

MASSERS

EMPLOYMENT LAW UPDATE

September 2015

Employment Law Changes - October 2015

National Minimum Wage

Increases to the new National Minimum Wage rates come into force on 1 October 2015. The minimum hourly rates will increase as follows:

• Standard Adult Rate	-	workers aged 21 or over	£6.70
• Development Rate	-	workers aged between 18 and 20 inclusive	£5.30
• Young Workers Rate	-	workers aged under 18 but above the Compulsory School age who are not apprentices	£3.87
• Apprenticeship Rate	-	Apprentices who are under 19 years of age or those aged 19 and over but in the first year of their apprenticeship	£3.30

The Deregulation Act 2015 (DRA 2015) will also repeal the power of Employment Tribunals to make wider recommendations in successful discrimination cases and extend the right for Sikhs to wear a turban instead of a safety helmet to most work places in Great Britain. Limited exceptions for specific roles in the military and emergency services will still apply.

Also expected to come into force in October 2015 is the requirement for large businesses to annually publish a slavery and human trafficking statement, setting out the action they have taken to ensure their supply chains are slavery free.

Lidl Leading the Way

Lidl has announced it will be the first UK Supermarket to implement the minimum wage as recommended by the Living Wage Foundation. The rate is £8.20 an hour across England, Scotland and Wales and £9.35 an hour in London. The rate is different from the National Living Wage set out in the Budget.

Lidl said its new pay rate would amount to an average wage increase of £1,200.00 a year “with 53% of Lidl UK’s 17,000 work force and all age brackets benefiting from the rise”. The Chief Executive of Lidl UK, Ronny Gottschlich, also said “Lidl employees will be amongst the best paid in the supermarket sector”. He also added that the Company wanted to share its “success” with the staff.

Aldi follows closely behind Lidl, paying £8.15 per hour (outside London). Interestingly, none of the big four supermarkets pay the living wage rates and are all losing market share.

Working Time – to include travel time

In the recent case of **Federacion de Servicios Privados Del Sindicato Comisiones Obreras v Tyco Integrated Security SL**.

The Court of Justice of the European Union (CJEU) recently held in the case of mobile workers that, the time travelling from home to customers’ premises is to be regarded as working time for

the purposes for the Working Time Directive.

Tyco employed Technicians who install and maintain security equipment at customers' premises in Spain. The Technicians are provided with a vehicle and travel from their own homes to locations where they are instructed to install equipment on behalf of **Tyco**. With the exception of travelling to an office to collect tools and materials, they are only in contact with **Tyco** by mobile phone and not generally required to travel to an office.

Tyco argued that the Technicians' travelling time was a "rest period" rather than working time as they are not carrying out any installations or maintenance during those periods. The CJEU said it was working time and **Tyco's** argument "would distort the concept and jeopardise the objective of protecting the safety and health of workers"

Tyco also argued that as the Technicians' are able to make decisions about their itinerary and which route(s) to take during the travelling time, they fell outside the ambit of the directive. The CJEU disagreed and stated that the Technicians' travelling time is covered by the directive given that travelling time can neither be shortened nor used freely by the Technicians' and therefore they were at the "disposal" of **Tyco**.

The Immigration Bill 2015 – 2016

The Immigration Bill 2015 – 2016 was recently published and contains proposals to protect the exploitation of migrant workers and also to curb illegal working.

Further proposals include the extension of the existing criminal offence of knowingly employing an illegal migrant to apply where an employer has "*reasonable cause to believe*" that a person is an illegal worker. A conviction for this offence will increase from 2 to 5 years. There is also the creation of a new offence of illegal working which will enable the earnings of illegal workers to be ceased under the Proceeds of Crime Act 2002.

The Secretary of State will also be given the power to introduce an "immigration skills charge" on certain employers who sponsor skilled workers from outside the European Economic Area (EEA). It is hoped that this will address the current skills gap in the UK workforce.

Public Authority's are also required to ensure that public sector workers in customer-facing roles speak fluent English.

A Code of Practice is to be provided by the Government which will contain relevant guidance to Employers.

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