



Employment Department

Keeping you updated with recent developments in the law which may affect you

Shared Parental Leave Regulations Now In Force

On 1 December 2014, new regulations regarding Shared Parental Leave (SPL) came into force. The new rules, which apply to couples with babies due or children matched or placed for adoption on or after 5 April 2015, will give parents, who meet the eligibility and notice requirements, greater flexibility in how they share the care of their child in the first year after birth.

Mothers will still have to take two weeks compulsory maternity leave immediately after the birth (or four weeks in the case of factory workers) but after that time, couples will have the opportunity to share up to 50 weeks of leave and up to 37 weeks of pay. Similar provisions will apply in the case of adoptions.

Additional paternity leave and pay will no longer be available where a baby is born or a child matched or placed for adoption on or after 5 April, so the only entitlement of the other parent will be two weeks' ordinary paternity leave and pay unless the parents decide to take SPL.

Family Friendly Reforms

Legislation giving new rights to paternity, adoption and shared parental leave and shared parental pay to the intended parents of a child born to a surrogate mother, came into force on 25 November 2014 and 1 December 2014.

From 5 April 2015, the existing parental leave regime will be extended to parents of children aged between 5 and 18.

Also from 5 April 2015, the current right to adoption leave will be extended to those fostering a child under the 'Fostering for Adoption' scheme and couples who are adopting a child from outside of the UK will have the right to shared parental leave and pay.

Retrospective Holiday Pay Claims Are To Be Limited

The Government has announced that it intends to introduce legislation to limit retrospective holiday pay claims. If passed by parliament, claims for retrospective holiday pay will be limited to two years.

The announcement follows a recent ruling by the Employment Appeal Tribunal that non-guaranteed overtime must be taken into account when calculating the statutory holiday pay due to a worker under the Working Time Directive.

Obesity Can Amount To A Disability

The European Court of Justice has held that obesity itself is not a protected characteristic but that the impairments which result from an overweight employee could give rise to a disability.

What does this mean?

EU law does not prohibit discrimination on grounds of obesity as such, but obesity can constitute a 'disability' where it entails a limitation resulting, in particular, from long-term physical, mental or psychological impairments which in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers. Ultimately, it will be for the courts and tribunals to determine whether, in individual cases, those conditions are met.

What should employers do?

Reasonable adjustments should be made for obese workers who meet the above conditions. These may include providing larger chairs or providing car parking spaces close to the work place.

Caste Can Amount To An Aspect Of Race

The Employment Appeal Tribunal has held that the definition of 'race' in the Equality Act 2010, which includes 'ethnic or national origins', is wide enough to cover caste.

What does this mean?

Despite the fact that caste is not a protected characteristic in itself, a person who is discriminated against on grounds of their caste may be protected by the protected characteristic of race.

What should employers do?

Employers who have ethnically diverse workforces should ensure that their staff and managers are aware that discrimination on grounds of caste will not be tolerated.

The Employment Department looks forward to speaking with you on any aspect of this Newsletter.



Marina Vincent
Partner

DDI: 020 8872 3052
marina.vincent@haroldbenjamin.com



Cyril Dennemont
Partner

DDI: 020 8872 3032
cyril.dennemont@haroldbenjamin.com

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