



## E-Newsletter

January 2012

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

Hello, and from all of us at Ortolan Legal, our best wishes for a successful and prosperous New Year.

We thought we would start 2012 with a brief preview of some of the legal issues which are likely to arise as the year goes on. By flagging them up in January we are hopefully giving you some time to consider the implications these may have for your business and to make any necessary changes. Of course, there is only space to make the briefest of references to each of these here, so if you would like further information about any of these, don't hesitate to give us a call or drop us an email.

Could we also take the opportunity to make an unashamed pitch for our colleagues at Ortolan Group Plc, our sister business! We know that many of our readers are personnel professionals and thought you might be interested to read the latest in a series of thought leadership articles about [trends in recruitment](#).

As always, we hope you enjoy reading our newsletter and please feel free to forward it on to anyone you know who might find it of interest.

### Unfair Dismissal Claims

*Qualifying period increased*

Currently any employee can bring a claim for unfair dismissal in an employment tribunal, provided they have worked for their employer for at least one year. All this is set to change from April 2012, when this will increase to a minimum of two years' service. The change is intended to help businesses. However, critics believe this will lead to an increase in other types of claim, which do not require a minimum qualifying period.

### Consumer Law Reform

*Further consultation February 2012*

Various consumer law reforms are expected during 2012. A proposed Consumer Rights Bill is likely to be discussed further in early 2012, with a view to becoming law later this year. The Bill is intended to update and clarify the law relating to goods and services, digital content and unfair contract terms. It is also designed to provide stronger consumer protection for vulnerable consumers. Once law, it will modernise and simplify UK consumer laws, as well as implementing the European Consumer Rights Directive.

### Unfair Commercial Practices

*Further remedies planned for consumers*

The Law Commission has been preparing two reports on consumers' rights. The reports are due to be published in March 2012. Consumers currently have protection from misleading or aggressive traders under



### Tribunal Fees

*Ongoing consultation*

It has previously been reported that fees may be imposed on individuals bringing an employment tribunal claim. This is designed to prevent abuse of the tribunal process. We expect that consultation on the fee structure will continue during 2012, with a possible introduction later this year.

### Tribunal Claims

*Financial penalties for employers*

In addition to fees imposed on claimants (see above), consultation is planned early this year on whether employers should face financial penalties in certain circumstances. Currently, an employer is generally not penalised in this way if it loses a fully contested employment claim. However, the proposal is that employers should pay half of the total award made by the tribunal by way of penalty. This would be in addition to any award made to the claimant.

### Tribunal Claims

*Mandatory use of ACAS*

A third area of consultation aims to encourage parties to settle employment disputes before bringing a tribunal claim. Presently parties do not have to mediate before bringing a claim. However, the proposal is that parties must now liaise with ACAS before issuing a claim. The 3 month period for bringing a claim will probably be stopped during the mediation process. As previously reported, there was a significant increase in the number of claims in the 2009/2010 period. With this in mind, the three areas of

the Consumer Protection from Unfair Trading Regulations 2008. However, it is expected that the reports will propose significantly more protection for consumers, including increased remedies for breach by traders.

## **Changes in Tax and prescribed Rates**

*Effective from April 2012*

The main rate of corporation tax to fall to 25% for the financial year commencing on 1st April 2012. The main rate applies to companies and groups whose annual profits exceed £1.5 million.

The maximum unfair dismissal compensatory award will increase from £68,400 to £72,300.

Statutory sickpay will increase from £81.60 to £85.85, with the weekly earnings threshold also rising from £102 to £107.

Statutory Maternity pay will increase from £128.73 to £135.45.

## **About Ortolan Legal**

Ortolan Legal is a radically different law firm providing pragmatic and commercially focussed legal advice. We are all experienced in-house and commercial lawyers, based remotely so our 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 or Carrie Beaumont on 0844 5611 638 or e-mail us at [cgerrard@ortolangroup.com](mailto:cgerrard@ortolangroup.com)

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consultation are intended to discourage frivolous claims and prevent abuse of the tribunal system.

## **Pensions**

*Planned changes from October 2012*

From 1 October 2012, all employers will have to enrol eligible jobholders in a pension scheme. Employers will also have to pay mandatory minimum contributions. Although an employee can opt out, enrolment is automatic and all employers must comply. There will be transitional provisions, which will phase in auto-enrolment over a four year period, based on payroll size.

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