

labour and employment lawflash

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New Developments in UK Employment Law

The changes affect the areas of antenatal appointments, equal pay audits, national minimum wage, Reserve Forces membership, whistleblowing, and shared parental leave.

Employers in the UK should take note of a number of key legal developments that took effect on 1 October. A summary of these changes is set out below.

Right to Time Off for Antenatal Appointments

Certain employees and agency workers now have the right to take unpaid time off to accompany pregnant partners for up to two antenatal appointments.

The right applies to a pregnant woman's spouse or civil partner, a person (of either sex) in a long-term relationship with the woman, and the father of the pregnant woman's child. Time off is capped at 6.5 hours for each appointment (which is the equivalent of a half-day under the Working Time Regulations, which specify a full working day should be a maximum of 13 hours).

Eligible employees may take advantage of the new right from "day one" of their employment (i.e., there is no minimum period of service required). Employees may be entitled to bring a claim to an employment tribunal if their request is refused or if they are dismissed or otherwise subjected to a detriment for exercising this right.

Employers can safeguard against fraudulent requests for time off by requesting a signed declaration from their employees to confirm the following:

- The employee has a qualifying relationship with a pregnant woman or her expected child
- The employee's purpose in taking the time off is to accompany a pregnant woman to her antenatal appointment
- The date and time of the appointment
- The appointment is made on the advice of a registered medical practitioner, registered midwife, or registered nurse

The UK government has published an employer guide that summarises the new right and sets out some responses to frequently asked questions. The guide is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/351413/bis-14-1063-time-off-to-accompany-a-pregnant-woman-to-ante-natal-appointments-employer-guide.pdf.

Power to Order Equal Pay Audits

Employment tribunals now have the power to order employers that have been found to be in breach of equal pay law to carry out equal pay audits in certain circumstances. This applies in relation to equal pay claims brought on or after 1 October 2014.

The equal pay audit must identify any differences in pay between men and women and the reasons for these

differences, including the reasons for any equal pay breach. The employer must also show how it plans to avoid further breaches.

Additionally, the employer will be required to publish the audit's results on its website and to maintain this information for no less than three years. Employers may face fines of up to £5,000 for noncompliance.

Rise in National Minimum Wage

The national minimum wage has increased for all workers as follows:

- Workers ages 21 and over will be entitled to £6.50 (previously £6.31).
- Workers between ages 18 and 20 will be entitled to £5.13 (previously £5.03).
- Workers ages 18 and under will be entitled to £3.79 (previously £3.72).
- Apprentices will be entitled to £2.73 (previously £2.68).

Reserve Forces Reform

The statutory requirement for two years' service to bring an unfair dismissal claim will no longer apply to employees who are dismissed for reasons connected with their Reserve Forces membership.

Further, those employers that employ members of the Reserve Forces will be entitled to increased financial assistance for employees who are called out for service. This includes the right to claim a payment of certain costs incurred in having to replace the employee reservist and the right for small- and medium-sized employers to claim additional monthly payments.

Whistleblowing—Change to List of Prescribed Persons

The Public Interest Disclosure Order 2014 is now in effect and sets out a new list of prescribed persons. This list now includes members of Parliament, public bodies, and specified government ministers, as well as 60 regulators to whom a whistleblower may, in particular circumstances, make a disclosure.

Shared Parental Leave—New Technical Guidance for Employers

The UK government published the *Employer's Technical Guide to Shared Parental Leave and Pay* on 18 September 2014. This guidance is intended to assist employers in preparing for the introduction of Shared Parental Leave and Pay on 5 April 2015 and will serve as a useful tool once the legislation is in effect.

The guidance can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/353019/bis-14-1076-employers-technical-guide-shared-parental-leave-and-pay.pdf.

Employers should now consider what approach they will take for Shared Parental Leave and Pay and how it will work in conjunction with their existing maternity, adoption, and paternity policies and benefits.

Implications for Employers

In light of the recent legislative changes, employers should ensure that their policies and procedures are up to date and reflect these changes and that they are prepared for the introduction of Shared Parental Leave and Pay.

Employers should be prepared to receive requests from employees for time off to attend antenatal appointments and should determine what information, if any, they will request from their employees about the appointments.

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

+44.20.3201.5670

mhowse@morganlewis.com

Nick Thomas

+44.20.3201.5561

nthomas@morganlewis.com

Sarah Ash

+44.20.3201.5626

sarah.ash@morganlewis.com

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