

Increase in National Minimum Wage and Reforms to Sex Discrimination Legislation

Increase in National Minimum Wage

With effect from Saturday, 1st October 2005, the National Minimum Wage rose to £5.05 per hour and the youth rate (paid to 18-21 year olds) increased to £4.25 per hour.

The rate for 16 and 17 year old workers that was introduced last year remains at £3.00 per hour.

Reforms to Sex Discrimination Legislation

Over the same weekend, amendments to the Sex Discrimination Act 1975 came into force. The amendments are contained within the Employment Equality (Sex Discrimination) Regulations 2005 ('the Regulations'). The Regulations have been introduced to comply with the updated European Commission Equal Treatment Directive and to bring sex discrimination legislation in line with other forms of discrimination law.

The greatest change is the creation of a new definition of indirect discrimination. Under the Regulations an employer will commit indirect discrimination where it imposes what appears to be a neutral provision, criterion or practice but which in fact causes a disadvantage to one sex as compared with the other and that provision, criterion or practice is not a proportionate means of achieving a legitimate aim.

Under previous legislation an employee bringing a claim for indirect discrimination would have to show a "requirement or condition". It is now necessary to show only a "provision, criterion or practice" – a much broader test.

Also introduced for the first time are two new prohibitions against sexual harassment. Contrary to a widely held perception, until now, sexual harassment has not been specifically outlawed by statute. Previously, Judges coped with this omission by treating it as a form of discrimination. The Regulations now specifically state that sexual harassment is "...conduct on the grounds of a person's sex designed to violate that person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment" and it is "...unwanted conduct of a sexual nature". Further, someone bringing a sexual harassment claim will not have to show that they have been treated less favourably than a comparator of the opposite sex.

Importantly for employers, the Regulations have imposed more stringent time limits on Respondents replying to sexual discrimination questionnaires. Under the old law, employers had to respond within "...a reasonable time" but are now required to reply within eight weeks.

Michael Elks will consider these Regulations as part of our November Seminar. The seminar will take place on 17th November. If you would like more information, or to book a place, please email Julia Worton at julia.worton@rlb-law.com or telephone 020 7227 7476.

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing. If you have any queries on any of the subjects raised in this email, or on any other subject relating to employment law, then please do not hesitate to contact Rebecca Watson at rebecca.watson@rlb-law.com or telephone 020 7227 6714 or Kerry Scott-Patel on 020 7227 7235 or kerry.scott-patel@rlb-law.com

EMPLOYMENT

RadcliffesLeBrasseur
5 Great College Street
Westminster
London SW1P 3SJ

Tel +44 (0)20 7222 7040
Fax+44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU

Tel +44 (0)113 234 1220
Fax+44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA

Tel +44 (0)29 2034 3035
Fax+44 (0)29 2034 3045
DX 33063 Cardiff 1

info@rlb-law.com
www.rlb-law.com