



Employment Law update March 2018

Employment Rates Round Up from April 2018

Changes to the Rates

Changes to the rates Date of rate	25 and over	21 to 24	18 to 20	Under 18	Apprentice
From April 2018	£7.83	£7.38	£5.90	£4.20	£3.70
From April 2017 to March 2018	£7.50	£7.05	£5.60	£4.05	£3.50
From October 2016 to March 2017	£7.20	£6.95	£5.55	£4.00	£3.40
From April 2016 to September 2016	£7.20	£6.70	£5.30	£3.87	£3.30

A new rate will apply to the next pay reference period that begins on or after the date:

- A rate increase begins
- An employee reaches a new age bracket

Employment Tribunal Rates

- The maximum limit on compensatory award for unfair dismissal will increase to £83,682 (from £80,541);
- The maximum limit on a week's pay for calculating basic award and statutory redundancy payments will increase to £508 (from £489);
- Guarantee pay will increase from £27 to 28 per day.



Vehicle Tracking and the Law

If your company uses vehicle tracking devices there are a number of rules and regulations that apply. It is important to understand the underlying vehicle tracking laws and what their implications are. As an employer, you need to know your obligations towards your employees and your rights in tracking data. Failing to comply can lead to fines and convictions.

A GPS tracker installed in the vehicle collects data on time, date, speed and locations. Timely analysis of this data can provide employers with daily reports of performance. This allows them to make faster and more informed decisions. Most of these benefits are drawn from the fact that employers can track their employees. This can be considered as 'spying' or 'infringement of privacy' if not done properly, so to protect employees from their employers and any misuse of personal data, there are some established Vehicle Tracking Laws.

It is completely legal for a company to track their own business vehicles. However, the collected data must only be used for the management purposes of the company. Tracking devices are not in place to track employees at their workplace – they are there to track vehicle movement. If the data gathered is used for observing employee behaviour, the company is in breach with the vehicle tracking law and risks fines and penalties.

Sometimes business vehicles are used for personal use by employees. An employer may install a GPS tracking device in business vehicles that are used for private purposes. However, when the employee is contractually entitled to use the vehicle for personal use outside of working hours, the GPS tracker must be turned off. Privacy tracking can be avoided by use of a "privacy button". This button allows the employee to turn off the data collection and ensure that they are not being monitored outside of their working hours – but ONLY if the employee is contractually entitled to use the vehicle for private mileage away from work. If this is not the case then the tracker can be left enabled throughout.

Covert tracking means hiding a tracking device in a vehicle. A reason for hiding a device might be to prevent theft. This is allowed only with the driver's consent and knowledge of what kind of data is being collected. Employers may not insert a tracking device in a vehicle without the employee's knowledge of it.

Always communicate thoroughly with employees before making any decision or changes regarding the vehicle tracking device. To avoid any confusion and mistakes, make sure that employees know and agree to where the device is and what, when and how it tracks.

There are multiple benefits that the data extraction from GPS trackers can provide such as:

- Real time tracking gives opportunities for faster assistance if employees are in need.
- Location data safeguards against theft, as the vehicle location is known. This often leads to discounts in theft insurance of up to 30%
- Employees are more aware of their driving, which can reduce accounts of speeding by 60%
- Overall employee efficiency can improve by 10% to 20%



How easy is it to enforce a restrictive covenant?

Post-termination restrictions (or restrictive covenants) can give vital protection to a business when an employee leaves, but they must be used appropriately and drafted carefully.

Restrictive covenants are most commonly used to set conditions on when and where employees can work after they leave employment, and how they use the contacts and knowledge they gain in their role. But not every restrictive covenant is applicable, or even possible, in every situation. They must be laid out to protect the employer's 'legitimate business interests', which normally means its confidential information, its customer connections or the stability of its workforce.

Courts will examine the way in which the covenant is written, the length of time it is in force for and the role to which it applies, to determine if it is enforceable. Longer than 6 months is unlikely to be upheld by the courts, regardless of the seniority of the role.

It is important to act quickly when you become aware of a possible breach of a restrictive covenant, or the employer might lose the chance to obtain an effective remedy in the courts – don't wait and see – act promptly to remind the ex-employee of their obligations!

Pension tops the poll of best employer benefit!

British employees view pensions as overwhelmingly the most valuable benefit they can receive in the workplace, according to new research.

In a study of 500 employees 82% said pensions were an important part of their benefits package, ahead of performance-related bonuses, support for mental health and stress (and private medical insurance).

The research also showed a significant mismatch between what employees valued in their benefits packages and what they actually received. Despite the perceived importance of private medical cover, for example, only 23% of individuals received it as part of their rewards package, the same number who said they had access to mental health support services.

The findings come as new data from the Department for Work and Pensions revealed that the pensions gender pay gap had nearly trebled over the last 10 years.

Between 2006 and 2007, the average gross income of a retired single woman was £294 per week, while her male peers received £325 per week. By 2016-17, however, the average retired woman earned £316 in comparison to the average man who earned £410, revealing a pay gap of £85.



QUESTION AND ANSWER CORNER

Q: I need to schedule a disciplinary meeting for an employee who permanently works night shifts 8pm – 8am. Do I have to schedule this meeting during the night shift or can I schedule it during my normal office hours, ie between 9am – 5pm?

A. You need to act reasonably in scheduling this disciplinary hearing. To insist that an employee attends a meeting outside of their normal working hours may be deemed unreasonable. If you cannot schedule the meeting during the night shift, it is advisable to contact the employee and agree with them that the meeting will have to be scheduled outside of their normal working and that they will be paid for their time spent attending this meeting.

It would be advisable to schedule the meeting either immediately before the start of the shift, eg 7pm, or after the end of the night shift, ie 8.15am, so that the employee is not required to make any additional journeys to work.

Unfortunately, if the employee refuses to agree to attend a meeting outside of normal working hours, then the disciplining officer will need to schedule the meeting for during the night shift hours to avoid an allegation of unreasonable conduct by the employer.

Q: A member of staff has been off sick for three months but has now been signed as fit to return to work on a “phased return”. Whilst we acknowledge we have to make reasonable adjustments and this is something we can accommodate, the employee is demanding a full week’s pay when she will only be working three days per week. Do we have to pay her a full week’s pay for three days worked? She is currently in receipt of SSP.

A. Unless the employee’s contract states that this is the case or custom and practice within the company suggests otherwise, you can pay the employee normal pay just for the days worked. As she has not exhausted SSP she would be paid this for the two days she is not working, during which time she will be considered absent from work due to sickness.

If you have a particular question that you would like answered email training@scottishwholesale.co.uk or call 0800 9995 121 and we will publish next month – all names will be removed to ensure confidentiality.