



SmartHR - People Management Feature

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What's on the HR horizon for 2012?

There are a number of changes, or potential changes, which could happen during 2012, so it will be important to keep on top of employment legislation developments during the year. Your HR policies, processes and procedures, as well as employment documents, should be regularly reviewed and updated where required to ensure that you fully comply.

For the Isle of Man, the DED consulted on proposals for a new Control of Employment Bill and Regulations in 2011. Replacement legislation could be introduced in 2012.

In addition, the DED is currently working on an Equality Bill which will deal comprehensively with discrimination on the grounds of race, religion, sexual orientation, age, disability and gender reassignment.

The UK's Equality Act 2010 widened the scope of equality and discrimination legislation for the UK – this now includes various types of discrimination: direct discrimination, associative discrimination, discrimination by perception, indirect discrimination, harassment, harassment by a third party, and victimisation. It will be interesting to see what the IOM's Equality Bill will encompass.

In the UK, one of the largest sex and race discrimination compensation awards was made - £4.5 million. *Michalak v Mid Yorks NHS*. Dr Eva Michalak, a Polish female doctor was awarded £4.5M in compensation after a tribunal concluded that she had been subjected to sex and race discrimination and a concerted plan of action designed to end her employment with the Trust. The Tribunal held the NHS Trust and 3 senior managers jointly and severally liable and ordered them to pay Dr Michalak £4,452,206 in compensation. Case ref: 1810815/2008

Consultation on Health and Safety enforcement - a new body is being set up to shape a 'common sense' approach to health and safety laws in the Island. The new Health and Safety Consultative Committee will comprise representatives from industry, the public, the third sector and Government. The committee should be in place by April 2012.

UK changes for 2012 include:

- **1 Feb 2012: Increase in limits to Employment Tribunal Awards.** A week's pay to increase from £400 to £430. This will result in the maximum compensatory award for unfair dismissal increasing from £68,400 to £72,300.
- **8 Mar 2012: Parental Leave Directive 2010 changes.** The allowed period of parental leave following the birth or adoption of a child to be increased from 3 months to 4 months. At least 1 of the 4 months will be not transferable between the parents (if it is not taken it will be lost).
- **6 April 2012: Unfair Dismissal qualifying period employment protection rights to increase.** The qualifying period for gaining employment protection rights for unfair dismissal will increase from 1 year to 2 years.
- **6 April 2012: Statutory benefit rates to increase.** Statutory Sick Pay to increase to £85.85 per week. Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay will increase to £135.45 per week. The weekly earnings threshold for SMP, SPP and SAP will increase from £102 to £107.

- **Oct 2012: Pensions auto-enrolment.** Employers to auto-enrol eligible employees who are not part of a workplace pension scheme into a qualifying workplace pension or the National Employment Savings Trust pension scheme, and make minimum contributions. The UK's largest employers will be legally obliged to comply first, with all employers complying by 2017.

There are also a number of potential future changes to UK employment legislation. If you have UK based employees then it will be important to monitor developments in the following areas:

- **Employment Tribunal reforms:** A Private Members Bill is being debated regarding the introduction of maximum Employment Tribunal compensation awards. This includes introducing a maximum compensation limit for unlawful discrimination – as opposed to the current 'unlimited' status. Also, fees for lodging tribunal claims could be introduced in 2012/13. There is also the suggestion of fining employers up to £5,000 (on top of damages) if they lose a tribunal.
- **Compensated 'No Fault' Dismissal:** The UK Government is expected to progress consultation on the introduction of 'no fault' dismissals for businesses with less than 10 employees.
- **Protected Conversations:** Consultation could be progressed in relation to 'protected conversations' whereby discussions of issues such as poor performance or retirement could be allowed without the risk of being quoted in any subsequent Employment Tribunal hearing.
- **Amending the Working Time Regulations regarding Annual Leave and Sickness Absence:** Consultation on enabling workers unable to take annual leave during one holiday year to carry unused holiday leave to the next holiday year, and allowing leave taken for maternity / paternity / adoption / parental leave purposes to be carried over to the next holiday year.
- **Compulsory Equal Pay Audits:** Mandatory equal pay audits could be introduced for employers who are found by an Employment Tribunal to have discriminated on grounds of sex in relation to pay.
- **Potential changes to collective redundancy consultations:** The UK Government is reviewing whether to potentially reduce the redundancy consultation period from 90 days to possibly 60, 45 or 30 days for collective redundancies.
- **Potential 'Rapid Resolution' scheme could replace employment tribunals for straightforward claims:** The UK Government is considering the use of a 'Rapid Resolution' scheme for dealing with claims such as a dispute over holiday pay, as a cheaper alternative than an employment tribunal. Over 200,000 employment tribunal claims were made last year. Any scheme would be subject to public consultation before being implemented.

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