

EMPLOYMENT LAW UPDATE OCTOBER 2011

Employment Law Changes

Change to NMW Regulations: Employed Students and the Accommodation Offset – 1st Oct 2011

From 1st Oct 2011, the rules that allow employers who provide accommodation for workers to count it as a benefit in kind towards payment of the NMW will change. The accommodation offset will not apply where an employer is a provider of higher or further education courses and the employee is a full-time student who is provided with accommodation because he or she is undertaking one of these courses and is working for the employer on a part-time basis.

Agency Workers Regulations 2010 (SI 2010/93) - Coming into force 1 October 2011

Key provisions in the Regulations include:

- agency workers will be entitled to equal treatment as permanent staff in relation to basic working and employment conditions, including pay and holidays,
- agency workers rights to pay will not only apply to the basic hourly rate, but to pay for work done, including bonuses which are directly related to agency workers' personal performance,
- the rights do not extend to some wider benefits enjoyed by permanent staff, such as sick pay and occupational pensions,
- penalties for employers trying to avoid implementing equal treatment - anti-avoidance rules.

The Bribery Act came into force 1 July 2011

Requiring employers to have procedures in place to prevent bribery and corruption. Employers may wish to put a suitable policy in place.

National Minimum Wage

Workers aged 21 and over £6.08 per hour

Workers aged 18 to 20 £4.98 per hour

Workers aged 16 to 17 £3.68 per hour

Apprentices currently exempt from the NMW (eg those under 19 years and older apprentices in the first year of apprenticeship) £2.60 per hour

A Weeks pay rose from £380 to £400 (1.02.11)

Max compensatory award for unfair dismissal rose to £65,300

Increased penalties if you miss the tax return deadline

It is important to send your tax return to HMRC as soon as you can if you miss the deadline, the longer you delay, the more you'll have to pay. The reduction of the penalty to nil, if no tax payable, is no longer available.

Penalties for missing the tax return deadline

Length of delay	Penalty you will have to pay
1 day late	A fixed penalty of £100. This applies even if you have no tax to pay or have paid the tax you owe.
3 months late	£10 for each following day - up to a 90 day maximum of £900. This is as well as the fixed penalty above.
6 months late	£300 or 5% of the tax due, whichever is the higher. This is as well as the penalties above.
12 months late	£300 or 5% of the tax due, whichever is the higher. In serious cases you may be asked to pay up to 100% of the tax due instead. These are as well as the penalties above.

Example

Mrs A's tax return is due on 31 January 2012 but HMRC don't receive it until 5 August 2012.

It is over six months late so she will have to pay **all** of the following:

- £100 fixed penalty
- £900 penalty - this is £10 each day from 1 May to 29 July, when the maximum 90 day penalty is reached.
- £300 or 5 per cent of the tax due - whichever is the higher

£1300

Employment-related Bills

The following Government Bills are currently progressing through Parliament.

- **Pensions Bill** - introduces changes to the auto-enrolment legislation recommended by an independent review *Making automatic enrolment work*. The legislation will require employers to automatically enroll employees into a pension scheme from 2012. The Bill also brings forward the increase in state pension age to 66 by 2020 and brings women's state pension age in line with men's to 65 by 2018. It was introduced to Parliament in January 2011.
- **Welfare Reform Bill** - to simplify the benefits system and improve the incentives to work by implementing a 'Universal Credit'. The Bill was introduced to Parliament in February 2011.
- **Protection of Freedoms Bill** - to significantly scale back the Vetting and Barring Scheme. The Bill was introduced to Parliament in February 2011.

The Government is currently consulting on moving the first Bank Holiday in May to either St Georges Day in England or a new UK day or Trafalgar Day during the October half Term

For Advice on how to implement any of these changes please contact Janet Hollis on 07974888193