



## RAWORTHS Employment Newsletter August 2008

### Additional Maternity Leave changes from October 2008

The Maternity Leave, Parental Leave and the Paternity and Adoption Leave (Amendment) Regulations have been published in draft. When finalised, the Regulations will affect employees who are due to give birth or adopt on or after 5 October 2008.

Under the current legislation, an employee has a statutory right during Ordinary Maternity Leave (the first 26 weeks of maternity leave – OML) to benefit from the terms and conditions which would have applied to her had she been at work (except for remuneration). During Additional Maternity Leave (the second 26 weeks maternity leave - AML) only the employee's statutory entitlements continue. From 5 October 2008, the employees' rights and obligations of employment during AML and Additional Adoption Leave (AAL) have been brought into line with the rights and obligations under OML and Ordinary Adoption Leave. This means that the terms and conditions enjoyed during OML and OAL will continue to be enjoyed during an extended period of leave.

### Forthcoming Equality Bill

The Government Equalities Officer has published further details of the content of the proposed Equality Bill. The Bill is due to be published in the next Parliamentary session. Among other things, the Bill is likely to:-

- extend positive action so that employers can take under-representation into account when selecting between two equally-qualified candidates. Accordingly, managers of white, male dominated work forces will be able to address this 'issue' by giving preference to female or ethnic minority candidates so long as they are equally suitable.
- outlaw pay secrecy clauses in employment contracts so as to make it unlawful to prevent employees from discussing their pay.

### Guidance on CRB Checks on Volunteering

The Government has issued new guidance on Criminal Records Bureau (CRB) checks for volunteers. This follows the Commission of Future Volunteering's recommendation that it address the lack of clarity on circumstances in which volunteers should be subject to CRB checks. This is available from the Cabinet Office web site and is entitled "Criminal Records Bureau Checks – Guidance for Volunteering".

### Diary Date—Forthcoming Seminars

Raworths' bi-annual seminars will take place on 16 and 18 September 2008 at 12:30pm with refreshments from noon and at 8:30am on 17 September 2008 with refreshments from 8:00am.

To book your place, please e-mail [pauline.sellers@raworths.co.uk](mailto:pauline.sellers@raworths.co.uk)



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## Advisory Fuel Rates

To reflect the increase in fuel prices, the HMRC have issued new advisory fuel mileage for rates for employees driving employer provided cars. These take effect for all journeys undertaken from 1 July 2008 so employers wishing to use the new rate should advise affected employees and up-date any expense forms as soon as possible. The new rates will be:-

Engine Size	Petrol	Diesel	LPG
1400cc or less	£0.12 (£0.11)	£0.13 (£0.11)	£0.07 (£0.07)
1401cc to 2000cc	£0.15 (£0.13)	£0.13 (£0.11)	£0.09 (£0.08)
Over 2000cc	£0.21 (£0.19)	£0.17 (£0.14)	£0.13 (£0.11)

## New rights for carers

Following a consultation exercise between March 2007 and January 2008, the Government has launched the "National Carer Strategy". It commits £255m to create additional support for carers. To supplement the public consultation, the Government has also set out four task forces to consider key aspects of the new strategy, one of which is employment. This includes a number of measures intended to help carers balance caring with paid work including a review of the definition of a carer and the extension of the right to request flexible working.

## Right to request time off to undertake training

On 18 June 2008, the Government launched a consultation on granting employees the right to request time off away from their mainstream duties to undertake relevant training once they have worked for their employer for 26 weeks. Training can take the form of accredited programmes leading to a qualification or unaccredited training to develop specific job-related skills. The only requirement will be that the training should improve business performance and productivity. Employers will be entitled to refuse requests for good business reasons including that they do not consider the training would improve business performance. The consultation will come to an end on 10 September 2008 and the Government expects to implement the right in 2010.

## First criminal convictions for deliberate non-payment of the minimum wage

The owners of a butchers shop in Yorkshire have become the first employers in the country to be convicted for deliberately not paying staff the National Minimum Wage. The father and daughter owners were awarded to pay a combined amount of over £1,000 in compensation plus costs.

## A final tip.....

In the case of the *Commissions of HM Revenue and Customs (1)-v-Annabels (Berkley Square) Limited (2)-v-George (Mount Street) Limited (3)-v-The Spa Limited* the Employment Appeal Tribunal (EAT) held that tips and service charges distributed between workers had not been "paid by the employer" when they had been paid from a Troncmasters' bank account. A tronc is an arrangement for pooling and distributing service charges, tips and gratuities to workers in the hotel and catering trades. It was therefore held that they cannot be included in the calculation to determine whether workers had been paid the National Minimum Wage.

If you have any specific questions, please contact:

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