

# Employment Facts & Figures - April 2008

## THE FACTS

### Asylum, Immigration and Nationality Act 2006

Changes to the Act came into effect on 29 February 2008, placing greater responsibility on the employer to check an employee's right to work in the UK. Employers that are negligently employing illegal workers can now face fines of up to £10,000 per worker and employers knowingly employing illegal workers could face unlimited fines and imprisonment.

### Corporate Manslaughter and Corporate Homicide Act 2007

With effect from 6 April 2008, the Corporate Manslaughter Act 2007 comes into force and allows a Company to be prosecuted for serious management failures that lead to the death of an employee and others linked to the Companies business. Convicted Companies will face unlimited fines and remedial and publicity orders may also be placed on the Company.

### Information and Consultation of Employees Regulations (ICE) 2004

The regulations are extended with effect from 1 April 2008 to cover undertakings with 50 or more employees. The regulations establish standard provisions that employers must inform and consult with their employees on certain pieces of information, such as working practices and organisational structure.

### Changes to the Sex Discrimination Act 1975

With effect from 6 April 2008 the Government will make changes to the Sex Discrimination Act 1975 after being successfully challenged in the High Court. The provisions relating to sexual harassment of employees will cover the actions of third parties who are not employed directly by the employer. The need for a comparator on grounds of pregnancy and maternity leave discrimination claims will also be removed.

In addition, for pregnant employees with an expected date of confinement on or after 5 October 2008, there is a change to the treatment of non-remuneration based terms and conditions whereby entitlement will continue during additional as well as ordinary maternity leave.

### Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006

The regulations introduce a statutory requirement upon employers to consult with prospective and active members of pension schemes and their representatives before making major or significant changes to future pension arrangements. The regulations are extended from 6 April 2008 to cover undertakings with 50 or more employees.

## THE FIGURES

### Statutory Rate Increases

#### Unfair Dismissal Maximum Award

With effect from 1 February 2008 the maximum compensatory award at a tribunal for unfair dismissal increased to £63,000.

#### Lower Earnings Limit

From 6 April 2008, the lower earnings limit increases from £87.00 to £90.00 per week.

#### Statutory Sick Pay

From 6 April 2008, statutory sick pay increases from £72.55 to £75.40 per week.

#### Statutory Maternity, Adoption and Paternity Pay

From 6 April 2008, the standard rate for each of statutory maternity, adoption and paternity pay increases from £112.75 to £117.18 per week or 90% of the average weekly earnings if this is less than £117.18.

#### Statutory Redundancy Pay

The maximum amount for a week's pay that can be taken into account for the purposes of a redundancy calculation is

## THINGS TO LOOK OUT FOR

### Disability discrimination by association

An English legal case has been referred to the European Court of Justice (ECJ) which could lead to changes to the Disability Discrimination Act 1995 and could make it unlawful to discriminate against a person due to their association with a disabled person. The case has been brought by Sharon Coleman who is the primary carer for her disabled son and claims that she was discriminated against as a result of being his primary carer. The Disability Discrimination Act 1995 does not currently recognise discrimination by association but if the ECJ finds that this should be covered by the Act, then it could lead to big changes to the UK's discrimination legislation as a whole.

### Holiday pay for workers on long-term sick leave

A second English legal case that has been referred to the ECJ concerns employee's rights to holiday leave whilst on long-term sick leave. The Advocate-General has stated in readiness to the case that:

- An employee's entitlement to paid holiday does accrue whilst the employee is on sick leave;
- However, the affected employee may not take their holiday whilst they are on sick leave; and,
- After termination of the contract, the employee is entitled to receive a payment to reflect the accrued but unused holiday, even when they have been absent for the holiday year in question.

If it is found that employees are entitled to receive payment for outstanding holiday upon termination of employment then this may have a substantial financial impact for affected Companies.

### Age Discrimination – default retirement age

The Heyday challenge to the Employment Equality (Age) Regulations 2006 continues to rumble on. Heyday feels that the default retirement age of 65 is in opposition to the EU Directive on Age Discrimination. The outcome of the case will be given by the ECJ sometime in 2008; if found in Heyday's favour, then this may result in the removal of a default retirement age in all Companies.

### Cooper Parry HR Workshops

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**Should you require any further information relating to the above or any other general HR queries that you may have, then please call 0800 0665 894 and contact:**

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