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Hotspots

February 2013



Flexible Working – Changes Afoot

The Government are to legislate this year to extend the right to request flexible working to all employees. Currently, any parent with a child under 17, or under 18 if the child is disabled, can ask for more flexible working patterns. It should be noted that:-

- The number of requests within a 12-month period will continue to be limited to one, but employers will be supported with best practice guidance in a new code of practice on how to handle temporary changes to working patterns;
- The right to request flexible working will apply to all businesses regardless of their size;
- It will still be necessary for an employee to have 26-weeks of continuous employment to qualify; and
- The current statutory procedure under which employers consider flexible working requests will be replaced with a duty to deal with requests in a reasonable manner, and within a reasonable period of time.

We will keep you posted as and when these changes take effect.

From 2015, the UK will also have a new system of flexible parental leave. The Government have indicated that the following will apply:-

- If a mother returns to work before the end of the 52-week default maternity leave, up to 50 weeks maternity leave that remains not taken can be taken as flexible parental leave, to be shared by the woman and her partner. No more than 12 months can be taken in total with no more than 9 months paid;
- Flexible parental leave must be taken in a minimum of one-week blocks. Parents should agree their individual pattern of leave with their employers;
- A new right will be created allowing men to take unpaid leave to attend 2 ante-natal appointments;
- Parents who adopt will be eligible for the new flexible parental leave on equal terms with biological parents, ending discrepancies which mean adopters are financially worse off than other parents; and

Unpaid parental leave will increase in March 2015 from 13 to 18 weeks to comply with a revised EU Directive.

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Consultation Period for Collective Redundancies to Halve

In its response to its consultation on the collective redundancy rules, the Government has announced that the current 90-day minimum consultation period where employers are proposing to make 100 or more redundancies at one establishment will be reduced to 45 days.

The Government believes that this will give businesses the flexibility to respond to changing market conditions and restructure more effectively, as well as ensuring that employee uncertainty is not unnecessarily prolonged.

In addition, the Government intend to legislate to exclude the expiry of fixed term contracts from the scope of the rules and introduce new non-statutory Acas guidance to help employers deal effectively with the key issues arising in respect of collective consultation.

The amended legislation and accompanying Acas guidance is expected to be in place for the common commencement date of 6 April this year.

The Government will review the operation and impact of the shorter statutory consultation period on the labour market once it has had time to see its full effect.

Right to Legal Representation at Internal Disciplinary Hearings

The Employment Appeal Tribunal has recently said that it is not necessarily unfair for an employee to be denied legal representation during an internal appeal hearing.

However, if a decision to dismiss is made which stops an employee working again in his or her chosen profession, he or she would be entitled to legal representation as this would be a contravention of Article 6 of the European Convention on Human Rights.

For further information on these or other legal issues please contact either Alistair Duncan in our Dundee Office on (01382) 200000 or James Andrew in our Perth Office on (01738) 637311.

These comments are provided for guidance only.

Each situation must be looked at in its own right so you cannot rely on these points in relation to any particular matter without first taking specific advice.

Miller Hendry provide a wide legal and estate agency service across Tayside and Strathearn.

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