

Employment Law Changes for 2009



Happy New Year from HR Insight

Employment Law Changes Coming Up

Although we're all used to seeing employment laws change as new cases progress through the court system, April 2009 will see some significant changes this year. As an employer, you must be aware of these changes as ignorance of the law will not avoid potentially costly litigation. This fact sheet summarises the main changes and should be retained for future reference where necessary.

A statutory week's pay

The statutory maximum figure for a week's pay, used when calculating redundancy payments, or the basic award in a claim for unfair dismissal, rises from £330 to £350 on 1 February 2009.

Holiday Entitlement

The increase in the statutory holiday entitlement from 1 April 2009

From 1 April 2009, all workers will be entitled to a minimum of 5.6 weeks of paid holiday (this equates to 28 days if they work a five-day week) but please note this can include the bank and public holidays.

Payment in lieu of the additional holiday

Also, from 1 April 2009, payment in lieu of statutory holiday entitlement will not be permitted although payment in lieu of any leave above the statutory entitlement can be allowed depending on the employment contract in place.

Informing employees of changes

Although there is no need to reissue completely new contracts for the increase in statutory holiday entitlements, you will need to let your employees know about the increased entitlement in writing, e.g. through the contract addendum (can be provided to you by HR Insight, or through individual letters or through a general notice).

Statutory Dispute Resolution Procedures

Changes to the Employment Act 2008 become effective in April 2009. This means that a dismissal will be deemed to be automatically unfair by an employment tribunal if they fail to follow the statutory dispute resolution procedure.

All employers should review their disciplinary and grievance procedures before April. Any employer who dismisses an employee and unreasonably fails to comply with the new ACAS Code of Practice on discipline and grievance may have compensation awarded against them to the employee (although the maximum statutory uplift has decreased to 25%).

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Flexible Working

The Government has confirmed its plans to extend the right to request flexible working to parents of all children aged 16 or under, from April 2009. We can therefore expect an increase in the number of requests for changes in hours. There are formal procedures that you need to follow in considering an employee's request for flexible working, which we will summarise in February.

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Further Legislation Coming Up

Agency Workers

The UK Government hopes to introduce legislation implementing the EU Directive on temporary agency work this year, which would entitle agency workers to the same basic working conditions with comparable permanent employees after spending just 12 weeks in a job.

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Holiday Entitlement and Long Term Sick Leave

A decision is expected in 2009 on the relationship between annual holiday leave and long term sick leave. The Advocate General has given her opinion that workers can accrue, but not take, paid statutory annual leave during a period of sick leave. She also stated that where sick workers cannot take their full statutory holiday entitlement in the appropriate year, the outstanding entitlement must be granted at a later date or, if employment is terminated, a payment in lieu of that entitlement must be made. It remains to be seen if the ECJ will agree.

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Retirement Age of 65

An ECJ decision is also awaited in 2009, to decide whether the UK's default retirement age of 65 can be objectively justified under the age discrimination legislation.

Can we help?

If you want to discuss any of the changes set out above, how they might impact upon your business, or indeed any issue associated with employment, performance or conduct of your employees, please do call us on 01708 758958. We are here to help!