

Welcome to the February edition of the ELiAction newsletter for 2011, providing you with useful information regarding changes to employment legislation and best practice.

THE EMPLOYMENT EQUALITY (REPEAL OF RETIREMENT AGE PROVISIONS) REGULATIONS 2011

The Regulations which confirm the removal of the Default Retirement Age and the retirement procedures have been published and are due to come into effect on 6th April 2011.

In one respect they have shocked employers and commentators. It was anticipated that employers who gave notice of retirement prior to April 2011 would be able to rely on the DRA and the protection from unfair dismissal claims provided in Employment Rights 1996 and the Age Regulations, provided the retirement took place by October 2011. As recently as January this year the government stated that 'Where notifications have already been made prior to 6 April, employers will be able to continue with the retirement process as long as the retirement is due to take place before 1 October 2011'. Employers have used this assurance to retire those coming up to 65 or normal retirement age before 1st October and, as permitted by the current procedures, older members of the workforce who are still working

However the draft regulations limit employer's protection under the current procedures to where the employee reaches 65 or the normal retirement age (if later) between the day of the Regulations coming in (expected April 2011) and 30th September 2011.

There is widespread belief that the restriction is a drafting error but, as yet, there has been no word from the Government to confirm this. If no change is made, it means that dismissals by reason of retirement, of those who reach 65 or the normal retirement age before 5th April will be subject to normal dismissal principles and the

employer will have to show it has adopted a fair procedure and dismissed for a fair reason.

On a more positive note the Regulations do confirm that it will not be age discrimination for an employer to withdraw or not offer "insurance or a related financial service" to someone who has reached 65 or state pensionable age (whichever is higher)

COMING INTO FORCE IN APRIL 2011

Flexible working -The right to request flexible working will be extended to parents of children under 18. Currently the employee must be the parent of a child who is aged sixteen or under. This does not impact on disabled children or those with caring responsibilities.

Additional Paternity Leave – The right to additional paternity leave will be available to parents of babies due on or after 3 April 2011 and to adoptive parents who are notified that they have been matched with a child for adoption on or after that date.

However, On 17 January 2011 the Government also announced that it would soon be launching a consultation on its plans to introduce a new an even more flexible system of shared parental leave in 2015.

INCREASE IN PAYMENTS

- On 3 April 2011 statutory maternity pay (SMP), statutory adoption pay (SAP) and statutory paternity pay (SPP) rates will increase from £124.88 to £128.73.
- On 6 April 2011 statutory sick pay will increase from £79.15 to £81.60.

NOT COMING INTO FORCE IN APRIL 2011

Bribery Act 2011

As covered in our last newsletter the Bribery Act which was due to come into force in April 2011. The Government has delayed implementation to allow for further work on the guidance around the steps commercial organisations will need to take to take avoid liability for failing to prevent bribery (section 7 of the Act). The stated aim is to make the guidance more practical and comprehensive for business. When the guidance is published it will be followed by a three-month notice period before the Act is implemented.

EMPLOYMENT TRIBUNAL REFORM

On 27 January 2011 the Government launched a consultation on reforms to the employment tribunal system to reduce the number of claims.

Proposals include:

- increasing the qualifying period for employees to be able to bring a claim for unfair dismissal from one to two years
- introducing a fee for bringing a claim
- encouraging parties to resolve disputes among themselves as soon as possible
- speeding up the tribunal process.

The Consultation ends on 20 April 2011 and further information is available at <http://www.bis.gov.uk/Consultations/resolving-workplace-disputes?cat=open>.

ABSENCE MANAGEMENT

The government has announced an Independent review into changing the current sickness absence system and reducing the £100 billion ill health costs the economy each year. The review will include exploring how the current sickness absence system could be changed to help people stay in work, reduce and share costs for the taxpayer and businesses, and contribute to economic growth.

In the meantime, pilot occupational health advice lines are operating in England, Scotland and Wales until March 2011 aiming to provide small business owners and managers with early and easy access to high quality and professional occupational health advice, tailored to their needs. More information is found at <http://www.dwp.gov.uk/health-work-and-well-being/our-work/oh-adviceline/>

NEW WEBSITE

We are delighted to launch our new website which can be viewed at www.eliaction.com.



If you would like assistance in updating your policies, would like advice on any employment issues, or would like to discuss any other HR and legal requirements please contact Employment Law in Action Limited on 01494 817193 or email info@ELiAction.com.

In giving comment and advice in the newsletter, we do not assume legal responsibility for the accuracy of any particular statement. If you have specific views which you wish to discuss we would be pleased to assist you.