

MASSERS

EMPLOYMENT LAW UPDATE

MARCH 2015

Zero-Hours Contracts - Restrictions Announced

The controversy regarding zero-hours contracts continues and the Government has recently confirmed that it intends to tackle avoidance of the forthcoming ban on exclusivity clauses in such contracts. Legislation is to be introduced to protect zero-hours contract workers from detriment should they decide to take jobs under other contracts and further, to establish a minimum income level below which exclusivity clauses would be unenforceable.

Criticism of the use of zero-hours contracts has centred on the fact that, although employers do not have to guarantee a number of hours, some employers have included exclusivity provisions, restricting workers from working in other organisations.

The Small Business, Enterprise and Employment Bill is currently progressing through Parliament and contains provisions that will render exclusivity clauses in zero-hours contracts unenforceable. Draft regulations indicate how the anti-avoidance measures might be implemented. It is proposed that protection from detriment would apply equally to zero-hours contracts and prescribed contracts. Prescribed contracts are ones that do not guarantee the workers specified income. Exclusivity clauses in prescribed contracts would then be unenforceable in the same way as an exclusivity clause in zero-hours contracts.

The Bill is expected to become law this year and the new measures will provide parameters and guidance to employers on the use of zero-hours contracts.

Employers who use zero-hours contracts should take the opportunity to review the form and content of them, to ensure that they are in line with the new requirements. It is also important to be aware of the risks associated with the use of zero-hours contracts, including workers alleging employee status when they are provided with regular hours and further risks of discrimination claims if work is not allocated on a fair and transparent basis.

Acas Code of Practice

The current Acas Code of Practice on Disciplinary and Grievance Procedures has been revised and approved by Parliament.

From 11 March 2015 and reflecting a recent decision in the Employment Appeal Tribunal, an employee has an absolute right to be accompanied to a Disciplinary or Grievance meeting, by any chosen companion from one of the statutory categories (a fellow worker, Trade Union representative or Official). The change confirms that the reasonableness of the request only applies to the making of it, not to the employee's actual choice of companion.

Shared Parental Leave Scheme

In the last couple of months we have reported on the new system of Shared Parental Leave (SPL) Scheme which came into force on 1 December 2014. The Scheme is available to all new parents whose child is born or placed for adoption on or after 5 April 2015. Parents eligible under the Scheme are able to share 50 weeks' leave between them (and up to 37 weeks' statutory pay).

The Department of Business Innovation and Skills (BIS) has developed a very useful online calculator to help prospective parents work out what their leave and pay entitlements are. The calculator can be accessed via the gov.uk website.

Continued decline in Employment Tribunal Claims

Earlier this month the Ministry of Justice (MoJ) published statistics on Employment Tribunal claims for the period October to December 2014.

Single claims received by the Employment Tribunal Service were down 12% on the same period the previous year. There is a marked decline as claims by the Employment Tribunal Service the previous year were also down. This coincided with the advent of Tribunal Fees which were introduced in July 2013.

It is unsurprising that there has been a continued reduction in single claims, given changes to employment law over the last couple of years and in particular, the introduction of Employment Tribunal Fees. However, multiple claims which involve numerous complaints against the same employer increased in October to December 2014.

Further, in the 12 months ending 30 September 2014, 11,338 remission applications were submitted for the issue fee and 2,494 for the hearing fee. Approximately $\frac{1}{3}$ of issue fee remission applications were either fully or partially successful, compared to almost $\frac{2}{3}$ of hearing fee remission applications.

Although there has been an increase in multiple claims the statistics continue to show a decline in single claims to the Employment Tribunal Service. We will report on the statistics in the future. It will be interesting to see whether the trend continues and the impact of Tribunal fees.

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