

EMPLOYMENT LAW UPDATE

TULIP RESOURCES

Spring 2020

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WRITTEN STATEMENT OF PARTICULARS

In line with the Employment Rights Act 1996, employers have a legal obligation to provide a written statement of particulars to employees within two months of commencing employment. From 6th April 2020 organisations will be required to provide a written statement of particulars to both employees and workers from day one of their employment.

Remember. The intention is not for everyone to rewrite their contracts and there is no need to over react to the new rules.

In addition, to the long established provisions that need to be in a statement of particulars, from April 2020 organisations will also need to include extra information relating to variable workings hours, paid leave, benefits, probationary periods and training.

How much detail is required?

Regarding how much detail is needed there is a rule that you should provide particulars about:

“Any paid leave to which the worker is entitled”

The rules make it clear that details about “paid leave to which the worker is entitled” could be provided in a separate document – as long as the document is

“reasonably accessible” and referred to in the contract. For example maternity, paternity these can be provided in separate policies within a handbook that is readily available to all staff.

Provision of Training

The rules are clear:

“Particulars of training provided by the employer”

can be in a separate document. A generic statement in contracts like “training will be provided as appropriate and you will be given details of this in due course” is sufficient.

Remember you should not need to change your contracts of employment too much to comply with the rules.

NB: If you are a retainer client of Tulip Resources this will be carried out for you.

NUMBERS, NUMBERS!

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71% of employees said flexible working is important to them.

73% of employees have gone to work while sick.

67% of UK workers admit they judge co-workers on their workplace hygiene.

44% of workplace romances last between one and six months.

82% of employers admit they judge interviewees by their social media.

31 –the number of years it would take the average UK worker to earn what Kylie Jenner earns from just one Instagram post!

From 1 April 2020 National Minimum Wage (NMW) and National Living Wage (NLW) Rates

Adult Rate – workers 25+ £8.72
Adult Rate – workers aged 21 -24 £8.20 per hour
Rate for 18-20 year olds £6.45 per hour
Rate for 16-17 year olds £4.55 per hour
Apprentice Rate £4.15 per hour

CHANGES TO HOLIDAY PAY CALCULATIONS

Currently, when working out holiday pay, a worker's average pay is calculated using the pay received over the previous 12 weeks. This is the 'pay reference' period.

From 6th April 2020 the pay reference period will increase to 52 weeks, it will be the number of completed weeks. This change is designed to ensure that workers who do not have regular fixed wages throughout the year are not disadvantaged. The pay reference period would therefore include any overtime and commission earned.

REMOVAL OF THE 'SWEDISH DEROGATION'

The "Swedish Derogation" currently allows employers to avoid pay parity between agency workers and direct employees assuming certain conditions are met.

This will be removed from the Agency Workers Regulations 2010 on 6th April 2020. The government expects this change will see a rise in the number of people being directly employed, giving them greater employment rights and protection.

OFF-PAYROLL EMPLOYEES – IR35

Due to COVID-19 the extension of this to the private sector has been deferred until at least April 2021.

GENDER PAY GAP REPORTING

The government has suspended the enforcement of the Gender Pay Gap deadline for this reporting year (2019-2020).

PARENTAL BEREAVEMENT LEAVE

All employed parents will have a statutory right to two weeks' leave if they lose a child under the age of 18 or suffer a stillbirth from 24 weeks of pregnancy.

Employed parents will also be able to claim statutory parental bereavement pay for this period, if they meet the relevant eligibility criteria, which are similar to the eligibility criteria for statutory paternity pay.

TERMINATION PAYMENTS

The law on termination payments will change. Eligible Termination payments in excess of the current exempt amount of £30,000 will be subject to employer National Insurance contributions, on the payment above £30,000.

EMERGENCY VOLUNTEERING LEAVE – CORONAVIRUS ACT

A new right has been created by the Coronavirus Act 2020 for employees to take unpaid emergency volunteering leave. An “appropriate authority”, such as a local authority, an NHS Commissioning Board or the Secretary of State for Health and Social Care, can certify an individual to act as an emergency volunteer in health or social care.

The individual will then be able to take the leave provided in accordance with the Act if they give their employer three working days' notice and produce the relevant certificate.

It's time for a Spring Clean – if you think it is time to review your policies, procedures, handbook, contracts etc– then please do not hesitate to contact Samantha Desforges.

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