



Human Resources & Health and Safety



Do you employ staff?

A Round-Up of Employment Law changes for 2016

As we approach the end of 2016, we would like to provide you with a 'round up' of employment law changes, which have occurred throughout 2016. Please refer to previous newsletters for further details.

January

Introduction of the Exclusivity Terms Zero Hours Contracts (Redress) Regulations 2015:

- Employees on zero hour contracts who are dismissed or suffer a detriment for breaching an exclusivity contract clause can now bring a complaint to an employment tribunal, regardless of their length of service. (Please see our January Employment Law Update for more information).

March

New rules introduced by the Financial Conduct Authority (FCA) and the Prudential Regulatory Authority (PRA):

- Employers in the financial must request regulatory references going back six years from candidates applying for certain roles, regardless of whether or not the current or previous employer is a regulated entity. New specific disclosures must be included in references, which must be provided on a mandatory standard template.
- Requires providers of references to update references given in the previous six years, where the former employer becomes aware of matters that would have caused it to draft the reference differently.
- These duties apply in relation to candidates for senior management functions and significant harm functions under the Senior Managers Regime (SMR) and Certification Regime (CR); PRA senior insurance

management functions, and FCA controlled functions under the senior insurance managers regime; as well as notified non-executive directors (NEDs) and credit union NEDs and key function holders within insurers.

April

Introduction of the National Minimum Wage (Amendment) Regulations 2016:

- The National Living Wage was introduced, starting at £7.20 an hour, and applicable for employees aged 25 and over, this new rate will be subject to an annual review by the Low Pay Commission.
- An increase made to the financial penalty imposed on employers who fail to pay employees the national minimum wage. (Please see our March Employment Law Update for more information).

Statutory Rates "Frozen":

- The statutory rates for Maternity, Paternity, Adoption and Shared Parental Pay would not be increasing, as is usually the case. The rates were "frozen" at £139.58 a week for the year 2016/17 (or at 90% of the person's average weekly earnings, whichever is lower). Statutory Sick Pay was also "frozen". (Please see our March Employment Law Update for more information).

Changes to the Employment Tribunal Award Limits:

- The maximum basic award for unfair dismissal has risen from £14,250 to £14,370.
- The maximum compensation award for unfair dismissal has risen from £78,335 to £78,962.
- The maximum amount of "a weeks' pay" for the purposes of calculating a basic or additional award of compensation of unfair dismissal, a breach of contract/wrongful dismissal, or redundancy has risen from £475 to £495.

National Insurance Contributions Act 2015:

- Employer National Insurance contributions to be abolished for apprentices aged under 25. This regulation is an attempt to make it easier for employers to employ younger people, hopefully resulting in more employment for younger people throughout the Country. (Please see our March Employment Law Update for more information).

Small Business Enterprise and Employment Act 2015:

- A limit to the number of postponements and adjournments that can be granted in a single case in the employment tribunal was imposed, to prevent any unnecessary delays and associated costs.
- Tribunal enforcement officers have been given the power to levy a financial penalty against employers who fail to pay employment tribunal awards to the relevant parties. (Please see our March Employment Law Update for more information).

The Beginning of Gender Pay Gap Reporting:

- Employers with 250 or more employees in the private and voluntary sectors must use data from the 30th of this month onwards to publish their first report, due on 30th April 2018. (Please see the February and March Employment Law Updates for more information).

July

The Electromagnetic Fields Directive 2013/35/EU:

- Employers are now required to assess and limit the levels of electromagnetic fields their employees/workers are exposed to. (Please see our June Employment Law Update for more information).

The Immigration Act 2016 (Commencement No.1) Regulations 2016 (SI 2016/603):

- This legislation provided a broader definition of what constitutes a criminal offence for employing illegal workers, as well as increasing the maximum penalties for employing illegal workers.
- It has introduced a criminal offence for working illegally (for employees), and
- It has also created a new Director of Labour Market Enforcement, with additional powers for immigration officers to search and seize documents where illegal working is suspected.

August

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2016:

- Amends the circumstances in which questions may be asked about spent convictions & cautions to assess a person's suitability for admission to certain occupations or to hold certain types of employment, licences or permits.
- Applies to activities relating to children that would constitute a "regulated activity" when done frequently, and the chairman, members and staff members of the Independent Police Complaints Commission who have contact with vulnerable adults or access to information about vulnerable adults or children.
- The order also amends the 1975 Order to permit questions to be asked about a protected caution or protected conviction when assessing a person's suitability for a judicial appointment.

Income Tax (Pay As You Earn) (Amendment No.2) Regulations 2016 (SI 2016/747):

- Employers are now required to report any taxable mileage allowance and passenger payments made to employees to the HM Revenue and Customs. Reports can be made using a P11D form. (Please see our August Employment Law Update for more information).

September

Introduction of the Accountability and Whistleblowing Instrument 2015 (FCA 2015/46):

- A requirement for large financial companies, with a total turnover of at least £250 million per year, to do more to encourage and protect whistle-blowers. Amongst other things, this involves appointing a Senior Manager as a “Whistle-blowers’ Champion”, someone who will oversee the integrity, independence and effectiveness of the firm’s policies and procedures on whistleblowing. (Please see our August Employment Law Update for more information).

October

The Employers’ Duties (Implementation) (Amendment) Regulations 2016:

- This regulation amended the scheduled dates, as set out in the Employers’ Duties (Implementation) Regulations 2010 (SI 2010/4), for the planned increases to the minimum level of contribution for the pensions auto-enrolment.
- The planned increase, to 5% minimum contribution (2% employer), was scheduled to happen in October 2017 but it will now take effect in April 2018 to align the increase with the beginning of the tax year. Similarly, the planned increase to 8% (3% employer) that was scheduled for October 2018 is now also rescheduled to April 2019. (Please see our September Employment Law Update for more information).

National Minimum Wage Increase:

- The national minimum wage increases annually. For more information on the specific rates, please refer to our September Employment Law Update.

November

Immigration Act 2016 (Commencement No.2 and Transitional Provisions) Regulations 2016 (SI 2016/1037):

- Introduced section 77 of the Immigration Act 2016.
- A requirement for workers in the public sector, in customer-facing roles, to speak fluent English, and/or Welsh (where appropriate). This also applies to agency workers where the public-sector body is the hirer.
- It is important to be aware that this only applies to customer-facing roles, applying this to roles where the fluency of the employee’s language is less important could result in a potential race discrimination claim.

December

Immigration Act 2016 (Commencement No.2 and Transitional Provision) Regulations 2016 (SI 2016/1037):

- Introduced section 38 of the Immigration Act 2016.
- Provides for employers to face temporary or continued closure if they employ foreign workers illegally. A chief immigration officer can issue an employer with a closure notice that will prevent access to its premises for a maximum period of 48 hours, where it is reasonably suspected that the employer is employing foreign workers illegally and the employer has previously committed certain specified offences of illegal working.

- An immigration officer must then make an application to the relevant court for an illegal working compliance order, which can prohibit or restrict access to the employer's premises for a period of 12 months.

How Can We Help?

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

We would also like to wish you a very happy Christmas and a healthy, happy and prosperous 2017 from Elaine and Kirsty at Hassle Free HR Limited!