

Spring: A Time for Change in UK Employment and Data Protection Law

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Shared Parental Leave

New rights came into effect on December 1, 2014, which allow parents who are expecting the birth or placement of their children in the week of April 5, 2015 or thereafter to share leave. In April of 2015, the existing scheme of additional paternity leave and paternity pay will be abolished. The existing maternity and paternity leave framework has been remodeled to introduce the new system. The new rights also apply to adoptive parents and same-sex couples.

Female employees will continue to be entitled to 52 weeks' maternity leave and receive up to 39 weeks as paid leave, but now up to 50 weeks of leave and 37 weeks of pay is able to be shared between the two parents (after the expiration of a two-week compulsory maternity leave period). Parents can take this leave at the same time as each other, or consecutively as long as they do not take more than the total amount of shared parental leave available to them. Parents may also take shared parental leave as discontinuous periods, interspersing periods of work with periods of leave.

Parents have the option to take shared parental leave. If parents choose not to take shared leave, mothers are nevertheless entitled to 52 weeks' maternity leave and 39 weeks of paid leave. However, additional paternity leave and pay will no longer be available for parents of babies who are expected on or after April 5, 2015, so

fathers who choose not to participate in shared parental leave will only be entitled to two weeks of ordinary paternity leave and pay.

Parents who would like to take advantage of shared parental leave must follow a strict procedure, and employers may refuse any request if parents fail to give their employers proper notices.

Actions to Take

- Employers should review and amend their family leave policies so that they are compliant with the recent changes in law and, if needed, should introduce a clear shared parental leave policy outlining an employee's entitlement and the notices and documents that need to be completed to take advantage of shared parental leave.
- Employers will need to consider whether or not to offer any enhanced payment for shared parental leave and be aware of the potential risks in offering an enhanced payment for maternity leave but not for shared parental leave.
- Human Resources and managers should also be fully aware of the new legislation and be trained on company procedures for or approaches to requests for leave.

Data Protection—Criminal Records Checks

As of March 10, 2015, it is a criminal offense for employers to force job applicants and employees to obtain and provide a copy of their criminal record by means of a subject access request under the Data Protection Act 1998 (DPA). This new prohibition provides further protection to individuals whose employers may have forced them to reveal details of their convictions in violation of the Rehabilitation of Offenders Act 1974.

The new offense applies to employees, prospective employees, and contractors.

The new law does not prevent employers from using the formal criminal record check system—the Disclosure and Barring Service—to verify an individual's criminal history if permitted to do so.

Increase to Compensation Awards in the Tribunal: in Force From April 6, 2015

The main increases to compensation awards in the tribunal are;

- Unfair dismissal compensation award cap: increases to £78,335 (which is currently approximately \$115,935) from £76,574 (which is currently approximately \$113,329) on April 6, 2015.
- Unfair dismissal basic award cap: increases to £14,250 (which is currently approximately \$21,090) from £13,920 (which is currently approximately \$20,601) on April 6, 2015.
- Statutory redundancy payment maximum: increases to £14,250 (which is currently approximately \$21,090) from £13,920 (which is currently approximately \$20,601) on April 6, 2015.

- The statutory limit on the maximum gross week's pay (used to calculate many individual statutory rights such as statutory redundancy payments and statutory notice pay) increases to £475 (which is currently approximately \$703) from £464 (which is currently approximately \$686).

The main change that will have the largest impact on U.K. employers is the shared parental leave regime, which is likely to increase the administrative burden on employers and particularly impact smaller businesses. The new parental leave law does, however, provide increased rights for fathers, should they wish to utilize them, and may create more flexibility in the workplace. It remains to be seen how many parents will make use of shared parental leave, particularly in situations in which there is a large salary difference between the parents.

TOPICS

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