



EMPLOYMENT NEWSLETTER OCTOBER 2011

Chancellor's announcement on unfair dismissal and tribunal fees

The Chancellor, George Osborne, announced in his speech at the Conservative Party conference that the unfair dismissal qualifying period will rise from one to two years and that fees will be introduced in the employment tribunals. We understand that the unfair dismissal change will come into effect on 6 April 2012. As yet there has been no further official announcement on tribunal fees.

Agency Worker Regulations

The much-anticipated Agency Worker Regulations 2010 came into effect on 1 October 2011. Under the Regulations, an 'agency worker' is defined as someone who:

- Is supplied by a temporary work agency (**TWA**) to work temporarily for and under the supervision and direction of a hirer; and
- Has a contract with the TWA which is either:
 - a contract of employment with the TWA; or
 - any other contract to perform work and services personally.

From 1 October 2011, from the **start** of an agency worker's assignment, the agency worker has the right to be told of any relevant vacancies with the hirer. The agency worker also has the right, from the **start** of the assignment, to be treated no less favourably than a comparable employee or worker in the hirer's establishment in relation to 'collective facilities and amenities', unless less favourable treatment is objectively justified. Collective facilities and amenities include:

- Canteen or other similar facilities.
- Child-care facilities
- The provision of transport services

From 1 October 2011, an agency worker is entitled to the same 'basic working and employment conditions' to which they would have been entitled had they been directly recruited by the hirer. However, this entitlement does not apply until an agency worker has undertaken the same role, whether on one or more assignments, with the same hirer for **12 continuous calendar weeks**.

The regulations set out how the 12-week qualifying period is to be calculated. For these purposes, relevant working and employment conditions include those relating to:

- Pay
- Duration of working time
- Night Work
- Rest periods
- Rest breaks
- Annual leave

In addition, specific provision is made in the Regulations for paid time off for ante natal appointments for pregnant agency workers and for alternative work (or pay) to be provided where they are unable to continue with an assignment for health and safety reasons.

New national minimum wage rates

The national minimum wage rates have increased. The new rates, effective from 1 October 2011, are:

Standard rate: workers aged 21 and over	£6.08
Development rate: workers aged 18-20 and those aged 21 and over doing accredited training in the first six months of employment	£4.98
Young workers rate: workers above compulsory school age but under 18 and not apprenticed	£3.68
Apprenticeship rate: apprentices under 19 or in the first year of apprenticeship	£2.60

For advice or assistance, please contact us



Sarah Armstrong
Head of Employment
Tel: 0151 282 8962
sarmstrong@jstlaw.co.uk



Iona Horsburgh
Trainee Solicitor
Tel: 151 282 2869
ihorsburgh@jstlaw.co.uk

This newsletter has been prepared as a general guide. It is not a substitute for professional advice which takes account of your specific circumstances and any changes in the law and practice. The subjects covered constantly change and develop. No responsibility can be accepted by the firm or authors for any loss occasioned by any person acting or refraining from acting on the basis of this newsletter.