

Key Employment Law Changes Take Effect in the United Kingdom

2 October 2009

On 1 October 2009, several key changes in English employment law went into effect. This LawFlash examines the principal changes.

Increase in the National Minimum Wage

The National Minimum Wage (NMW) will increase from 1 October 2009:

- For workers aged 22 and over, the rate will rise from £5.73 per hour to £5.80 per hour
- For workers aged 18 to 21 it will rise from £4.77 to £4.83
- For workers aged 16 and 17 it will rise from £3.53 to £3.57

The UK government estimates that nearly one million workers will be affected by these increases; however, as the increases are relatively modest, the net cost to the employer will probably be minimal.

The government has also announced that from October 2010 the highest NMW rate will apply to all workers aged 21 or over (rather than 22).

Tips Will No Longer Count Towards the National Minimum Wage

This change will affect the way that tips, service charges, and so called “tronc” payments are treated for NMW purposes. Troncs operate where tips are centrally pooled and then distributed amongst employees by the troncmaster.

From 1 October 2009 it will be unlawful for employers to use service charges, tips, and gratuities to take workers’ pay up to the NMW. Also, it will no longer be lawful for employers to claim that tips will count towards the NMW of its employees, where such tips are paid through the payroll.

From 1 October all employers must therefore ensure that the basic wages of their employees comply with the NMW without any service charges or gratuities being taken into account.

Increase in the Limit on a “Week’s Pay” to Calculate Awards for Unfair Dismissal Basic Rewards and Statutory Redundancy Payments

The Work and Families (Increase of Maximum Amount) Order 2009 will come into force on 1 October

2009. As a result, the maximum weekly amount for calculating certain statutory awards made by employment tribunals, including the basic award for unfair dismissal, statutory redundancy pay, and payments made by the Secretary of State out of the National Insurance Fund in the event of an employer's insolvency, will increase from £350 to £380. This amount is not set to increase again until February 2011.

The maximum compensatory award for unfair dismissal claims may still increase in February 2010 from its current level of £66,200.

A New Centralised Vetting System

The process of issuing certificates by the Criminal Record Bureau (CRB) will change from 12 October 2009 with the introduction of a new Vetting and Barring Scheme (VBS).

The VBS will become the first centralised vetting system for people working with children and vulnerable adults. Employers therefore will have to carefully review and identify any staff members that carry out tasks covered by the VBS. The purposes for which an enhanced CRB check may be requested will also be expanded from October.

Further, from November 2010, all employees and volunteers working with children and vulnerable adults must register with the Independent Safeguarding Authority. Employers who knowingly employ unregistered individuals face potential imprisonment or a fine of up to £5,000.

The Supreme Court

From 1 October 2009, the House of Lords will be replaced as the highest appeal court in the UK, by the new Supreme Court. The Supreme Court will sit in the Middlesex Guildhall building (opposite the Houses of Parliament) which has been renovated for this purpose at the reported cost of £59 million. The Supreme Court's hearings will be open to the public and, for the first time in British legal history, television cameras will be permanently in court. Whilst the casework that will be dealt with by the Supreme Court will be exactly the same as that which came before the justices when they sat as Law Lords in Parliament, its practice and procedure will be governed by the Supreme Court Rules 2009 which will come into force on the same date.

If you have any questions or would like more information about any of the issues discussed in this LawFlash, please speak with either of the following Morgan Lewis attorneys:

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