



10 employment law changes not to dismiss this summer

By Shelley Crofts Wednesday, 07 August 2013

From tribunal fees to whistleblowing rules, employment legislation is being overhauled this summer. Shelley Crofts runs through the changes employers need to know about.

With so many changes to employment law due to take effect over the summer, it's hard to keep up. Burges Salmon's Shelley Crofts keeps runs through the most important.

1. Employment tribunal fees

From the end of July, claimants in employment tribunals are be required to pay a fee to issue their claim together with a further fee, payable three to four weeks before the hearing. Don't expect the new rules to deter claimants: they can apply for remission of all or part of the fee, depending on their financial circumstances.

2. Redundancy consultation obligations

Following a recent Employment Appeal Tribunal decision, if you are proposing 20 or more redundancies across a business, you will now be required to collectively consult. Previously, collective consultation obligations only applied if the redundancies were proposed in any one 'establishment'. The good news is that the decision is likely to be appealed.

3. 'Town-hall' announcements can be contractually obliging

Where an employer announces to staff that it has a guaranteed minimum bonus pool, it creates a contractually binding obligation to pay discretionary bonuses from the pool - providing the individual's performance merits it.

4. Employee shareholder status

From 1 September, if employers give their workers at least £2,000 of shares, they can ask them to waive (among other claims) their right not to be unfairly dismissed. Upon disposal of the shares, the first £50,000 of gains will be exempt from capital gains tax.

5. Unfair dismissal awards

For dismissals effective after 29 July 2013, unfair dismissal compensation is capped at either one year of the claimant's gross pay or the existing cap (currently £74,200) – whichever is the lowest.

6. Unfair dismissal and political opinion

From the end of June, you can't fire employees for their political views: if the reason or principal reason for the dismissal is, or relates to, the employee's political opinions or affiliation, the employee does not need to have any qualifying service in order to bring an unfair dismissal claim.

7. Pre-termination negotiations

From the end of July, conversations between employer and employee with a view to terminating their employment cannot be taken into account by an employment tribunal in any subsequent unfair dismissal case.

8. Whistleblowing legislation

From 25 June, whistleblowing must be 'in the public interest', but does not need to be made 'in good faith' (ie with honest motives, rather than for personal gain). If it is not made in good faith, the tribunal has the power to reduce compensation as a result.

9. TUPE reform

The Transfer of Undertakings (Protection of Employment) Regulations 2006 protect employees when the business they work for is transferred to a new employer. The government is looking to bring in a number of changes to these regulations later this year - the most significant being the proposed removal of the protection connected with a 'service provision change'.

10. Post-employment victimisation

There are conflicting decisions on whether the Equality Act protects employees from being victimised after they have left employment. This matter is due to be heard by the Court of Appeal later this year but, in the meantime, tread carefully in your treatment of such employees.

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