

# HR UPDATE

## Employment Facts and Figures

### THE FACTS

#### Minimum Statutory Holiday Entitlement

With effect from 1 October 2007, the statutory holiday entitlement increases from 4 weeks to 4.8 weeks (equating to 24 days based on a 5 day working week). This will further increase with effect from 1 April 2009 from 4.8 weeks to 5.6 weeks (equating to 28 days based on a 5 day working week). For those working part-time, these increases should be calculated on a pro-rata basis.

Things to consider:

- This increase is applicable to all employees covered by the Working Time Regulations and is therefore relevant to those working offshore.
- Bank holidays can be still counted as part of the statutory holiday entitlement.
- Statutory holiday entitlement **MUST** be taken in each leave year. However, where the employee has a contractual holiday entitlement in excess of the statutory holiday entitlement any additional holiday entitlement can be paid or carried over into the following leave year, dependent upon the Company's procedure.
- Employers do not need to reissue amended contracts of employment, but do need to notify employees of the change in writing (e.g. by letter or by a statement on their payslips).

#### National Minimum Wage Amendment

On the 1 October 2007, there will be an amendment of the National Minimum Wage Regulations in respect to categories of persons who do not qualify for the National Minimum Wage. These are:

- Workers who attend a period of work experience as part of a course of further education.
- Workers participating in the latest phase of the Leonardo da Vinci Programme, a specific European Community scheme intended to provide its participants with vocational training.
- Workers participating in the European Community Youth in Action Programme.

#### Data Protection Act 1998

Previously any manual filing systems in existence before 24 October 1998 were exempt from being governed by the Data Protection Act. However, with effect from 24 October 2007, regardless of when personal data was initially generated, Companies will now have to comply with all aspects of the Act in respect to any data relating to an employee held either on a computer and/or in a manual file. It still remains unclear whether an unstructured bundle of documents i.e. documents not held within a structured file could be characterised as a relevant filing system within the meaning of the Data Protection Act 1998 but, in the absence of clear guidance on this point, employers would be well advised to assume that it does.

In this instance the term "employee" encompasses any worker who undertakes to do or perform work or services personally for an employer.

#### No Smoking Ban

It is important to note that the new law also requires that vehicles used both in the course of paid/voluntary work and also those that transport the general public are to be smoke free at all times. No smoking signs have to be displayed in these vehicles.

## Amendments to the Flexible Working Regulations

From 1 October there are amendments to the Flexible Working Regulations 2002 in respect to adoption. Reference to “adopter” is redefined as those adopting a child whether domestically or inter-country, where the child has not been placed with those adopters by a UK agency. In addition a private foster carer, the spouse, partner or civil partner of a private foster carer or a person in whose favour a residence order is in force in respect of a child, and the spouse, partner or civil partner of such a person are now entitled to request under the Flexible Working Regulations a variation to their contract in order to care for a child.

## THE FIGURES

### National Minimum Wage

#### Statutory rate increases – 1 October 2007

- Adult rate (workers aged 22 and over) increases from £5.35 to £5.52.
- Development rate (18-21 year olds) increases from £4.45 to £4.60.
- Young Workers rate (16-17 year olds) increases from £3.30 to £3.40.

## THINGS TO THINK ABOUT

### 6 April 2008 – Corporate Manslaughter Act will come into force

New laws on corporate manslaughter are introduced. They will create a new offence of corporate manslaughter (corporate homicide in Scotland), which would allow a Company to be prosecuted for management failures that lead to the deaths of employees and others.

This Act complements the current law under which individuals can be prosecuted for such negligence.

### 6 April 2008 – Information and Consultation of Employee Regulations 2004 are extended

The Regulations, which implement the Information and Consultation Directive in Great Britain, are extended to cover undertakings with 50 or more employees.

For further information on any of the above please speak to your usual contact or email:

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