

HR Helpline

Available 24 hours a day, 7 days a week, Contact with HR Smart can be made via telephone, fax or e-mail.

We provide practical HR advice and answers to questions, as well as offering step by step solutions to your everyday requests.

HR Support, whatever your concerns we can give you the legal and practical advice and support your Company needs and all for a guaranteed fixed fee.

This Edition...

This edition of Smart News provides a summary of the basic employment facts, as at the summer of 2009. Where known, we have also provided future changes that are due to be introduced. As with all things legal, you are recommended to take specialist advice on individual employment matters, as and when they arise.

COMPENSATION LIMITS

(Reviewed Annually Each February)

Unfair Dismissal

Basic Award

- Limit on a week's pay £350;
- Maximum award £10,500;
- Calculated based on age and length of service, capped at 30 week's pay

Compensatory Award

- Maximum award £66,200

Breach of Contract

- Maximum award £25,000

Discrimination Claims

- Maximum award – no limit

Failure to provide written statement of particulars

- £700 to £1,400 per failure

REDUNDANCY

(Next review February 2011)

Payments

½ a week's pay for each year of service for employees aged under 22.

1 week's pay for each year of service for employees between the ages of 22 and 40.

1½ week's pay for each year of service for employees aged 41 or over.

- A week's pay is capped at £350, rising in October 2009 to £380.
- Minimum length of service to be eligible for Statutory Redundancy Pay is two complete years.
- The maximum number of years of service is capped at 20.

Consultation Periods

(minimum timescales based on proposed amount of redundancies)

100+ employees = 90 days

20 – 99 = 30 days

19 or less = no minimum period, just fair process

NATIONAL MINIMUM WAGE

Rate	Current	From Oct 09
Aged 16 to 17	£3.53 per hour	£3.57 per hour
Aged 18 to 21	£4.77 per hour	£4.83 per hour
Aged 22 or above	£5.73 per hour	£5.80 per hour

On 6 May 2009, the Government announced that using tips to make up minimum wage levels will be illegal from 1 October 2009.

NOTICE PERIODS

Employee

The statutory minimum from the employee is one week unless a greater period is defined within the contract of employment.

Employer

Unless the contract of employment states a greater period of notice, the statutory minimum must be applied.

Period of Continuous Employment	Minimum Notice Period in Weeks
Less than 1 month	Nil
Less than 2 years	1 Week
2 years but less than 3	2 Weeks
Thereafter	1 week for each completed year of service capped at a maximum of 12 weeks

- Failure to give correct notice period can result in a claim for wrongful dismissal.
- Employees may only be paid in lieu of notice period or placed on garden leave, if expressed in their contract of employment.

Why not contact us via our website or e-mail, if you have any questions you wish to raise and have published in our next newsletter.

Contact HR
Smart Ltd to
talk through
any employ-
ment issues
on
0845
6100
651

HOLIDAYS AND WORKING TIME

Holidays (from April 2009)

- All employees and workers, full or part time, are entitled to 5.6 weeks statutory holiday per year.
- There is no statutory entitlement to bank or public holidays, but these can be taken from the above entitlement, subject to the wording in the contract of employment.
- Statutory holiday entitlement cannot be carried over into the next holiday year.
- Employees may not be paid in lieu for statutory holiday not taken, except on termination of employment.
- Employees continue to accrue holiday whilst on long term sickness.

Working Time

- Limit on maximum working week is 48 hours
- Workers can opt out of this limit, in writing, but can subsequently withdraw this consent by giving notice

Workers can not opt out of the following:

- Rest break entitlement of 20 minutes when required to work 6 or more hours.
- Must be able to leave place of work for break.
- 11 hour uninterrupted break between finishing and starting work.
- One rest day in seven or two rest days in fourteen day period.
- Rest breaks for young employees varies from the above – seek advice.

STATUTORY SICK PAY (SSP)

(Reviewed annually each April)

Current Rate

- £79.15 a week for employees earning a minimum of £95 a week or more.

Payable

- From the 4th day of qualifying absence.

Maximum Entitlement

- 28 weeks

Right of Recovery

- Employers may be able to recover all or some, of the SSP paid though their National Insurance Contributions, subject to meeting criteria under the Percentage Threshold Scheme. Refer to www.HMRC.gov.uk for details.

MATERNITY

(Until April 2010)

Statutory Maternity Pay (SMP)

- 6 weeks @ 90% of employee's average weekly earnings or SMP, if higher.
- 33 weeks @ SMP rate, currently £123.06 per week.
- All contractual benefits, aside from remuneration, continue during maternity leave.

Leave

- Employees are entitled to paid time off to attend antenatal classes.
- 2 weeks compulsory leave from the date of childbirth.
- Statutory maternity leave is made up of 26 weeks of Ordinary Maternity Leave (OML), followed by a further period of up to 26 weeks known as Additional Maternity Leave (AML).

Returning to Work

- There is a right for the employee to be able to return to work in the same or similar job, on the same terms and conditions.
- No notice is required to return to work unless wishing to return earlier than the timescales outlined above.
- Employees must give 8 weeks notice to return to work early.
- Employees are allowed to attend the workplace, up to 10 working days during the maternity leave, known as Keeping in Touch Days.

PATERNITY

(Until April 2010)

Statutory Paternity Pay (SMP)

- 1 or 2 weeks leave to be taken within 56 days of the birth or adoption.
- SPP is paid at 90% of employee's average weekly earnings or SPP, if higher.
- SPP rate is currently £123.06 per week.
- All contractual benefits continue.

Eligibility

- Anyone who is the father, partner of the mother and those expected to be responsible for the upbringing of the child.
- Applies to both male and female employees,
- Must have a minimum of 26 weeks continuous employment, by 15th week before birth or placement of the child.

Returning to Work

- There is a right for the employee to be able to return to work to the same job on the same terms and conditions.

PARENTAL LEAVE AND PAY

(Until April 2010)

Eligibility

- A parent named on the child's birth certificate,
- Named on the child's adoption certificate.
- Have legal parental responsibility for a child under five (18 if disabled).
- Have one or more year's continuous employment.

How Much Parental Leave

- A total of up to 13 weeks' parental leave for each of your children up until their fifth birthday.
- For adoption, a total of up to 13 weeks' parental leave can be taken until the fifth anniversary of their placement or until their 18th birthday, whichever comes first.
- Up to 18 weeks' parental leave until their 18th birthday for a disabled child.

Purpose

The purpose of parental leave is to care for your child. This means looking after their welfare and could include making arrangements for the good of your child.

Caring for a child does not necessarily mean being with the child 24 hours a day.

Fallback Scheme

- One week blocks at a time.
- Capped at four weeks per annum.
- Employer must be given 21 days notice of intention to take time.
- Employer can postpone leave for up to six months in certain circumstances.

Returning to Work

- There is a right for the employee to be able to return to work to the same job on the same terms and conditions.

FLEXIBLE WORKING

Eligibility

- Be an employee, who has 26 weeks' continuous employment before applying,
- Not made another application to work flexibly during the past 12 months.
- Be the parent/guardian/special guardian/foster parent/private foster carer or the holder of a residence order or the spouse, partner or civil partner of one of these and applying to care for the child and have or expect to have parental responsibility of a child aged 16 or under or a disabled child under 18.
- A carer of, or expected to be caring for, an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you.

Procedure

- Apply in writing to employer
- Meeting to take place within 28 days
- Decision to be placed in writing
- Right of representation and right of appeal
- Refusal must be for specific reasons only