

E-Newsletter

January 2011

Ortolan
Legal Ltd



Your latest commercial legal update from Ortolan Legal, the virtual in-house law firm

Hello Claire. As the new year unfolds, we thought it would be useful to provide a summary of the planned legal developments due throughout the year, particularly in terms of proposed employment legislation.



Tribunal Compensation Awards

Limits to increase from 1st February 2011

The most notable increases relate to the maximum compensatory award for unfair dismissal, which rises from £65,300 to £68,400 and the maximum amount of a week's pay which rises from £380 to £400 a week. The maximum amount of weekly pay is used to calculate a number of employee payments, including in particular, statutory redundancy pay.

Bribery Act 2010

Comes into force April 2011

The Act introduces strict liability on companies to prevent bribery by employees acting on its behalf, extending the crime to all private sector transactions, not just public transactions. It provides for a maximum prison sentence of 10 years for individuals and unlimited fines for companies. Companies are advised to set up "adequate procedures" to prevent bribery, although the Act provides no definition of what those procedures might entail.

Equality Act 2010

Further provisions come into force April 2011

In particular, this includes the right for an employer to "apply voluntary positive recruitment and promotion processes when faced with two or more candidates of equal merit", where there is under-representation in the workforce. This is in line with provisions which came into force in October 2010 which requires employers to discriminate positively in certain circumstances.

Flexible Working

Extended with effect April 2011

There are plans by the Government to extend the right to flexible working to parents with children under the age of 18. The current limit is 16 which came into force in April 2009. The current legislation does not give rise to an automatic right to flexible working but simply allows a working parent to request the right to change their hours.

Default Retirement Age

Ends on 5th April 2011

The default retirement age ("DRA") will be abolished on 1 October 2011, with transitional arrangements beginning on 6 April 2011. After 5 April 2011, employees can no longer rely on the DRA when giving notice of retirement. The guidance which was due out before Christmas has been postponed and is now expected to be issued later this month.

Misrepresentation & Unfair Commercial Practices

Statutory Benefits

New levels due from 11th April 2011

Statutory maternity, paternity and adoption pay is due to rise from £124.88 to £128.73. The weekly earnings threshold will also rise, going from £97 to £102. Statutory sick pay will increase from £79.15 to £81.60, with the weekly earning threshold rising from £97 to £102. Maternity allowance will increase from £124.88 to £128.73, although the earnings threshold will remain at £30.

Unfair Dismissal

Possible changes to qualifying period

The Government has announced that it may increase the qualifying service for "ordinary" unfair dismissal claims from one year to two years. Without the requisite qualifying service, an employee cannot bring a claim for unfair dismissal. The move is intended to help small businesses but may prove unpopular as many employee rights currently have shorter or no qualifying periods.

Our series of seminars continues in 2011 with

Law Commission to consult in Spring 2011

Following preliminary consultation, it is expected that there will be formal consultation on whether unfair commercial practices should be classified as illegitimate pressure and the introduction of the right of private redress for unfair commercial practices in circumstances where no such right currently exists.

About Ortolan Legal

Ortolan Legal is a radically different law firm providing pragmatic and commercially focussed legal advice. We are all experienced in-house lawyers, based remotely so overheads are kept to a minimum. Our pricing structure is entirely flexible; we will adopt your preferred structure and simply ask to earn a fair margin for our work. We don't charge administrative costs. Dealing with ad hoc work or retainer work, we can assist where there is no in-house legal function and also provide holiday cover or supplement existing in-house legal teams. Our work covers non-contentious company commercial and employment law, contracts, tendering, purchase, supply, distribution, franchising agreements and pre-litigation reviews. We also provide general 'Legal Health Checks' and a 'Legal Hotline' offering legal support for a set number of hours each month.

If you require any advice in connection with the content of this bulletin, or on any other issues, please contact Claudia Gerrard on 0844 5611 638 or e-mail her at cgerrard@ortolangroup.com

planning in progress for two more in the Midlands and the North-West as well as a further seminar in London. If you would like to register for any of these, please e mail cwarburton@ortolangroup.com to reserve a place.

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