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Changing the Way Businesses Do HR

Employment Law update October 2018

New law relating to itemised payslip

The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018, which takes effect in April 2019, will require employers to provide additional information about the number of hours that are being paid within the payslip of employees with variable hours of work.

At the same time as this requirement to provide additional information, the Employment Rights Act 1996 will be amended to extend the right to receive a payslip to all workers. This means that all workers will be will be entitled to information about the number of hours they are being paid for in a pay period.

Payslips will need to state the total number of hours being paid for with separate figures for different types of work or different rates of pay.

The aim of this change is to help workers see whether the number of hours they have been paid for corresponds with the number of hours they have worked. It is intended to empower workers to challenge their employers if they think there has been an underpayment.

Reduction in limit for personal injuries

Critics have slammed the government's plan to double the small claims court limit for personal injuries to £2,000, potentially discouraging thousands of injured workers from bringing cases against their employers. The change is part of the government's wider reforms programme for the civil justice claims system.

The limits adjustment would mean anybody suffering an injury at work likely to pay less than £2,000 for a successful claim would need to go through small claims as opposed to using the fast track system, making it more difficult to recover costs.

It is thought that this could result in an upsurge of claims against employers where individuals do not have specific legal advice to determine whether a claim is worth pursuing or not. This may, in turn, cause employers to spend more on defending the personal injury claim.

Trade Unions have warned that increasing the limit to £2,000 will restrict access to justice for injured workers and have a damaging effect on workplace health and safety as negligent employers are less likely to face the consequences in court.

Make sure that maternity returners are treated fairly

A senior banker has won claims for sex discrimination, maternity discrimination and harassment at an Employment Tribunal, after she complained her job had been "marginalised" after she gave birth.

The employee joined Commerzbank in 2012. She became deputy to the head of market compliance in May 2014. She was identified as a potential successor for the current head of market compliance and when the role became available she was interviewed for the post. In November 2015, she announced that she was pregnant. An external candidate was offered the head of markets compliance role in December 2015.

In March 2016, the employee took maternity leave and a junior employee was designated her maternity cover. She returned to work in September 2016 but felt that her position had been "eroded" since she returned from maternity leave and she complained that she was "feeling marginalised". She also wondered if she might have been successful for the promoted post, had she not been pregnant at the time of the recruitment process.

The tribunal found there had been "no real intention" for the employee to return to her duties and that, as suspected, she had not been fairly considered for promotion in 2015. This case demonstrates the importance of ensuring that pregnant employees are treated entirely equally – in every respect, including being considered for promotion; and that maternity returners are given their "old job" on their return. Regardless of how effective maternity cover might be, returners must be treated fairly and be given credibility as a valued employee.

Morrisons appeals group litigation process in GDPR case

Morrisons supermarket is appealing a GDPR court case after a criminal breach made 100,000 people's payroll details public. Details of salaries, bank details and National Insurance numbers were made public by a disgruntled employee who had legitimate access to the company's entire payroll. Morrisons became the focus of a group litigation process – meaning 5,000 of the 100,000 workers affected by this data breach were able to sue their employer. The employee responsible has been sentenced to eight years' imprisonment for unlawfully disclosing personal data; and fraud.

Morrisons is fighting the judgement saying that the original ruling was divergent from data laws. Their barrister says the firm is "completely innocent" in the event. They argue that under the Data Protection Act 1998 they are excluded from liability.

However, under GDPR laws, introduced earlier this year, there new provisions were introduced, to cover data security including the need to report a breach within 72 hours, to the Information Commissioner's Office.

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