

Communications

Date: July 23rd 2013

Employment law changes in force from 29 July 2013

A raft of new employment law measures come into force on 29 July 2013. These are as follows:

- Compromise agreements will be renamed settlement agreements – the use of these will be facilitated by new rules in relation to pre-termination negotiations.
- Pre-termination negotiations will become inadmissible in ordinary unfair dismissal proceedings – new section 111A of the Employment Rights Act 1996 provides that any offer made or discussions held with a view to terminating an employee's employment on agreed terms (under a settlement agreement) will be inadmissible in evidence before an employment tribunal in any subsequent ordinary unfair dismissal claim. This goes further than the existing 'without prejudice' rule as it applies even where there is no pre-existing employment dispute between employer and employee. The statutory provision will be supported by a new statutory ACAS Code of Practice on Settlement Agreements, together with non-statutory additional ACAS guidance.
- Employment tribunal fees will be introduced – claimants who issue a claim against their employer in the employment tribunal will be required to pay a fee for issue of the claim, and then a further fee if the claim proceeds to a hearing. The amount of the fee is dependent on the type of claim or claims being made and the civil courts fee remission system will apply to protect access to justice for those who cannot afford to pay a fee. Fees will also be payable in relation to certain other employment tribunal applications, and these fees are payable by whichever party makes the application.
- New employment tribunal rules of procedure take effect – changes to the rules include combining pre-hearing reviews and case management discussions into a single preliminary hearing, a new judicial sift stage after proceedings have closed which will enable employment tribunal judges to strike out weak cases and a requirement that an employment tribunal must,

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where appropriate, encourage the parties to use alternative dispute resolution such as mediation.

- A reduced cap on the unfair dismissal compensatory award will come into force – this will limit the unfair dismissal compensatory award to the lower of the existing £74,200 cap or 52 weeks' pay.
- Interest on unpaid employment tribunal awards will accrue from an earlier date – interest on unpaid employment tribunal awards will accrue from the day after the relevant decision day, except where the full award amount is paid within 14 days after the relevant decision day, in which case no interest is payable. Currently, interest only accrues on an unpaid tribunal award after 42 days.

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