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## Employment Law Newsletter August 2013

29<sup>th</sup> July 2013

On the 29<sup>th</sup> July 2013 the following changes were made to provisions in the Enterprise and Regulatory Reform Act 2013 (ERRA):

These changes affect Compromise agreements...

- Compromise Agreements are to be renamed Settlement Agreements.
- The legislation surrounding pre-termination negotiation will be changing to make settlement agreements easier to use, which according to the CIPD would be achieved by ensuring that employers can offer settlement agreements before a formal dispute arises without the offer being used as evidence in an unfair dismissal case.
- The unfair dismissal compensatory award will be capped at the lower of one year's pay and the existing limit.

They will also ensure that claimants will now have to pay fees when submitting claims to Employment Tribunals...

- The fees will be paid at two different stages. Stage one will be the issue of the claim and stage two will be just before the hearing of the claim.
- The fees will be dependent upon the level of the claim. Level one claims will be £160 at stage one and £250 at stage two, level two claims will be £230 at stage one and £950 at stage two. Level two claims will be more complex issues such as unfair

dismissal claims and discrimination claims.

- There will also be fees for appeals, the issue of an appeal will cost the claimant £400 and the hearing of the appeal will cost the claimant £1,200.
- Employment Tribunals will have the power to order the unsuccessful party to reimburse the fee to the successful party, if they choose to do so.

There will be a number of changes to the Employment Tribunal practice and procedure such as...

- Employment Tribunals should be encouraging mediation and settlement between opposing parties.
- There will be new ET3 and ET1 forms.
- After the ET3 has been accepted there will be a review of the claim and response forms to identify weak cases, which can be struck out either in full or in part, for having no reasonable chance of success.
- A claim form will be rejected if it is not accompanied by the relevant fee or application for remission.
- Case management discussions and pre-hearing interviews will be combined in to one preliminary hearing.
- The requirement by the respondents to write to the tribunal for a claim to be dismissed once a claimant has withdrawn the claim will be removed.
- The £20,000 cap on the costs that a tribunal can order will be removed.

## 1<sup>st</sup> September 2013

The Growth and Infrastructure Act includes provisions introducing a new kind of employment status called employee shareholder status which is coming into force on 1 September 2013.

Under the new employee shareholder contract employees will be given between £2,000 and £50,000 worth of shares that are exempt from capital gains tax. In return they will be required to:

- give up their rights on unfair dismissal (apart from automatically unfair reasons and where dismissal is based on discriminatory grounds)
- give up their rights to redundancy pay
- give up certain statutory rights to request training
- give up the statutory right to request flexible working
- give 16 weeks' notice of their date of return from maternity leave instead of the usual eight weeks.

However, employees would still be entitled to the right to request flexible working within four weeks of their return from parental leave.

Companies of any size will be able to use this contract and also insert more generous employment conditions into the contract if they want to.

Following a 'ping pong' process with the House of Lords the Government made a number of concessions before the Bill received Royal Assent:

- Employers offering a job under the new contract will also have to provide a written statement explaining the rights that the employee would have to give up and the type of shares which will be granted in exchange.
- After receiving an offer from an employer an individual must receive independent legal advice and any 'reasonable costs' must be met by the employer even if the individual does not accept the job offer.

- Individuals agreeing to the job offer will be given a seven day 'cooling-off' period from the date that legal advice is given.
- Jobseekers allowance will not be withdrawn if an employee shareholder job is refused.

If you have any queries relating to any of the subjects raised within this newsletter then please don't hesitate to contact us at [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk)

For clarification of any of the above updates or for advice and guidance on any HR and/or Health and Safety Concerns contact us by emailing [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk) or by calling 02476 664092.

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