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## **The Cost of Employment**

Over the last few years, both UK and European businesses have been inundated with many significant changes in employment legislation. In the UK, in some cases, the government has been slow to implement the new laws originating in the EU whereas in mainland Europe, the impacts have been felt sooner. The effects of the legislation have been twofold; firstly costs of compliance with regulations by businesses have significantly increased, and secondly the legislation protects the employee's rights to such an extent that small and medium sized businesses, wherever possible, seek to find alternatives to employment such as outsourcing, subcontracting etc.

It is not possible in an article of this length to deal in detail with the major effects of the new legislation but we have attempted to highlight the areas of significant change that have come into force in October 2006 or are due for implementation in the next year.

As a result of the Employment Framework Directive, age discrimination has become unlawful in the UK from 1 October 2006. The legislation gives rights under the Act to employees, the self employed, directors, contract workers, former employees and job applicants. The discrimination can be direct or indirect and also covers harassment and victimisation on grounds of age of people of any age, young or old. The definition of age discrimination also includes discrimination based on apparent age, so individuals can bring a claim even if discrimination was based on an incorrect assumption about their age. Potential compensation claims are unlimited.

The regulations remove the upper age limit for unfair dismissal and redundancy rights, giving older workers the same rights to claim unfair dismissal or receive a redundancy payment as younger workers.

The Age Discrimination legislation also removes upper age limits for Statutory Sick Pay, Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay. This ties in with other changes as a result of the Work and Families Act 2006 which is effective from October 2006 onwards. This Act removes the six months service requirement for an employee to claim additional maternity/adoption leave such that if an employee is entitled to ordinary maternity/adoption leave they are automatically entitled to additional leave. With effect from April 2007, Statutory Maternity and Adoption Pay is being extended to 39 weeks with the aim of moving to 52 weeks, probably by Spring 2010.



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Fathers' rights will also be extended enabling them to benefit from leave and statutory pay if the mother returns to work before the end of her maternity leave. "Keeping in touch days" have been introduced so that where employers and staff agree, an employee on maternity/adoption leave can go into work for up to 10 days during the leave period without that working bringing the leave period to an end. Holiday leave for all employees has been redefined such that employers are prevented from including Bank Holidays in the statutory annual leave entitlement; effectively this increases the legal holiday entitlement to 28 days. This is being phased in over the next 3 years to October 2009.

With effect from 6 April 2007 disciplinary and grievance procedures (introduced in 2004) are to be extended to cover circumstances not envisaged when they were first introduced; these changes are to ensure that employers and employees are subject to the statutory resolution processes of new legislation, before any tribunal complaint is made. It is anticipated that the changes will tend to favour employers as they will generally result in penalising employees who fail to follow the procedure when complaining about their employers failure to consult.

In Summer 2007, England is to become a 'smoke-free' zone; all premises, if enclosed or substantially enclosed, are to be non-smoking. Employers must display prominent "Non-Smoking signs" and penalties will be imposed for non compliance. It is interesting to consider when or if this legislation will affect the rest of Europe!

Other legislative changes are afoot and it is likely that we will continue to see major changes in favour of employees and greater regulations for employers over the next few years.