BPE Solicitors & C2S

Round up in Employment law

Heyma Holmes Partner





Employment Team at BPE

- Tier 1 in Gloucestershire, Somerset and Wiltshire in Legal 500; Band 4 in South West in Chambers and Partners
- Heyma Holmes named as a Leading Individual and Chris Aldridge named as a Rising Star by Legal 500; Nick Rowe named as Notable Practitioner by Chambers and Partners
- Team of 10 people with over 67 years' worth of combined experience dealing with contentious and non-contentious employment law
- Expertise on whole spectrum of legal and HR issues, ranging from the beginning of the employment lifecycle through to employment tribunals, trade unions and restructuring / redundancy.







Protection from Detriment in Health and Safety Cases

- s. 44 and 100 ERA 1996 protect e/ees against detriment
 - 'reasonably believed to be serious and imminent and which they could not reasonably be expected to avert, he left
 - or ... (while the danger persisted) refused to return to his place of work'
- IWGB v Secretary of State for Work and Pensions HC held Gvt failed to implement Health and Safety Framework Directive
- E/ers need to ensure reasonable steps taken to protect e/ess and workers from H&S issues
- ACAS guidance has been updated



Ethnicity pay gap reporting

- Calls to make ethnicity pay gap reporting mandatory
- Official consultation ended January 2019
- 13 of FTSE 100 currently publish
- CIPD called for implementation by 2023
- Problem areas?
 - Wide range in ethnic groups white/BAME, or all 18 ethnic classifications?
 - Habit of overcomplicating? Something better than nothing?
 - Context geography data highly relevant





The Health and Social Care Levy Bill 2021-2022

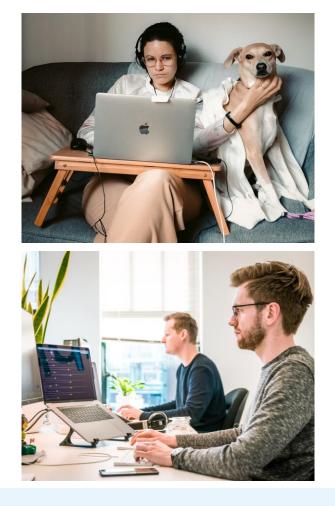
- April 2022
- National Insurance contributions (NIC) will be increased by 1.25%
- Increase will apply to classes 1 (employee and employer) and 4 (self-employed)
- Wage bill will increase
- Factor for the rise in expenditure in 2022 budget
- Includes bonuses
- Rise in employee share plans and/or salary sacrifice arrangements



Flexible Working Consultation



- Consultation open until December 2021
- Currently 26 week right
- Day 1 right?
- Curtail permissible reasons for employers to turn down a request?
- Reduce 3 month deadline to respond?
- More than 1 request per year?





Carers Leave Consultation

- Day one right to statutory carer's leave
- Leave is unpaid
- spouse, partner, civil partner, child, parent, a person who lives in the same household or a person who reasonably relies on them for care.
- Individual must have a long-term care need (mental or physical) or old age
- Employees can self certify
- leave may be taken flexibly, in either individual days or half days, and up to a block of one week
- notice which is twice the length of the leave being requested, plus one day
- A leave request may not be denied, but may be postponed by an employer



Employment Tribunals / ACAS



- Huge delays in both Employment Tribunals and ACAS
- Clients reporting no contact from ACAS before EC expires
- Tribunal cases being listed for 2023
- Average 42 weeks to hearing
- 45,000 individual cases
- 6,300 multiple cases involving 500,000 individuals

Employment tribunals at 'breaking point' with six-month delays

A long wait and backlogs in the system can lead to unfair settlements for employees



No Jab, No Job!

- CIPD, the Equality and Human Rights Commission and ACAS all advising against such a policy
- EHRC warned that blanket mandatory vaccination policies applied inflexibly, are "likely to be unlawful" due to vaccination not being suitable for everyone as well as the discrimination risks
- Legal requirement for certain industries
- a survey by HRLocker in January 2021 revealed that 23% of employers planned to make vaccination mandatory, and 49% of recruiters admitted they would prioritise vaccinated applicants during recruitment
- If implementing, ensure that any mandatory vaccination requirement is justifiable as a proportionate means of achieving a legitimate aim.





Care home vaccinations

- Health and Social Care Act care home workers other visiting professionals fully vaccinated against covid, unless exempt by 11 November 2021
- 88% of NHS double jabbed
- DHSC launched consultation on mandatory vaccinations for all frontline healthcare staff (ends 22 October 2021)
 - Ministers: 7% of CQC-registered care home staff (40,000) will refuse vaccine
 - Care England: policy would deepen sector's staffing crisis could force some homes to close



Employment Bill

- Currently going through House of Commons
- First employment bill since Brexit
- Extend maternity protection for 6 months after maternity ends
- Tips to go to workers in full
- Workers rights including definition of a worker
- More predictable contract for zero hours workers after 26 weeks
- Single labour market enforcement body for individuals
- Employee representatives on company boards







Thank you

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