

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 small act to follow

A number of new employment changes have been introduced by the Small Business, Enterprise and Employment Act which received Royal Assent on 30 March 2015, although most of the changes will require supplementary regulations before they come into force. The key changes are:

- **Gender pay data** – a requirement for UK employers with 250 or more employees to publish gender pay data (see our **briefing** for further information)
- **Zero hours contracts** – exclusivity clauses which prohibit those on zero hours contracts from working for other employers will not be enforceable (save for some limited exceptions)

- **Minimum wage** – financial penalties for non-payment of the national minimum wage are to be extended so that the maximum £20,000 penalty for non-payment will now apply to each worker who has not been paid the national minimum wage.

Other changes include financial penalties for employers who do not pay tribunal awards or settlement sums and the potential for certain public sector workers to repay termination payments if re-engaged within the public sector within a prescribed period.

For more information about what you can expect in 2015 please see our **employment law timeline**.

Holiday pay and commission

In March, the Leicester Employment Tribunal issued its judgement in *Lock v British Gas*, confirming that commission should be included in the calculation of holiday pay. This is an important development in the growing line of European and UK cases that have determined that workers are entitled to their normal remuneration when they are on holiday. Please see our **briefing** for further details.

British Gas has now appealed the decision but the appeal is unlikely to be heard by the EAT until later this year. In the meantime, employers should take specialist

advice before settling claims or making changes to the way in which holiday pay is calculated.



What's in store for collective consultation?

The ECJ has delivered its judgment about when an employer's obligation to carry out collective consultation in redundancy situations arises in *USDAW and Wilson* (more widely known as the *Woolworths* case).

The ECJ held that an 'establishment' is the entity to which the redundant employees are assigned to carry out their duties and, where there are several entities in an undertaking, the relevant directive does not require all the establishments to be aggregated for the purposes of determining whether collective redundancy consultation is necessary.

The duty to consult is now set to revert to the original position and only arise where 20 or more redundancies are proposed at one 'establishment', commonly a particular site, rather than across the whole employer.

This is good news for employers because it will reduce the legal and administrative burden on businesses carrying out smaller scale restructuring across multiple sites.

Please see our **briefing** for more details.

Visit our website at www.burgess-salmon.com

Fit for work

The Fit For Work GP referral service started its nationwide role out on 9 March 2015.

There will be a phased role out of Fit For Work GP referrals over the coming months and it is expected that employers will be able to refer employees to the service by autumn 2015, when role out of GP referrals is complete.



In the office

The Lawyer Awards



We are delighted to report that we have

been shortlisted for the title of Employment Team of the Year at this year's The Lawyer Awards, widely regarded as one of the legal industry's most prestigious awards. Our shortlisting focuses on our work on a strategic cross-border acquisition by a US-listed international company, which involved us co-ordinating TUPE and restructuring advice across nine European jurisdictions.

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News in brief

- The right to unpaid parental leave was extended to parents who have any child under the age of 18 from 5 April 2015.
- Shared parental leave became available to employees expecting babies or adopting children on or after 5 April 2015, subject to eligibility requirements. Employers will need to review their currently family friendly policies and implement a new shared parental leave policy. Please see our **briefing** for further details.
- On 24 April 2015, a number of changes came into force affecting the rules for overseas visitors coming to the UK. These include changes to the business visitor visa which will now come under the new visa (standard) category and will allow greater flexibility in the activities that can be carried out by overseas nationals visiting the UK.
- BIS have published **Changes to adoption leave and pay from 5 April 2015: technical guidance for employers** which gives more details on the changes that took place relating to adoption.
- The maximum amount of a week's pay (used to calculate statutory redundancy payments) increased from £464 to £475 per week, where the effective date of termination is on or after 6 April 2015. For more details of the changes or other employment rates and limits please see our **factsheet**.
- The removal of employment tribunal's power to make wider recommendations, which was due to take place on 6 April 2015, has been postponed and will now take place on 1 October 2015.

Seminars

Attracting the high-calibre talent at a senior level is critical to the success of any business and putting together the right package at the start of the relationship is an integral element. Of equal importance is the ability to unpick that package should things turn sour. To find out more, please reserve a place at our seminar *Hiring and firing senior executives - a strategic approach*:

Bristol - 24 June 2015

London - 18 June 2015

Alternatively, please contact seminars at:

seminars@burges-salmon.com

Email alerts and articles

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

We have recently written an article for Employer's Law on **What to include in a bereavement leave policy** and an article for Reward Magazine on **The gender pay gap**.

Leaders of the flock

Burges Salmon is delighted to be one of the sponsors of a ewe-nique new art trail. The London 'Shaun in the City' trail features 50 sculptures flocking across London from 28 March to 31 May. This will be followed by a second trail across Bristol, featuring 70 different Shaun sculptures, from 6 July to 31 August.

For more info visit www.shauninthecity.org.uk

