr.co.uk.

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list - thank you.

Changes in the Law:

- Statutory Payment for Maternity, Adoption and Paternity and Sick pay
- Bribery Act delayed until May 2011
- Right to request time off for training
- Employment Tribunal Reforms
- Default Retirement Age Change

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CHANGES IN THE LAW

Statutory Payment for Maternity, Adoption and Paternity and Sick pay

- The weekly rate of SSP will rise to £81.60 with effect from 6 April 2011.
- The standard weekly rate of SMP and the weekly rates of OSPP, ASPP and SAP will rise to £128.73 (or 90% of average weekly earnings, if lower) for complete payment weeks commencing on or after Sunday, 3 April 2011.
- The weekly lower earnings limit for qualifying for SSP, SMP, OSPP, ASPP and SAP will rise to £102.00 per week with effect from 6 April 2011.

In addition, there will be a change to the additional payment made to small employers in relation to SMP, OSPP and ASPP. Currently, employers who qualify for the small employers' rate of reimbursement can recover 100% of the payments plus an additional amount of 4.5% in compensation for the employers' share of National Insurance Contributions (NICs) due on the payments. From 6 April 2011, the additional amount will reduce to 3%, meaning employers will be able to claim back a total of 103% of the SMP, OSPP, ASPP and SAP they pay out.

A small employer is an employer who has paid total gross Class 1 NICs below an annual threshold in a qualifying tax year. For the 2011/12 tax year, the annual threshold remains at £45,000 or less.

The additional amount is calculated using a formula based on the employers' share of NICs paid and is reviewed each year to see if it needs to be adjusted to reflect the shift in the ratio of SMP, OSPP, ASPP and SAP paid out and the employers' NICs paid on these payments. As the employers' NICs threshold for the 2011/12 tax year is rising from £110 to £136 per week, this means that from 6 April 2011, NICs are not payable on the £128.73 weekly standard rate of any relevant statutory payment, so employers will be paying less NICs on statutory payments. The change in the additional amount from 4.5% to 3% reflects this reduction in employers' NIC payments.

Employers who do not qualify for the small employers' rate can still recover 92% of the SMP, OSPP, ASPP and SAP paid to their employees.

Bribery Act delayed until May 2011

The Government has delayed the implementation of the Bribery Act 2010, which was due to come into force on 6 April 2011. The Act will not now come into force until at least May 2011.

The decision comes after the Ministry of Justice ordered a reassessment of the Act as part of the Growth Review, which is considering how the Government can create the best conditions for private sector growth.

The Act aims to promote anti-bribery practices among businesses by introducing a new corporate offence of failure to prevent bribery by associated persons working on behalf of a business. A business will have a defence if it can show that it had adequate procedures in place to prevent bribery. The penalty for the corporate offence is an unlimited fine. Once the guidance is published, there will then be a three-month notice period before the implementation of the Act.

Right to request time off for training

A right to request time off to undertake training came into effect in April 2010. Like the right to request flexible working, employers are obliged to consider requests that they receive, but are able to refuse a request where there is a good business reason for doing so.

Employers will not be obliged to meet the salary or training costs to enable a request for time off for training to be met.



This legislation only affects businesses with 250+ employees originally all smaller businesses would be affected from April 2011, however, this is now on hold following the Governments need to examine the potential impact of the regulations on smaller businesses.

Employment Tribunal Reforms

Employers who are tired of receiving spurious claims against them will be pleased to learn that the Government has launched a consultation process for reforming the Tribunal system. The Government's proposals include:

- Increasing the minimum qualifying period for unfair dismissal claims to two years (up from one). This is to provide more time for employers and employees to resolve difficulties, give employers greater confidence in taking on people and ease the burden on the Employment Tribunal process.
- Requiring payment of a fee in order to lodge a Tribunal claim. This is to discourage those who have a very weak case from "having a go".

The Government launched the 'Growth Review' on 29th November 2010, in which it set out its long-term vision for creating the right conditions for future economic prosperity, including the need to remove barriers to growth and job creation. The Government says it wants the UK to be the best place to start and grow a business, and to remove barriers to recruitment so that businesses can expand and provide maximum flexibility and promote competition without compromising fairness.

The consultation closes on 20th April 2011. (The results may be published in our next newsletter!)

Default Retirement Age Change

The regulations that will phase out the default retirement age have now been published in draft form. The Government has introduced an exception to the age discrimination rules so that employers can stop offering employees insured benefits, such as life assurance and private medical cover beyond whichever is the greater of 65 and the state pension age. Businesses were concerned that the removal of the default retirement age could lead to substantial costs for providing insured benefits for the over 65s, this is now not the case.

For further advice and support in changing your company policy on any of the above click on the link www.workmattershr.co.uk or call **01442 870742**.

Helpful Point

‘AVOIDING THE TRIBUNAL’

As an Employer you can make it more difficult for employees to take a case to Tribunal.

As we have previously mentioned the Government is in a consultation process which is reviewing a requirement for an employee taking a company to tribunal to pay a fee which would be refunded if the claimant won the case. Might this discourage some claimants and save employers the cost and disruption of employment tribunal claims?

Ten years ago the Labour Government looked into a similar idea of implementing a fee-based system but did nothing about it. Now the Coalition is considering the introduction of a fee of anywhere between £30 and £500 in response perhaps to the 56 per cent rise in claims over the past 12 months.

Figures show that only 0.13% of cases last year involved a cost order against an employee, while all other hearing costs were paid by employers, even if they were the successful party!

Sense did seem to prevail however as roughly 60 per cent of cases were settled outside of an Employment Tribunal. It can cost a company around £8,500 to defend itself in a Tribunal whereas a pre-hearing settlement costs closer to £5,500. Employment Tribunals create red tape and additional costs on both time and resources for both employers and employees and should be avoided at all costs.

Whilst the Government may be considering a fee-based system to discourage employee claims this may take time to be introduced as with all legislation so Companies need to ensure they have adequate procedures to deal with employee disputes and conflict in place.



Avoiding Employment Tribunals

1. Be firm, but fair

Conduct any form of disciplinary action in the most dignified but firm way possible. Too often disciplinary or redundancy proceedings can be conducted in a personalised manner and add fuel to the fire of the stress of an employment legal action. However you must try to avoid weakness as you run the tactical risk of being outmanoeuvred in any negotiations.

2. Consider the personalities involved

Consider the personalities and the characters of the staff involved. Organisations don't always do much preparation when they are taking disciplinary action against employees and do not consider how their actions will impact on the employees and what reaction they can expect. Always look at the bigger picture

3. Keep calm

Maintain consistency as the dispute goes on. Maintain a professional and structured approach to all meetings. As time goes on and things aren't settled tempers get frayed and the relationship between the parties involved starts to break down. This deterioration can create a negative spiral which damages both parties, and can be taken back into the work place and affect others who are not involved in the issue.

4. Start with the end in mind

Have a clear and equitable outcome in mind. Many organisations may have an objective in mind namely the sacking of a member of staff or a redundancy, but is this a just outcome? Firms should look at creating ethical outcomes which take into account the commitment and loyalty of staff. Maintain a fair and reasonable stance at all times.

5. Heed the law

Ensure the law is complied with and the relevant legislation is respected. If you don't you are far more likely to find your organisation facing a Tribunal claim and it going all the way. Procedures are in place to support you and help you avoid the Tribunal.

Following this advice will make it more difficult for employee to take a case to an Employment Tribunal because in essence there won't be a case. Problems should be dealt with at an early stage in a fair and equitable way and in worse case scenarios an out-of-court settlement maybe a better option than going to Tribunal.

Thank you for taking the time to read our Newsletter which I hope you found informative An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of July 2011.

