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NEWSMATTERS

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WELCOME TO THE FIRST NEWSLETTER FOR 2015

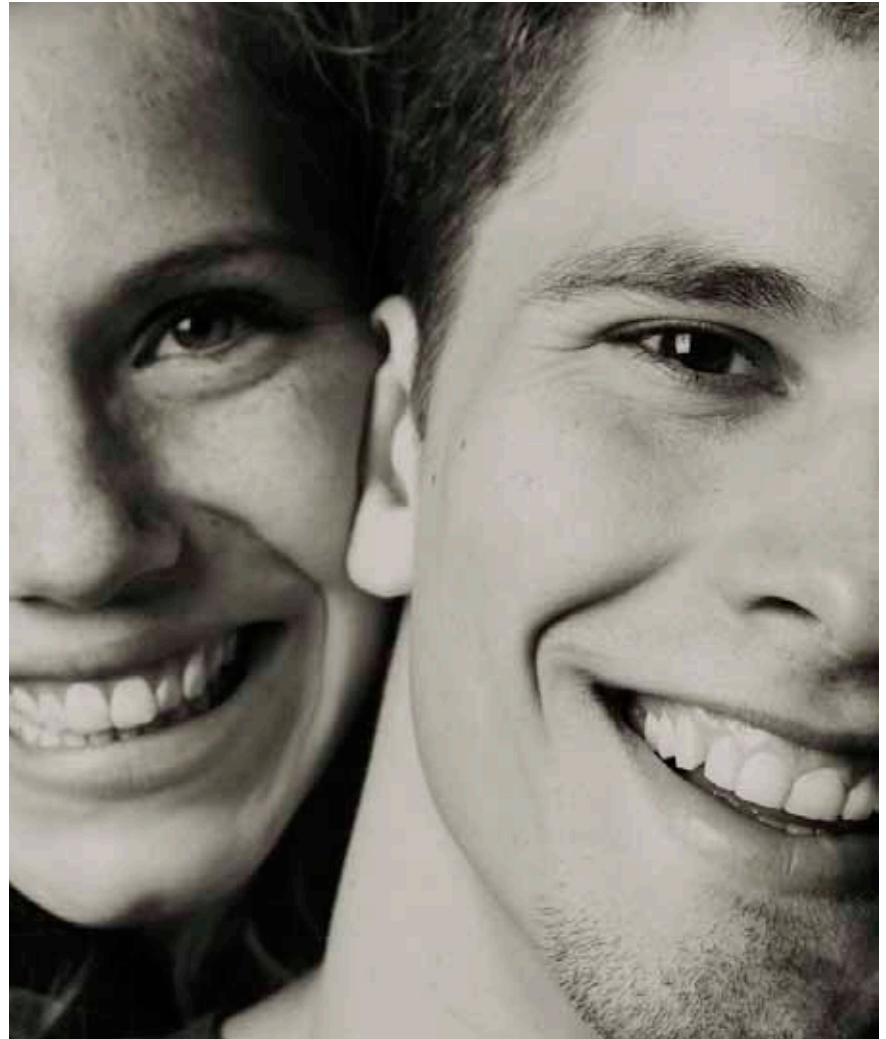
Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We will offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support.

Firstly we look at the changes in law which may affect your business during 2015. However, the next General Election is only around 16 weeks away and its outcome will determine the future direction of employment law.

This month we have given you some information on the new shared parental leave which will affect any child born / adopted after 5th April 2015 which we hope will be of interest, but feel free to contact us if you would prefer to have an updated policy with all supporting letters.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website www.workmattershr.co.uk and email us from there or on info@workmattershr.co.uk.

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list - thank you.



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What is being considered in 2015

Major employment law changes expected in 2015

The most significant change is the introduction of the new scheme of shared parental leave from April 2015.

Following its delay from December 2014, Section 56 of the Data Protection Act (DPA) may be implemented.

While not strictly a legal development, the new 'Fit for Work' service is being rolled out in early 2015 providing health assessments for employees who are off sick for more than four weeks.

All young people to be in education or training until the age of 18 (England).

The Government has also announced plans to reform apprenticeships.

Case law developments and any subsequent amendments to legislation will continue to affect employers, especially in areas where decisions are expected, including the fees regime for employment tribunals, the cap on unfair dismissal compensation and, in Europe, on collective redundancy consultation. A European Court of Justice ruling in 2014 means that obesity could fall within the definition of disability under the Equal Treatment Directive.



In January

Holiday pay – regulations come into force placing a two year limit on claims for unfair reduction from wages claims in respect of holiday pay – will apply to claims presented on or after 1 July 2015. The regulations also implicitly state that the right to paid holiday is not incorporated as a term in employment contracts.

In April

Shared Parental Leave - The new shared parental leave scheme takes effect for parents whose babies are due on or after 5 April 2015, or who have children placed for adoption on or after that date.

Adoption rights - the 26 week qualifying period for adoption leave will be removed and statutory adoption pay will be brought in to line with statutory maternity pay; adopters will also be able to take paid time off for some 'adoption appointments' – from 5 April 2015.

Surrogate parents eligible for adoption leave - Provided they meet the eligibility criteria parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay, adoption leave and pay and shared parental leave and pay. Both parents will also be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child – from 5 April 2015.

Compensation limits for redundancy and unfair dismissal (tba), and the rate of statutory sick pay (SSP) and the basic rates of maternity allowance and statutory maternity pay (SMP), statutory paternity pay (SPP), statutory adoption pay (SAP), all increase in April if the usual annual revision takes place. The new statutory pay rates for maternity, paternity, adoption and shared parental leave will increase to £139.56 per week.

Statutory sick pay (SSP) rate will increase to £88.45 per week.

Parental Leave - extended to 18, the right to unpaid parental leave will be extended to parents of any child under the age of 18 years on 5 April 2015.

In October

National Minimum Wage rates – are likely to increase from 1 October, depending on the recommendations of the Low Pay Commission which are due in spring 2015. The Government have asked the Commission to consider specifically apprenticeship pay.

Employment-related Acts and Bills

The Childcare Payments Bill became an Act on 17 December 2014. It will remove the present employer-supported childcare system and create a new scheme to support eligible parents with costs of childcare.

The Deregulation Bill, introduced to Parliament in January 2014, is continuing through Parliament. It aims to reduce the burden of excessive regulation on businesses and repeal legislation which is no longer of any practical use. For employers, the main interests are the introduction of approved English apprenticeships and removing the power of employment tribunals to issue wider recommendations.

The Small Business, Enterprise and Employment Bill was introduced to Parliament in June 2014. It contains provisions to define a 'zero hours contract' and prevent use of exclusivity clauses, set a maximum penalty for underpaying the national minimum wage on a per worker basis rather than per notice, penalise employers who do not pay an employment tribunal award, limit employment tribunal postponements, and introduce annual reporting on whistleblowing disclosures.

Other Updates that may affect you

Zero hour contracts – the Government consultation focusing on the particular issues of the use of exclusivity clauses and transparency has now closed. The Small Business, Enterprise and Employment Bill will make legal changes and a further consultation is underway.

Simplifying recruitment legislation – following a consultation on agency workers legislation in 2013, the Government indicated that it intends to change the existing legislation. A further consultation closed in September 2014. Another consultation looks at introducing legislation preventing employment agencies and employment businesses from advertising jobs exclusively in other European Economic Area countries without advertising in Great Britain.

Whistleblowing – The Government called for evidence on the current whistleblowing legislation and in their response published in June 2014 set out a range of measures, including annual reporting which is contained in the Small Business, Enterprise and Employment Bill.

WHAT IS BEING CONSIDERED IN 2015 continued...

National Minimum Wage – the Government is proposing to consolidate NMW legislation. The consultation closed on 15 September 2014 with a response expected within 12 weeks, followed by changes to the law in 2015.

Employment status - A wide-ranging Government review was announced in October 2014 with recommendations expected by March 2015.

Caste discrimination - a consultation is expected on introducing caste as an aspect of race under Equality Act 2010.



European developments

Working Time Directive review – following a second consultation, the social partners expressed interest in negotiating themselves on the review. Further talks were held but no agreement was reached. In December 2014 the European Commission published an online public consultation on the review which it has decided to resume.

The Posted Workers Directive – is intended to stop worker abuse and ensure that posted workers enjoy their rights relating to holiday and pay. The Council of Ministers adopted the Directive in May 2014 and member states have just over two years to implement it in their national legislation.

The Free Movement of Workers Directive – in April 2014, the EU Council of Ministers adopted an enforcement directive to facilitate the free movement of workers in the EU. Member states now have two years to implement it at national level.

Data Protection Directive - in March 2014, the European Parliament voted in favour of the reforms proposed by the Commission. If adopted by the Council of Ministers, member states will have two years to implement them.

For further advice and support in changing your company policy on any of the above click on the link www.workmattershr.co.uk or call **01442 870742**

SHARED PARENTAL LEAVE AND PAY

Key points

Employed mothers will continue to be entitled to 52 weeks of Maternity Leave and 39 weeks of statutory maternity pay or maternity allowance.

If they choose to do so, an eligible mother can end her maternity leave early and, with her partner or the child's father, opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements, they will need to decide how they want to divide their Shared Parental Leave and Pay entitlement.

Paid Paternity Leave of two weeks will continue to be available to fathers and a mother's or adopter's partner, **however Additional Paternity Leave will be removed** (Shared Parental Leave will replace it).

Adopters will have the same rights as other parents to Shared Parental leave and pay.

Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date.

It is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

The regulations came into force on 1 December 2014. The options to use the new Shared Parental Leave rights will apply for parents who meet the eligibility criteria, where a baby is due to be born on or after 5th April 2015, or for children who are placed for adoption on or after that date. Employers could start to receive notices of eligibility and the intention to take Shared Parental Leave from qualifying employees from today.

To qualify, the mother or adopter must be entitled to, and have given notice to curtail their, maternity or adoption entitlements and must share the main responsibility for caring for the child with the child's father or their partner. For a parent to be eligible to take Shared Parental Leave they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test.

Continuity of employment test: the person must have worked for the same employer for at least 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child or adoption) and is still employed in the first week that Shared Parental Leave is to be taken.

Employment and earnings test: the person must have worked for at least 26 weeks in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold of £30 week in 13 of the 66 weeks.

SHARED PARENTAL LEAVE AND PAY continued...

Where both parents satisfy the continuity of employment test requirement they will both be able to make use of the pot of Shared Parental Leave. The regulations do mean though that a family can still use Shared Parental Leave even when only one parent actually meets the eligibility criteria. For example, a self-employed parent will not be entitled to take Shared Parental Leave but they could still pass the employment and earnings test allowing the other parent in the family to qualify.

It will be for the mother or adopter to decide whether to just use their maternity or adoption entitlement or use Shared Parental Leave at some point. However, a mother or adopter does not have to have actually ended their maternity or adoption entitlements for Shared Parental Leave to start for their partner. Provided the mother or adopter has given advance notice reducing their maternity or adoption entitlements their partner can start to take Shared Parental Leave. This means their partner could begin to take Shared Parental Leave while the mother or adopter is still on maternity or adoption leave.

Shared Parental Leave may be taken at any time within the period which begins on the date the child is born/date of the placement and ends 52 weeks after that date. An employee is entitled to submit three separate notices to book leave. Leave must be taken in complete weeks and may be taken either in a continuous period, which an employer cannot refuse, or in a discontinuous period, which the employer can refuse. If a request for discontinuous leave is refused then the total amount of leave requested in the notice will automatically become a continuous block unless it is withdrawn.

Shared Parental Pay

Statutory Shared Parental Pay is paid at £138.18 or 90% of your average weekly earnings (whichever is lower). Statutory Shared Parental Pay will increase to £139.56 per week from 5 April 2015.

If the mother or adopter curtails their entitlement to maternity/adoption pay or maternity allowance before they have used their full entitlement then Shared parental pay can be claimed for any remaining weeks.

To qualify for Shared Parental Pay a parent must, as well as passing the continuity of employment test also have earned an average salary of the lower earnings limit of £111 for the 8 weeks' prior to the 15th week before the expected due date or matching date. Like Shared Parental Leave the other parent in the family must meet the employment and earnings test.



Maternity leave and pay

An employed mother will continue to have the right to take up to 52 weeks statutory maternity leave.

Ante-natal appointments

All pregnant employees are entitled to reasonable time off with pay for antenatal care made on the advice of a registered medical practitioner. Except for the first appointment, employees should show the employer, if requested, an appointment card or other documents showing that an appointment has been made.

Fathers and partners of pregnant women are entitled to unpaid time off to attend two ante-natal appointments. Employers may allow this time off with pay under the terms and condition of employment.

Intended parents in a surrogacy case who meet the conditions set out under the Human Embryology and Fertilisation Act 2008 will also have the right to unpaid leave to attend up to two antenatal appointments.

Paternity leave and pay

Paternity leave will continue to be available for fathers and partners. This will be a period of one or two weeks which must be used in a single block of leave and taken within 56 days of the birth. If the child is born early paternity leave can be taken within the period from the actual date of birth up to 56 days after the expected date of birth.

Additional paternity leave and pay will no longer be available for babies due after 5th April 2015.



SHARED PARENTAL LEAVE AND PAY continued...



Notification of Shared Parental Leave

If an employee wishes to take Shared Parental Leave they must provide their employer with a notice of entitlement to take Shared Parental Leave. The notice must be given at least eight weeks before the start of a period of Shared Parental Leave and must include how:

- much leave is available
- much leave they are entitled to take
- much leave the parent is intending to take
- they expect to take it.

Any notice booking Shared Parental Leave must be given at least eight weeks before the leave is due to start.

Each eligible parent can give their employer up to 3 separate notices booking or varying leave. Each notice can be for a block of leave, or the notice may be for a pattern of "discontinuous" leave involving different periods of leave. If a parent asks for a continuous block of leave the employer is required to agree to it. However, where the notification is for discontinuous blocks of leave the employer can refuse and require that the total weeks of leave in the notice be taken in a single continuous block. It is therefore beneficial for the employee and employer to discuss and attempt to agree a way in which the different blocks of leave can be taken.

Discuss intentions sooner rather than later

Having an early and informal discussion can provide an opportunity for both the employee and employer to talk about their preference regarding when Shared Parental Leave is taken. Employers can use this discussion as an opportunity to point out the different options such as maternity, paternity leave (or adoption leave), and can ensure the employee is aware of their statutory rights or any contractual schemes the employer has in place. It can also be an opportunity to discuss when any discontinuous leave can be best accommodated.

Discussing a notification for Shared Parental Leave

Once a notification for a period of leave has been received an employer may wish to consider:

- is the notification for leave one continuous block or two or more weeks of discontinuous leave?
- what cover will be needed for the employee's absence?
- will a discussion with the employee be beneficial at this time?
- is any modification to a discontinuous leave request necessary?

Outcomes

Depending on the circumstances involved, there are four outcomes available to an employer once they have received, considered and discussed a Shared Parental Leave notification. It is important to note an employer cannot refuse a notification for continuous leave.

- Confirm a continuous leave period or accept a discontinuous leave request.
- Agree a modification to a leave request (an employee is under no obligation to modify a continuous leave notice and should never be put under any pressure to do so).
- Refuse a discontinuous leave notification.
- Whilst it is not good practice and should be avoided, it is possible for an employer to make no response to a leave notification.

For outcomes C and D above, the employee can withdraw their notification on or before the 15th day after the notification was originally made and it will not count as one of their three notifications. If not, they must take the total amount of leave notified in one continuous block. The employee can choose when this leave period will begin within 19 days of the date the notification was given to the employer but it cannot start sooner than the initial notified start date. If they don't, the leave will begin on the starting date stated in the original notification.



Shared parental leave new guidance from Acas

Shared Parental Leave is a new right that will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed.

Find out more at www.acas.org.uk/spl

Shared parental leave process at a glance

Steps for Employee

Steps for Employer

Step 1: Becoming aware of a pregnancy or match



Is SPL suitable?
Considering what leave arrangements work best

Step 2: Choosing SPL & notification of entitlement



Notifying the employer of eligibility

Step 3: Notification of a leave booking



Notifying the employer of a leave booking

Step 4: Outcome



Leave begins or the request is withdrawn

Step 1: Becoming aware of a pregnancy or match



Discussing intentions and other leave options

Step 2: Choosing SPL & notification of entitlement



Discussion early intentions
Making early preparations & plans

Step 3: Notification of a leave booking



Considering the impact of a leave booking
Discussing a leave booking

Step 4: Outcome



Confirm and communicate outcome



Key dates:

01/12/14

05/04/15

Find out more at www.acas.org.uk/spl

Thank you for taking the time to read our Newsletter which I hope you found informative An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of April 2015.

