

Employment Newsletter July 2019

Good Work Plan

In April the government made the *Employment Rights (Miscellaneous Amendments) Regulations 2019 (SI 2019/731)*. These will introduce several proposals set out in the *Good Work Plan*, published on 17 December 2018 to implement a wide range of workplace reforms. Changes include the increase in financial penalties for employers found in breach of workers' rights to £20,000.

Working Conditions

In April the European parliament adopted its first reading position to implement changes to the proposal for a Directive of the European Parliament and of the Council on transparent and predictable working conditions in the EU. The proposal suggests revised obligations to inform workers of the essential aspects of their employment relationship.

Permanent Health Insurance

In the case of *ICTS (UK) Limited v Visram* UAEAT/0133/18 the EAT dismissed the appeal against the Tribunal's decision to award compensation to an employee in relation to benefits under a permanent health insurance (PHI) policy. The EAT held that, had he not been dismissed, Mr Visram, would have been entitled to benefits under the terms of the PHI policy until death or retirement on the basis that he could not return to the same work that he had been doing with ICTS when he went on sick leave. The EAT was of the view that 'return to work' did not mean return to full-time work with any employer, but specifically with the employer that the employee had worked for prior to going on sick leave. Employer need to be cautious when dismissing an employee if this could remove their entitlement to PHI.

Daily Working Time

The European Court of Justice now requires employers to create systems to measure the actual daily working time of employees to comply with the EU Working Time Directive (WTD). The WTD takes effect in the UK through the Working Time Regulations 1998 (WTR). The UK government may now amend the WTR however with Brexit looming it is not certain that this will happen. The current requirement under the WTR is for British employer to keep 'adequate records'. Employers should make changes to their recording systems now in anticipation of any changes.



Increase to Vento Bands

The Presidents of the Employment Tribunals in England and Wales and Scotland have amended the Presidential Guidance on Vento bands to increase the bands for injury to feelings awards in discrimination and whistleblowing claims presented on or after 6 April 2019.

Rule reforming IR35

It is less than 12 months until the rules reforming IR35 come into force for the private sector. The off-payroll working rules apply where contractors supply their services via a personal service company (PSC) to a business. Under the new rules, liability for tax will no longer sit with the PSC but will be shifted to the business. The government has issued a consultation and policy paper on their operation of the new rules. This confirms that small companies will be excluded and give some guidance on the accounting process. It also confirms that businesses must give contractors a 'status determination' as to the contractor's employment status. This is no easy task and the government has yet to fulfil its promise to improve the clarity of the employment status test made in the Good Work Plan. Hopefully when this happens businesses will receive the clarity they need.

For advice about any of the issues raised in the newsletter or other issues relating to employment law, please contact Anna Illingworth.

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