

AdviserPlus HR

Employment Law Update

January 2019

What's New this Month

Draft legislation which has been released:

- Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (SI 2018/1378)
- Employment Rights (Miscellaneous Amendments) Regulations 2019
- Agency Workers (Amendment) Regulations 2019

Upcoming Legislation Updates

April 2019

National Minimum Wage increases

The National minimum wage will increase for the following age brackets as follows:

25+ = £7.83 - £8.21 p/h

21 – 24 = £7.38 to £7.70 p/h

18 – 20 = £5.90 to £6.15 p/h

16 – 17 = £4.20 to £4.35 p/h

Apprentice rates = £3.70 to £3.90

The accommodation offset increases from £7.00 to £7.55 per day.

Flexible working introduced to the armed forces

These regulations will introduce flexible working in the regular armed forces (Royal Navy, Royal Marines, Army, Royal Air Force). There will be two types of flexible working allowed for:

- Part time working allows personnel to agree days on which they are not required to be available for active service; and
- 'Service on a restricted separation basis' enables restrictions to be placed on the number of days on which personnel can be required to perform duties away from a specified place. The two types of flexible working are known collectively as 'flexible service'.

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Increase in holiday pay reference period

The **Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (SI 2018/1378)** increase the reference period used for determining a week's pay when calculating holiday pay for workers with irregular hours, from 12 weeks to 52 weeks.

The Government's Good work plan states that the changes will allow greater flexibility for workers in choosing when to take holiday, particularly for those in seasonal or atypical roles that limit some workers from benefiting from their full holiday pay entitlement.

Extension to a written statement of particulars to all workers

The draft **Employment Rights (Miscellaneous Amendments) Regulations 2019** extend the right to a written statement of employment particulars to all workers (including employees).

The **Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (SI 2018/1378)** provide that access to a written statement will be a day one right for all workers (including employees). Employers will also have to provide additional information as mandatory content for a written statement.

Abolition of the Swedish derogation

The draft **Agency Workers (Amendment) Regulations 2019** abolish the Swedish derogation, which gives employers the ability to pay agency workers less than their own workers in certain circumstances.

Under the derogation, agency workers can exchange their right to be paid the same as directly recruited employees for a contract guaranteeing pay between assignments.

Reduction in threshold for a request to set up information and consultation arrangements

The draft **Employment Rights (Miscellaneous Amendments) Regulations 2019** changes the threshold required in order for there to be a valid request to set up consultation arrangements under the Information and Consultation of Employees Regulations 2004.

The threshold is reduced from 10% of employees to 2% of employees. The requirement for there to be a minimum of 15 employee remains in place.

To be confirmed

Increase to the length of time required for continuity of employment to be broken

The time required to cause a break in continuity of employment, increases from 1 week to 4 weeks. This means that employees can have a break in employment of up to 4 weeks and still preserve their continuous service and access to employment rights.

This will provide added protection to employees who work irregular and seasonal working patterns.

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New right for workers to request a more stable contract

This legislation change was included within the Government's Good Work plan and will allow workers who have at least 26 weeks' continuous service to request a more predictable and stable contract.

It is likely to benefit workers who have irregular hours or work under a zero hours contract.

Legislation to ensure that tips and gratuities go to staff

The Government has announced that it intends to introduce legislation to prevent employers from taking tips and gratuities that should go to staff.

The Government has stipulated that the changes are to prevent 'poor tipping practices, including excessive deductions being made from tips left by customers.

The Government intends to introduce the legislation at the 'earliest opportunity'

Shared Parental leave for Grand Parents

Shared parental leave is extended to allow grandparents to take time off work to care for their grandchildren. The new system will allow a mother to share her leave with one nominated working grandparent.

The government has stated that it aims to implement the policy by 2018, however it is not currently known whether the Government intends to continue with the proposal.