

2015 - What a Year....



2015 has been a significant year for employment law development and 2016 is set to be no different. In this newsletter we take a look back over some of the key developments which have taken effect and we look ahead at the changes anticipated for 2016.

Employees now accrue annual leave during sick leave

Since 1st August 2015, employees are now entitled to accrue their statutory annual leave entitlement during periods of certified sick leave. In addition, an annual leave carry over period of 15 months after the leave year will apply to employees who could not take annual leave during the leave year due to sickness.

On termination of employment, payment in lieu of untaken annual leave as a result of sickness within 15 months of the end of the particular sick leave must be paid to the employee.

This is a significant change and it is important that you consider how long term sick leave is managed in your business, and at a minimum consider the following the following actions;

- > Review and update your contract templates and sick leave policy to ensure that they are compliant with the revised legislation. Be clear in your documentation that the accrual of annual leave applies to statutory annual leave entitlements only
- > Carry out an assessment of existing staff that are currently absent on long-term sickness absence and ensure that their annual leave entitlements are being applied correctly
- > Strengthen your medical certification procedures to ensure that any long-term absence is fully certified by a qualified medical practitioner

Increase to the National Minimum Wage and Pay on the Agenda for SME's

The statutory minimum wage is set to rise from **€8.65** to **€9.15** per hour commencing **1st January 2016** following a recommendation made by the low pay commission in July of 2015.

Arising from the increase, we are seeing a lot of queries coming through our helpdesk support service seeking guidance on how to respond to employees who are currently earning €9.15 per hour or higher and are now looking for an increase. There is no obligation to provide an increase outside of the national minimum wage agreement; however, it does bring the issue of pay on the agenda.

While the economy is recovering, this is not evident to all businesses and although some companies are in a position to provide moderate increases, for many the increase to the minimum wage alone is premature and will put significant pressure on business operations, seeing the increase off set against a reduction in hours or capital investment.

Statutory Paternity Leave

As a provision of Budget 2016 the Government announced its plans to legislate for statutory Paternity Leave in 2016. Under the impending legislation Fathers are set to benefit from 2 weeks paid paternity leave. It is expected that Paternity leave will come into effect in September 2016 however it is unclear as to when this provision will be legislated for.

The announcement of paid Paternity Leave has caused concern among many employers due to potential cost implications, however it can be expected that similar to maternity leave there will be no statutory obligation on the employer to supplement the government benefit.

Protective Disclosures – Does your Business have a Policy?

Many businesses in the private sector may not be aware of the Protected Disclosures Act, which came into effect in 2014, however, it does hold some major legal ramifications. Put simply, it provides legal protection for workers who disclose wrongdoings (for example alleged breach of health and safety in the workplace). If an employee is dismissed for making a protected disclosure, they can be awarded compensation of up to five years' remuneration for an unfair dismissal claim and an employee does not need a qualifying period of one years' service to take an unfair dismissals case.

A clear and comprehensive whistleblowing policy should be created to deal with protective disclosures. Employers will need to be careful that protected disclosures are dealt with under the whistleblowing policy and not as a complaint or grievance under the Company's Grievance Procedure. The next 12 months will be important in understanding the impact of Protective Disclosures Legislations on employment disputes in the workplace.

Developments to watch out for

2016 is set to be another significant year and there are a number of developments that we will be advising on over the next 12 months. We will continue to keep you updated on topical developments as they arise, including;

- > The introduction of mediation in the workplace as a source of resolving disputes
- > Industrial Relations (Amendment) Act, 2015 and collective bargaining in the workplace
- > New Data Protection Regulations
- > Organisational Effectiveness
- > Pay and Reward
- > Retention Strategies

2016 – Year for the HR Audit

In light of all the changes within the Employment Legislation and those arising from case law, the new year is a good time to take stock of your existing HR framework and conduct an overall review of your Contracts of Employment and Workplace Policies and Procedures to bring in line with legislation and HR best practice.

Conclusion

2015 has been a successful year for our HR Solutions Department, through the growth of our HR Helpdesk Support Service and demand for HR Consultancy support in respect of implementing change management and organisational review programmes.

We thank you for your continued support and your business over the last year and we look forward to supporting you and your team over the coming year. Wishing you all a Happy Christmas.

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