

NeTWork

ROUND UP OF EMPLOYMENT LAW CHANGES IN APRIL 2010 – ARE YOU UP TO DATE?

This month has seen the usual flurry of employment law changes that we expect to see in April (and October) each year. We summarise the changes below:-

Family friendly

1. On the family friendly front there have been a number of changes so far as maternity/paternity provisions are concerned. With effect from 4th April 2010 the standard rates of Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay will all increase to £124.88 per week (previously £123.06). The lower earnings limit for entitlement to SSP, SMP, SPP and SAP has increased from £95.00 to £97.00 with effect from 6th April 2010. On 12th April 2010 Maternity Allowance will increase to £124.88 (previously £123.06). Some people who do not qualify for SMP may qualify for Maternity Allowance and this allowance covers self employed people.
2. The legislation which implements the changes regarding the extension of paternity leave and pay came into force on 6th April 2010, however the new provisions will not have any immediate effect because they only apply in relation to children whose expected week of birth begins on or after 3rd April 2011 and children being adopted where the person adopting them is notified of having been matched for the adoption on or after 3rd April 2011.
3. In summary the new provisions are quite dramatic and will enable a qualifying male employee to take as paternity leave the remainder of the mother's or adopter's maternity or adoption leave where the mother or adopter has returned to work early, therefore without taking her full entitlement to maternity or adoption leave. The qualifying male employee will be entitled to paternity leave where the mother or adopter has not used her full entitlement to Statutory Maternity Pay or Statutory Adoption Pay. The current type of paternity leave and pay will be called "Ordinary Paternity Leave/Pay" and that created by the new legislation will be known as "Additional" Paternity Leave/Pay.

4. The Additional Paternity Leave must be between 2 and 26 complete weeks (part weeks are not allowed), it must be taken as one continuous absence and it cannot start until 20 or more weeks after the birth or placement for adoption. Additional Paternity Pay will be paid at the same rate as Statutory Maternity Pay.

GP Fit Notes

5. On the fitness front, the new GP fit notes came into force on 6th April and it will be interesting to see how these work in practice. One of the essential qualification requirements of Statutory Sick Pay is that an employee must supply evidence of his or her incapacity. GP's will now have the option of stating that the employee is fit for some work or fit for work taking account of changes that could be made to the employees role or workplace to facilitate a return to work. These will now replace the handwritten sick notes. These changes are designed to encourage employees to return to work from sickness absence.

Requests for study or training

6. In terms of requests for study or training, there have been changes which came into force on 6th April. From this date most employees in businesses with 250 or more employees who have been continuously employed for 26 weeks or more have the statutory right to make a request to undertake study or training. For a request to be valid the purpose of the study or training (or both) in relation to which it is made must be to improve both (1) the employee's effectiveness in the employer's business and (2) the performance of the employer's business. The employer must consider such requests and either agree to them or hold a meeting to discuss them. An employer may only refuse all or part of any such request if it thinks that one or more of the listed permissible grounds for refusal applies. Employees are also protected from being subjected to detriment or dismissal by their employer on account of their having sought to exercise the right.

Whistle blowing changes

7. As from 6th April there have been changes so far as whistleblowing claims are concerned. Amendments are now being made to the Employment Tribunal rules and if a Claimant consents the Tribunal Service may provide the relevant regulator with a copy of the whole or any part of the Claimant's claim in which it is alleged that a protected disclosure has been made. By way of recap a protected disclosure involves the worker making a disclosure of information which is a qualifying disclosure and is made in one of a number of protected manners.

Data Protection

8. So far as data protection is concerned from 6th April a civil penalty of up to £500,000 may be imposed for serious breaches of the data protection principles by data controllers. The Data Protection Act 1998 is to be amended to provide the information commissioner with the power in

If you have any questions with regard to these changes or any other employment law issues please contact Heather Cowley on [number].

[Usual disclaimer]