



EMPLOYMENT CLUB UPDATE

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SOLICITORS

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New Year Resolution

The RPJ employment team hope that you had a great Christmas and would like to wish all readers a happy and prosperous New Year.

Our new year's resolution is to provide an even better service to our readers and to all users of our employment services than we did in 2007. A tall order we feel but we are up to the challenge!

Unemployment Falling

The December Labour Force Survey has revealed the lowest level of unemployment in the UK for over 30 years despite the slowing of economic activity and industry concerns over the economy generally.

In the period August to October 29.3 million people were employed (the highest figure on record) and 1.64 million were officially unemployed.

The number of people on employment related benefits has also fallen and yet the number of advertised job vacancies has increased substantially with 680.7 thousand unfilled vacancies in the three months to November.

Compensation Limits Increase

The annual increases in employment compensation limits have been announced and come into force on 1st February.

The main increases of interest to employers are the increase in the maximum weeks gross pay allowable when calculating 'basic' awards for unfair dismissal and redundancy payments which increase from £310 to £330 per week, and the increase in the maximum limit on the 'compensatory' award for unfair dismissal from £60,600 to £63,000.

Extension of Time - Statutory Dismissal Procedure

Employees normally have 3 months from their 'effective date of termination' ("EDT") to submit a claim for unfair dismissal to a Tribunal. However, this time limit is extended to six months from the EDT if an employee reasonably believes that a statutory disciplinary procedure is being followed.

The 3 month time limit can also be extended at the discretion of the tribunal if it was not 'reasonably practicable' for the employee to bring the claim within the 3 month period.

In Royal Bank of Scotland ("RBS") v Bevan, Mr Bevan had been dismissed for gross misconduct. He was subsequently, and unexpectedly, informed that his appeal against his dismissal was unsuccessful 5 hours before the initial 3 month deadline had expired.

Mr Bevan e-mailed his solicitor the next day and tribunal proceedings were issued 6 days later.

RBS argued that Mr Bevan could not, on any literal interpretation, have believed that the dispute resolution procedures were still ongoing once he had been notified of the appeal outcome. He was therefore obliged to bring proceedings within the three month time limit.

RBS also argued that it was reasonably practicable for Mr Bevan to have issued proceedings in less than 6 days following the appeal hearing.

The EAT disagreed. They held that Mr Bevan was entitled to wait until the outcome of the appeal hearing before issuing proceedings. They also held that the term 'reasonably practicable' should be liberally construed in favour of the employee in this case and allowed his appeal.

TUPE Applied to Business Transfers Out of the EU

The Transfer of Undertaking (Protection of Employment) Regulations 2006 ("TUPE") which protect employee rights on business transfers have controversially been held to apply to businesses that transfer out of the EU, in this particular case, from the UK to Israel.

The EAT came to this decision despite the great difficulty in enforcing the judgement and despite general principles of international law to the contrary.

Religion—a Genuine Occupational Requirement?

A former employee of Christian group Prospects has brought a claim for religious discrimination after being refused a promotion because she was not a Christian. It is believed that this is the first case to directly address the 'Genuine Occupational Requirement' defence.

These notes are for guidance purposes only. We believe the contents to be correct but it should not be taken as sufficiently accurate or full to apply in any specific situation without first referring to us. We would be pleased to advise on any specific issues or problems. Please tick the box if you would prefer not to receive further Commercial Alerts from us