



Raworths LLP Employment Newsletter September 2007

Increased Statutory Holiday Entitlement

From **1 October 2007**, statutory holiday entitlement will rise from 20 days to **24 days per year** for employees working a five-day week and pro-rata for employees working part-time. The Government has published its response to the recent consultation on proposals to increase the statutory holiday entitlement, stating that it intends to delay the full increase to 28 days until April 2009.

The increase in statutory holidays will not affect employers who already provide 20 days holiday plus bank holidays, this is because bank holidays can be included in the statutory holiday entitlement. The employers who will be affected are those who currently allow 20 days holiday, inclusive of bank holidays.

Calculating an individual's holiday entitlement following this increase could be complicated, depending on the number of days the individual works and the timing of the holiday year. Many holiday years coincide with the calendar year ie 1 January to 31 December, which means that an increase taking effect from 1 October will fall three quarters of the way through the holiday year. Business Link provide an on-line calculator for working out individual entitlements www.businesslink.gov.uk.

In the meantime, employers should re-visit their contracts of employment and handbooks to establish what changes they need to make to clarify employees' holiday entitlement going forward.

New Minimum Wage Regulations

The National Minimum Wage Regulations 1999 (Amendment) 2007 will come into force on 1 October 2007 (subject to parliamentary approval). These are likely to be:

- Standard rate (workers aged 22 or over) of £5.52 (previously £5.35);
- Development rate (for workers aged between 18 and 21) of £4.60 (previously £4.45);
- Young workers' rate (for workers aged under 18 but above the compulsory school age but are not apprentices) of £3.40 (previously £3.30).

Consultation is taking place on proposed changes as to how the National Minimum Wage Act 1998 relates to voluntary workers (those who receive no monetary payment of benefits in kind, other than expenses, subsistence or accommodation and relevant training). At present, they are not entitled to the minimum wage but watch this space, this could be about to change.

Court Round Up

Contacts held in Outlook

The recent case of *Pennwell Publishing (UK) Limited-v-Isles* has held that a list of contacts held in Outlook on an employee's computer system belonged to the employer. Mr Isles was a journalist who, when he joined Pennwell, brought a list of journalists and personal contacts. He transferred these onto the employer's Outlook e-mail system and maintained the contact list in Outlook. He then added new journalists and other business contacts he gathered whilst employed to the list.

The High Court determined that where an address list is contained in Outlook or a similar programme, it is part of the employer's e-mail system, backed-up and supported by the employer, so therefore that list belongs to the employer. The High Court recognised that many employees may not be aware of this fact and recommended that employers should devise and publish an e-mail policy making this position clear.

Payments in Lieu of Notice

The Inner House of Court of Session held that payments in lieu of notice clauses cannot be implied into contracts of employment. This means if you are an employer and you want the option to pay your employees a payment in lieu of their notice period, there must be an express provision in the contract allowing it.

The Importance of Time Keeping

The Employment Appeal Tribunal (EAT) has upheld a decision of the Employment Tribunal, not to accept an unfair dismissal claim that was submitted 88 seconds late.

The Claimant had tried to present the claim (ET1) electronically about 15 minutes before midnight on the last day for presentation. However, he mistyped the web address (typing qsi instead of gsi). The Claimant e-mailed the ET1 to the correct address so that it arrived 88 seconds late on 7 May 2007. Unfair dismissal claims must be presented within three months of the date of termination of the employment contract.

Raworths' Employment Seminars

It's that time of year again!!! Our seminars take place on:

- 25 September at noon, and
- 27 September at 8:00am

and cover the following topics:

- Up-date on employment law changes
- How to handle disciplinary and grievance hearings
- Recruitment and selection processes

Refreshments as usual!

If you would like to attend, please e-mail pauline.sellers@raworths.co.uk

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