

## labour and employment lawflash

27 March 2013

### UK Employment Law Changes to Take Effect in April

*Changes include the annual increase on certain statutory payments and a reduction in the collective consultation period for large redundancy exercises.*

Changes to the collective consultation regime were announced by the UK government on 18 December 2012. The changes will reduce the consultation burden on UK employers and mean that redundancy dismissals can take effect more quickly. Employers should note the changes and consult the new redundancy guidance to be published by the Advisory, Conciliation and Arbitration Service (ACAS) when proposing redundancies after 6 April 2013.

#### Annual Increase on Certain Statutory Payments

From 7 April 2013, the weekly rate of statutory maternity pay, statutory paternity pay, and statutory adoption pay will increase from £135.45 to £136.78. The rate of maternity allowance (for those earning less than £109 per week) will also increase in the same way on 8 April 2013.

From 6 April 2013, the weekly rate of statutory sick pay will increase from £85.85 to £86.70.<sup>1</sup>

#### Changes to Collective Consultation Period for Large UK Redundancies

The minimum period for collective redundancy consultation is to be reduced from 90 days to 45 days where an employer is proposing to dismiss as redundant 100 or more employees at one establishment. This means that, in large-scale redundancy exercises, collective consultation must begin at least 45 days before the first dismissal takes place.

The collective redundancy rules will not change where fewer than 100 employees are affected. The current 90-day maximum award for a "protective award" will also not be reduced where an employer has failed to comply with its duty to consult.

In addition, employees working under fixed-term contracts that have reached their agreed termination date are to be excluded from collective redundancy consultations.

ACAS is due to introduce a nonstatutory code of practice to provide guidance on conducting an effective consultation and dealing with difficult issues that may arise during the process. This guide should also address factors that affect the meaning of "establishment" but will fall short of providing a definition.

The new law and guidance will be in effect from 6 April 2013 and will apply where the proposal to dismiss is made on or after that date.<sup>2</sup>

1. For more information on the annual increase to other statutory payments, view our 1 February 2013 LawFlash, "UK Employment Compensation Payments Increase," at [http://www.morganlewis.com/pubs/LEPG\\_LF\\_UKEmploymentCompPaymentsIncrease\\_01feb13](http://www.morganlewis.com/pubs/LEPG_LF_UKEmploymentCompPaymentsIncrease_01feb13).

2. For further details on the background to the changes in collective redundancy consultation and implications of the change, please view our 12 December 2012 LawFlash, "Consultation Period for Large UK Redundancies Cut from 90 Days to 45 Days", at [http://www.morganlewis.com/pubs/LEPG-UK\\_LF\\_ConsultationPeriodforLargeUKRedundanciesCut\\_19dec12](http://www.morganlewis.com/pubs/LEPG-UK_LF_ConsultationPeriodforLargeUKRedundanciesCut_19dec12).

## New Employment Tribunals Rules of Procedure

The new Employment Tribunals Rules of Procedure were due to come into effect in April 2013. However, on 14 March 2013, the government announced that their implementation will be delayed until summer 2013. The introduction of the rules will now coincide with the introduction of tribunal fees. The government's logic appears to be that it is preferable for users of the tribunal system to become familiar with all changes at the same time.

## Enterprise and Regulatory Reform Bill

The Enterprise and Regulatory Reform Bill (ERRB), which contains important provisions for employment lawyers, is still progressing through Parliament. The third reading in the House of Lords took place on 20 March 2013. The ERRB will next go back to the House of Commons on 16 April 2013, where the Lords' amendments will be considered with a view to reaching agreement on a final version. Despite the government's statement that some of the ERRB's employment provisions would come into effect in March and April 2013, the provisions are subject to Royal Assent of the ERRB, and their implementation will necessarily be delayed. Some of the key employment provisions in the ERRB relate to the following:

- Implementation of mandatory pre-claim ACAS conciliation
- Introduction of a public interest requirement for whistleblowing
- Capping of unfair dismissal compensation at the lower of the statutory cap and 12 months' pay
- Use of "settlement agreements" and new rules relating to pre-termination negotiations

Morgan Lewis will issue further updates as changes to the tribunal system are introduced and when the provisions contained in the ERRB come into effect.

## Contacts

If you have any questions or would like more information on the issues discussed in this LawFlash, please contact any of the following Morgan Lewis lawyers:

### London

Matthew Howse

+44 (0)20 3201 5670

[mhowse@morganlewis.com](mailto:mhowse@morganlewis.com)

Nick Thomas

+44 (0)20 3201 5561

[nthomas@morganlewis.com](mailto:nthomas@morganlewis.com)

Rachel Ashwood

+44 (0)20 3201 5557

[rashwood@morganlewis.com](mailto:rashwood@morganlewis.com)

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