

Welcome

Welcome to the Spring edition of In Focus, our quarterly update keeping you informed of developments in employment law.

For further information on employment issues, please email roger.bull@burgess-salmon.com

A bump-er year for working parents

On 13 March, the Children and Families Act 2014 received Royal Assent. It introduces a number of changes for working parents including:

- An extension of the right to request flexible working to all employees with 26 weeks' continuous service (and not just parents and carers) from 30 June 2014. The current statutory procedure for dealing with requests will also be replaced with a new duty on employers to deal with requests in a reasonable manner and within 3 months, unless an extension is agreed. As is currently the case, employers will be able to refuse a request for flexible working based on one of the statutory grounds and a new code of practice and best practice guide will be published by Acas.
- From 1 October 2014, prospective fathers and partners of a pregnant woman will have the right to unpaid time off work to attend up to two antenatal appointments. The appointments are likely to be for the two main antenatal scans and fathers/partners should provide reasonable notice of the appointments.
- A new shared parental leave and pay system will be introduced for children due or adopted on or after 5 April 2015. The government is currently consulting on the shared parental leave and pay regulations and intends to publish further guidance later in the summer. The new system will allow parents and adopters more flexibility in how they care for their



child during the first year and they will be able to take the leave together or in alternate blocks, if their employers agree. Employers will need to prepare shared parental leave policies and amend their existing maternity, paternity and adoption policies to take account of the new system. Employers that currently provide enhanced maternity pay and benefits will also need to consider how they propose to structure any enhanced shared parental pay and benefits.

- Changes to adoption leave and pay entitlements will take effect on 5 April 2015 in order to mirror entitlements available for birth parents.

Seminars

We are holding a seminar on the new shared parental leave system in **London** on 11 June 2014 and in **Bristol** on 17 June 2014.

April 2014 changes

A number of changes take place on 6 April 2014. Please see our updated **employment law timeline** for further details.

It ain't over...

In the case of *Jessemey v Rowstock Ltd & another*, the Court of Appeal has provided some useful clarification of the law by deciding that the Equality Act 2010 does protect against post-employment victimisation. It held that, although the wording of the Act clearly did not cover post-employment victimisation, it had to be read in the context in which it was produced and it must have been

an unintentional drafting error. Employers should therefore be particularly careful in their dealings with ex-employees who have brought discrimination claims because refusing to provide a reference, or providing a bad reference or threatening the ex-employee may give rise to a post-employment victimisation claim.

All about the price tag

Although the judicial review challenge to employment tribunal fees by UNISON failed, mainly because of a lack of evidence of the impact of fees on access to justice, the latest tribunal statistics from the Ministry of Justice for the period October to December 2013 (the first full quarter

since the introduction of employment tribunal fees on 29 July 2013) show that the number of employment tribunal claims has plummeted since the introduction of fees. The employment tribunals received 9,801 claims in this quarter, 79% fewer than the same quarter in 2012.

Budget news

The Budget 2014 was, in the Chancellor's words, "a Budget for the makers, the doers, and the savers" with particular support for the manufacturing sector and investors. Generally, aside from the far-reaching pension reforms, there were no major surprises for employers.

The key changes to employee share schemes and benefits-in-kind had previously been announced or published as part of the work of the Office of Tax Simplification and, in general, will be widely welcomed.

Equally tax avoidance measures, looking at employment status and aggressive tax planning, had been well signposted in advance and we are considering the draft legislation in the Finance Bill 2014 with interest.

The main issues for employers are considered in our Budget **briefing**, and if you would like any further information please do not hesitate to contact Caroline Harwood on +44 (0)117 307 6005 or **caroline.harwood@burges-salmon.com**.

News in brief

- Changes to the national minimum wage enforcement regime came into effect on 7 March 2014 and the maximum penalty increased from £5,000 to £20,000.
- On 10 March 2014, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force and reduced the rehabilitation periods after which a spent conviction is not required to be declared to a prospective employer.
- The rate of Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP) and Statutory Adoption Pay (SAP) increases on 6 April 2014 from £136.78 to £138.18 per week. The rate of Statutory Sick Pay (SSP) increases on 6 April 2014 from £86.70 to £87.55 per week.
- Changes to the immigration rules come into force on 6 April 2014. The changes include enabling a Tier 2 applicant to be granted leave for 5 years at a time (rather than the current 3 years) on payment of a higher fee and changes to the minimum salary thresholds.
- From 6 April 2014, changes to the whistleblowing legislation make members of the House of Commons (MPs) "prescribed persons" to whom a whistleblower may, under certain circumstances, make a protected disclosure.
- Some employment tribunal claims (including equal pay and failure to inform and consult under TUPE) are being reclassified and will attract the higher fee (£250 issue fee and £950 hearing fee for a single claimant) from 6 April 2014.

Email alerts

To access our recent email alerts please visit www.burges-salmon.com/practices/employment/news/default.aspx.

In the office

Congratulations to Luke Bowery who becomes a partner in the Employment team from 1 May. Luke joined Burges Salmon as a trainee solicitor in 2002 and has worked in the Employment team since he qualified as a solicitor in 2004.

Our best wishes go to Amy Whiting who commences her maternity leave in May.

If you are interested in reading some of the articles that have been written recently by our team, please see 'When is it worth making tribunal cost claims' (written for Employer's Law), 'How to save your business from bad weather' (written for Management Today) and 'EU Law may be eroding state and diplomatic immunity in the UK' (written for Diplomat Magazine).

One Glass Wharf
Bristol BS2 0ZX
Tel: +44 (0) 117 939 2000
Fax: +44 (0) 117 902 4400

6 New Street Square
London EC4A 3BF
Tel: +44 (0)20 7685 1200
Fax: +44 (0)20 7980 4966

www.burges-salmon.com

This newsletter gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

© Burges Salmon LLP 2014.
All rights reserved.

Your details are processed and kept securely in accordance with the Data Protection Act 1998. We may use your personal information to send information to you about our products and services, newsletters and legal updates; to invite you to our training seminars and other events; and for analysis including generation of marketing reports. To help us keep our database up to date, please let us know if your contact details change or if you do not want to receive any further marketing material by contacting marketing@burges-salmon.com

Burges Salmon LLP is a Limited Liability Partnership registered in England and Wales (LLP number OC307212) and is authorised and regulated by the Solicitors Regulation Authority.

A list of members, all of whom are solicitors, may be inspected at our registered office: One Glass Wharf, Bristol BS2 0ZX.

