

Employment Law Update



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Welcome to the September 2009 edition of our Employment E-news Update. In this issue we discuss the rise in the weekly limit for calculating Statutory Redundancy pay, the increase in the National Minimum Wage, a recent decision from the Employment Appeal Tribunal regarding time limits for bringing claims, the Protecting Vulnerable Groups scheme, and the new First Aid Training arrangements.

If the Employment Team can assist you with any employment issue then please do not hesitate to contact us.

In this edition:

- **Essential Employment Law – Free Livingston Seminar**
- **Rise In Weekly Limit For Calculating Statutory Redundancy Pay**
- **Increase In National Minimum Wage**
- **Tribunal Holds That Time Limit Extended In Light Of New Information**
- **Protecting Children And Vulnerable Adults**
- **New First Aid Training Arrangements**

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Essential Employment Law – Free Livingston Seminar

Many employers feel that they are prevented from making sound business decisions for fear of falling foul of employment legislation. With Tribunal claims on the increase, this problem is particularly acute in the current financial climate. Morton Fraser's Employment Team will present their popular annual update seminar covering recent changes and key issues within UK employment law from the past 12 months as well as advising employers on what to expect in the future. Topics covered will include:

- TRIBUNAL AWARDS, CLAIM STATISTICS & TRENDS
- CONTRACTS OF EMPLOYMENT
- UNFAIR DISMISSAL
- THE NEW ACAS DISCIPLINARY & GRIEVANCE PROCEDURES
- ABSENTEEISM
- DISCRIMINATION DEVELOPMENTS
- HOLIDAY ENTITLEMENT & PAY
- FAMILY FRIENDLY ISSUES
- REDUNDANCIES & REORGANISATIONS

The seminar, in conjunction with Cameron Riddell Associates, is taking place at Centrex House in Livingston at 8:30am on 23rd September.

If you are interested in attending this seminar, please contact Elizabeth Wood at elizabeth.wood@morton-fraser.com or register at www.morton-fraser.com/addedvalue/seminars.

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Rise In Weekly Limit For Calculating Statutory Redundancy Pay

From 1 October 2009, the limit on a week's pay for the purposes of calculating a statutory redundancy payment will rise from £350 to £380. Accordingly, there will be an increase in the costs of making redundancies for employers and the maximum redundancy payment will increase to £11,400 (currently £10,500). This increase will also apply to other calculations using the maximum week's pay including calculating the Basic Award in unfair dismissal cases. The rise is intended to provide more financial support for the increased number of employees being made redundant in the current economic climate. Whilst the additional costs may cause some concern to employers, the Government has announced that it is suspending the annual up-rating exercise in February 2010 which means that the £380 limit will apply until February 2011.

Increase In National Minimum Wage

The National Minimum Wage hourly rates are set to increase on 1 October 2009. As of 1 October, they will be as follows:-

- Standard (workers aged 22 and over) rate: £5.80 (currently £5.73)
- Development (workers aged 18-21) rate: £4.83 (currently £4.77)
- Young workers (workers aged under 18 but over school age) rate: £3.57 (currently £3.53)

As of 1 October, employers will also be prohibited from paying tips, gratuities and cover charges through the payroll to make up payment of the National Minimum Wage.

Tribunal Holds That Time Limit Extended Due To New Information

The Employment Appeal Tribunal in **Teva (UK) v Heslip UKEAT/0008/09** has held that there may be circumstances where, although a claim cannot be presented within the statutory time limits, it can still be accepted if presented within a "reasonable" time. In this case, the Claimant found out that her job had not ceased, as she had thought, but that in fact it was being carried out by another person. This information came to light after the 3 month time limit for presenting a redundancy unfair dismissal claim had expired. The EAT held that where information has become available after the time limit has expired, and that information genuinely and reasonably changes what the Claimant believes to be true, the claim can proceed so long as it is brought within a "reasonable" time. This case serves as a warning to employers who may attempt to wait until the three month time limit for raising a Tribunal claim has expired before taking steps to replace an employee who has been dismissed on the grounds of "redundancy".

Protecting Children And Vulnerable Adults

The Independent Safeguarding Authority (ISA), set up by the Safeguarding Vulnerable Groups Act 2006, will begin operating in England, Wales and Northern Ireland whilst an equivalent but aligned scheme, the Protecting Vulnerable Groups Scheme, will operate in Scotland. The ISA will operate a centralised vetting and barring scheme for those working with children and vulnerable adults. See the following link for further details:

[Protecting Children and Vulnerable Adults](#)

New First Aid training arrangements

From 1 October 2009 the HSE is introducing new arrangements to the First Aid training regime. The relevant Regulations will not change but a revised version of L74 – "First aid at work: Approved Code of Practice and Guidance" will be issued.

The new Code will indicate that in order to comply with the Regulations, a first aider provided by an employer must hold a certificate of competence in either First Aid at Work (FAW – now a three day course) issued by a provider approved by HSE or in Emergency First Aid at Work (EFAW – a one day course) issued by a provider approved by HSE or a recognised awarding body of Ofqual/SQA.

The employer should carry out an assessment of first aid needs to enable them to decide how many first aiders they require

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New First Aid training arrangements continued...

and whether the FAW or EFAW course is most suitable. The FAW or EFAW certificate issued is valid for three years and employers must arrange retraining before the certificate expires. There is a strong recommendation that first aiders undertake annual refresher training during the three year certification period but this is not mandatory.

The revised Code will contain a flowchart to help employers work out whether they need first aiders, how many they need and which certificate they should hold.

The minimum requirements remain:

- An appointed person to take charge of first aid arrangements (no certificate required but training strongly advised)
- A suitably stocked first aid box
- Information for employees about first aid arrangements

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