



EMPLOYMENT NEWSLETTER - MARCH 2017

Welcome to the latest edition in which we hope you will find something to interest both you and your business. If there is anything in particular you would like to know more about in a future issue, do let the employment team know.

National Minimum Wage increases

Don't forget the increases take effect from 1 April 2017, with the standard rate increasing to £7.50. You can see all the rates [here](#)

LEGISLATION: Immigration

The Immigration (Health Charge) (Amendment) Order 2017 has been published. This is expected to come into effect next month and will mean that Tier 2 Intra-Company Transferees (and any dependants) will have to pay an immigration health charge of £200 per year of the intended stay.

LEGISLATION: New offence for false advertising of a statutory apprenticeship

A new offence under the Enterprise Act 2016 (s25) is effective from 1 April 2017. The new offence occurs where, in the course of a business, a course or training contract is described as an apprenticeship when it is not a statutory apprenticeship.

The company will be liable where the advertisement is made with the knowledge or neglect of an officer of the company.

The intention behind the legislation is to protect the term "apprenticeship" from misuse, and to prevent damage to the scheme's reputation from course providers that do not meet the statutory requirements.

Enforcement action would be taken by the Secretary of State or local authority and maximum penalty on conviction is a fine.

BREXIT: The countdown begins...

So it's happened. On the 29 March 2017 the government gave notice to the European Council of the UK's intention to leave the EU, triggering Article 50 of the Treaty on European Union (TEU).

The next day, David Davis, the Secretary of State for exiting the EU, issued the government's White Paper "Legislating for the United Kingdom's withdrawal from the European Union" to Parliament.

This sets out the legal preparations for Brexit and the proposed mechanics of the Great Repeal Bill (GRB). The key objectives of this are:

- i) Repealing the European Communities Act 1972
- ii) Conversion of EU law where it already applies in the UK into domestic law, with the intention of having the same rules and laws in place immediately after leaving the EU
- iii) Ensuring the government has the power to make additional legislation where necessary to ensure all current laws continue to operate effectively and to address any changes required by withdrawal agreements under article 50.

In short, for employment law, the intention is that the existing worker's rights will be maintained.

You can read more [here](#)

Headscarves & Employment

Two different ECJ Judgments address the issue of discrimination surrounding religious headscarves.

Firstly, a Belgian Company that had a Dress Code policy banning any employees from wearing any visible religious, political or philosophical symbols in the workplace had their policy challenged as it prevented a Muslim employee from wearing a headscarf and she claimed direct race discrimination.

The ECJ found that the ban was not direct discrimination itself because it applied to all employees equally and the aim of upholding political and religious neutrality in customer facing roles was a legitimate aim. However, while indirect discrimination was not claimed, the ECJ indicated that the Dress Code could amount to indirect discrimination.

In the second case, the ECJ found that the dismissal of an employee who refused to remove her headscarf at the request of a customer was direct discrimination as a subjective preference of the customer could not amount to a "genuine occupational requirement". The motive behind the ban was how the ECJ distinguished this decision from the above as this concerned personal preferences of a customer whereas the other reflected a policy of neutrality.

These cases highlight the need to be very cautious in implementing even a simple policy and we would recommend any existing policies are reviewed.

If you are responsible for HR matters within your business (or interested in employment law discussion), please contact us to attend the monthly HR Exchange with Julie Taylor from GL and Michelle Bailey from People Essentials. The next Newbury meeting is on Monday 8 May 2017 at 5pm.