

pub HR guide

Spring Edition 2009

The definitive guide on all aspects of people management in the pub industry



Welcome and Intro

Welcome to this quarter's hr update featuring recent legislation affecting your business.

In this issue we have included:

- **What's New** – an explanation of recent legislation so you can ensure your compliance
- **Handy Facts** – a quick reminder of redundancy rates, minimum wage rates and statutory notice periods
- **Other News** – an update of additional features and products available at pub-hr plus some other industry related news

Holiday entitlement increase

From 1 April 2009 statutory annual leave under the Working Time Regulations 1998 increased from 4.8 weeks (24 days) to 5.6 weeks (28 days) (with a maximum statutory entitlement of 28 days). There is no longer the option to replace additional annual leave with a payment in lieu, except where employment is terminated. Employers, who have not already done so, need to write to staff notifying them of the increase.

Remember, this includes public and bank holidays, so if your staff work public and bank holidays they are entitled to the equivalent of 5.6 weeks holiday within the holiday year. The right applies to part-time workers who will be entitled to 5.6 times their usual working week.

Holiday pay is calculated by:

- for workers on fixed hours and pay it equals the amount due for a week's work
- for workers on variable hours it equals the average weekly hours of work in the preceding 12 weeks at the average hourly rate

We have produced a Holiday Pay HR How to Guide including Frequently Asked Questions, an easy to use Holiday Calculator and some templates for you to inform employees of these changes without changing contracts of employment.

Flexible working for parents of children under 17

The Flexibility Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2009 came into force on April 6 as planned. The regulations very simply extend the statutory right to request flexible working to parents of children under 17, and statutory applications to work flexibly must be made before the day on which the child concerned reaches the age of 17, or, if disabled, 18. All other eligibility and procedural aspects remain the same; so for example, an employee must still have 26 weeks' continuous service to be eligible.

SMP, SAP, SPP and SSP increases

Finally a reminder that as of 5 April the prescribed rate for Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP) and Statutory Adoption Pay (SAP) is now £123.06 per week (up from £117.18 per week) or 90% of earnings if lower. The first six weeks of SMP only are of course paid at 90% of earnings.

From 6 April 2009, the statutory dismissal and disciplinary procedures (SDDPs) will no longer apply in England, Scotland and Wales. This impacts all employers in the private, public and voluntary sectors in England, Scotland and Wales

Statutory Procedure Out and the new ACAS Code of Practice on Disciplinary and Grievance Procedures is In.

From 6 April 2009, the statutory dismissal and disciplinary procedures (SDDPs) will no longer apply in England, Scotland and Wales. This impacts all employers in the private, public and voluntary sectors. Instead, the new ACAS Code of Practice on Disciplinary and Grievance Procedures, approved by Parliament last month, comes into force on 6 April 2009. Unreasonable failure to comply with the Code could result in a tribunal increasing or decreasing a compensation award by up to 25%. Employers should be particularly alert to the requirement specifically to advise employees of their right to be accompanied, and new provisions concerning the right to call relevant witnesses. Appeals to a manager not previously involved in the case need to be allowed at every stage including for warnings. For grievance situations, employers are now required to set out in writing what action, if any, they are going to take to resolve a grievance. A new emphasis on workplace mediation also means employers may have to consider this option in appropriate situations. The new Code does not apply to redundancy dismissals or non-renewal of fixed-term contracts. One very important aspect to help comply with the new Code will be ensuring managers are trained on the requirements of the Code and the principles they need to follow. It would be a good idea to be able to show that such training was carried out with the relevant managers.

Handy Facts

Employment Law

National Minimum Wage

Rate	Pay
Adult rate (22 and over)	£5.73 per hour
Development rate (18-21)	£4.77 per hour
Youth rate (16-17)	£3.53 per hour

(This will be reviewed in October 2009)

Redundancy Calculation

The right to redundancy pay starts when the employee has completed 2 years employment. For each completed year of employment use the following multiplier:

Age of employee	Multiplier
Under the age of 22	½ x week's pay
Between 22nd and 41st birthday	1 x week's pay
41st birthday onwards	1 1/2 x week's pay

The 'week's pay' is an actual week's gross pay up to a maximum of £350.

The most recent 20 years (only) are taken into account if a long service employee is being dismissed.

The multiplier is subject to a maximum of 30 weeks.

Statutory Notice

Section 86 ERA 1996 length of employment	Notice to employee by employer
Under 1 month	No statutory notice requirement
1 month to 2 years	1 week
2 years to 12 years	1 week for each completed year of employment
12 years or more	12 weeks

Notice by employee to employer is 1 week after 1 month's employment.

Other News

Employment Tribunal statistics

The Employment Tribunal and EAT statistics for 2007/08 published only recently show there is no cause for complacency in employment law. The number of tribunal claims increased by 43% up from 132,577 claims in 2006/07 to 189,303 claims in 2007/08.

Significant increases were noted in working time claims, equal pay, and trade union membership related claims. Equal pay claims were the most common (62,706), and unfair dismissal in 2007/08 only the third most common (40,941). There was, as expected, a marked increase in age discrimination claims up from 972 in 2006/07 to 2,949 in 2007/08. The Tribunals service has also released provisional figures for April 2008 to February 2009 that show an increase in redundancy claims from 7,313 in 2007/08 to 9,220 in 2008/09 up to February

Coming Soon

Discounted Utility Services

We are constantly striving to find additional discounted products and services for our pub-hr subscribers. We are hoping to announce discounted utility services so our subscribers can benefit from substantial savings on a wide range of essential utility services including:

- Landline
- Mobile phones
- Internet
- Non-geographic numbers (e.g. 0845 and 0870)
- Combined phone and broadband package
- Gas and electricity.

Employment Practices Legal protection

In an environment where your business has to comply with an increasing amount of employment legislation and the cost of defending claims for Employment Disputes and Compensation Awards we are looking to provide discounted Employment Protection Insurance.

Watch this space for further news.

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