

Parker & Co

Employment Alerter

March 2007

FLEXIBLE WORKING

The Employment Act 2002 introduced the right to request flexible working with effect from 6 April 2003. This allows parents of children under the age of 6 (or if disabled under 18) to make a flexible working request. Employers must consider the request and can only reject a request on one of a number of specified grounds. These include additional costs, detrimental effect on ability to meet customer demand, inability to re-organise work among existing staff or planned structural changes.

As of 6 April 2007 the Work and Families Act 2006 extends the right to submit a flexible working request to include those who are carers of certain adults. The carer must be or expect to be caring for a spouse, partner, civil partner or relative or someone living at the same address.

STATUTORY SICK PAY

As of 6 April 2007 statutory sick pay will be increased to £72.25 per week.

MATERNITY AND ADOPTION PAY/LEAVE

All employees will be entitled to ordinary maternity leave of 26 weeks and additional maternity leave of a further 26 weeks regardless of length of service from 1 April 2007.

From 1 April 2007 the maternity and adoption pay period will be increased from 6 months to 9 months. The statutory rate of maternity and adoption pay will also be increased to £112.75 per week. April 2007 also sees the introduction of "keeping in touch days" allowing an employee to do up to 10 days' work during maternity or adoption leave as long as both the employee and employer are in agreement and agree on what work is to be done and how much will be paid. An employee must now give 8 weeks notice if they wish to change the date of their return to work following maternity or adoption leave from that previously advised.

Employers should ensure that family friendly policies and procedures in handbooks and on intranets are updated to reflect these changes.

INFORMATION & CONSULTATION OF EMPLOYEES REGULATIONS

6 April 2005 saw the introduction of the Information & Consultation of Employees Regulations (ICE). ICE initially only affected employers with 150 or more employees. As of 6 April 2007 ICE will also apply to employers with 100 or more employees. In preparation for this change and for those not familiar with ICE this alerter summarises the key provisions.

It is important to note that ICE does not operate automatically. There must either be a valid employee request or a notification by the employer before the obligation to negotiate new information and consultation arrangements arises. An employee request is valid if it is in writing and from 10% of the workforce (subject to a minimum of 15 and a maximum of 2,500 employees).

ICE requires that negotiations must commence as soon as possible and within 3 months of the request or employer notification. Negotiating representatives must be appointed or elected by employees. These negotiating representatives then seek to reach agreement with their employer on the information and consultation arrangements. There follows a 6 month negotiation period, extendable indefinitely by

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agreement.

A negotiated agreement must detail the circumstances in which informing and consultation will occur, set out election or appointment procedures for representatives, be written, cover the whole workforce and be agreed by them.

If a negotiated agreement is not reached or an employer fails to initiate negotiations following its own notification or receipt of a valid request, a default regime will apply which provides for:

- Informing on “the recent and probable development of the undertakings activities and economic situation”
- Informing and consultation on “the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular, where there is a threat to employment within the undertaking”
- Informing and consultation on “decisions likely to lead to substantial changes in work organisation or in contractual relations”

If you have any queries on this, please call Richard Woolmer on 020 7614 3577 or email richard.woolmer@parkerandcosolicitors.com.

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