

21st January 2014

Government publishes series of new employment regulations

The Government has published three sets of new employment-related regulations as follows:

The National Minimum Wage (Variation of Financial Penalty) Regulations 2014 have been published in draft form and laid before Parliament and are expected to come into force in February 2014. The regulations amend the amounts specified in section 19A of the National Minimum Wage Act 1998 which are used to calculate financial penalties for employers who have not paid their workers the national minimum wage (NMW). Section 19A provides that a Notice of Underpayment issued by HMRC must generally require the employer to pay a financial penalty to the Secretary of State within 28 days of service. The financial penalty is calculated as a percentage of the total underpayment of the NMW for all workers as set out in the Notice of Underpayment. These regulations amends the percentage figure from 50% to 100%, and increase the figure for the maximum financial penalty from £5,000 to £20,000. Under transitional provisions, the increased figures do not apply to a Notice of Underpayment relating to a pay reference period beginning before the day the regulations come into force.

The Statutory Sick Pay (Maintenance of Records) (Revocation) Regulations 2014 have been laid before Parliament and will come into force on 6 April 2014. Under the regulations, employers will no longer be required to maintain records of employees relating to sickness absence and payment of statutory sick pay (SSP) from 6 April 2014. Instead, employers will be free to keep whatever records best suit the needs of their business. Currently, the Statutory Sick Pay (General) Regulations 1982 require an employer to maintain, for three years after each tax year, certain minimum records of employees' sickness absence and SSP payments. The Percentage Threshold Scheme (PTS), which allows employers to claim reimbursement of their costs when the amount of SSP paid exceeds 13% of their National Insurance contribution liability to HMRC, is being abolished separately. The records support claims for reimbursement under the PTS and so will no longer be required when the PTS is abolished.

Finally, the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2014 has been published in draft form and laid before Parliament and is due to come into force on 6 April 2014. A worker's rights under the automatic enrolment pensions framework are determined according to the category of worker into which they fall. That categorisation depends on age and earnings, relative to set statutory figures, namely the minimum earnings threshold and the lower and upper qualifying earnings boundaries. These statutory figures are reviewed annually in April. This draft Order states that the minimum earnings threshold for automatic enrolment will be increased from £9,440 to £10,000 and the lower and upper qualifying earnings boundaries will be increased from £5,668 to £5,772 and from £41,450 to £41,865 respectively.

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Tel 0207 993 2434