

John Stamford + Associates

Newsletter No. 65

Spring 2013

INTRODUCING JOHN WILLIAMS

For the last 21 years, through John Stamford + Associates Ltd., I have aimed to provide a first class HR and Employment Law Service and have been assisted in this endeavour by many top class Associates—one of whom has been John Williams. Some of you will already know John through our Mock Employment Tribunal courses.

After much soul searching, I have decided that as from 1 April 2013 I will hand over the reins and will in effect work for John. This will give me more free time (although I anticipate still being available to assist John when he becomes too busy, and so will still retain our Ministry of Justice authorisation). I will be available for holiday relief, sickness or other unavailability.

John Williams is particularly well qualified to carry on the service. He is a graduate, a former HR Director with leading companies and has been a Lay Member of the Employment Tribunals since 2002. He is a Fellow of the Chartered Institute of Personnel & Development.

John has a wealth of experience in both strategic and organisational roles within HR. He has been highly effective in resolving internal disputes at Grievance and Dismissal stages. He has managed large scale redundancies and reorganisation exercises and has resolved situations where his knowledge of employment law has resulted in success for our clients.

John brings present experience to the table, having been Chairman of the St. Johns Ambulance Pensions Committee and is also Area President of St John Ambulance where he was appointed Knight of Grace of the Order of St John by Her Majesty the Queen in 2011.

Please make a note of John Williams's contact details:

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John Williams

A message from John Williams

"I was delighted and honoured to be asked by John to take the lead in continuing to provide the HR consultancy service to his clients from April 2013. John sets very high standards and has a huge and deep knowledge of employment matters and law. He will be a very hard act to follow and I am very pleased that he will be available to back me up as necessary.

We both believe in providing pragmatic and realistic advice to clients and effective service delivery on projects, dispute resolution and documentation.

I am looking forward to making contact with John's clients in the coming weeks to introduce myself and learn about your organisations."

One of the unfortunate consequences of the above reorganisation is that Ruth Barratt, our PA/Secretary/Administrator who has worked for us for a considerable number of years, will have to be made redundant.

If anyone knows of any requirement for a reliable, experienced Secretary/PA then please let us know.

LATEST DEVELOPMENTS

There is a flurry of amendments to the law, consultations and law changes, so it is difficult for anyone who is not an employment law expert to know what is the latest situation. We set out below what we believe to be the latest position.

Unfair Dismissal

As we know, the Qualifying period for unfair dismissal was extended to two years from 6 April 2012 for new starters. Employed before 6 April 2012 can still claim with one year qualifying period. However, on 15 February 2013 government announced it will amend unfair dismissal claims to allow for political affiliation or opinions. Likely introduction spring/early summer 2013.

DBS (Disclosure & Barring Service) Checks (formerly CRB checks) are portable. Summer 2013.

New updating service to be introduced so results available online for employers to confirm no new information has been added. Therefore DBS checks will be portable, and employee will not need new check every time he or she starts a new job. *Major overhaul could be required after three Court of Appeal Judges ruled current system breached human rights.*

Claimants to Pay Tribunal Fees

Fees to be paid for registering claim. In force summer 2013.

Remission system currently operating in civil courts extended to Employment Tribunals, so those on low incomes excused payment (subject to eligibility). Employment Tribunals given discretionary power to order losing party to pay costs successful party incurred by way of fees.

Two levels of fee:

Level 1 = Issue fee of £160; hearing fee of £230

Level 2 = Issue fee of £250; hearing fee of £950

Appeal fees: Issue fee of £400; Hearing fee of £1250;

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ENTERPRISE AND REGULATORY REFORM BILL

Still going through parliament.

• Trade Union & Labour Relations (Consolidation) Act 1992

New clause S.251B. Information held by ACAS must not be disclosed. Expected soon.

• Financial penalties for employers who breach employment law

To be amended to take into account employer's ability to pay. In force 2014.

• Clause 15 provides for "a whistleblowing claim" under ERA. In force Summer 2013. Amendment to strengthen protection will:

◇ Make employers vicariously liable for detriments by one worker to another because of protected disclosure

◇ Introduce statutory defence to protect employers who take reasonable steps to prevent such detrimental action.

• Settlement Agreements. Summer 2013. ACAS Consultation document published 12 February on Draft Code of Practice on Settlement Agreements. Closes 9 April 2013. Meanwhile use Compromise Agreements.

• 6 March. Announced to be amended to make 'caste' a specific protected characteristic.

COLLECTIVE REDUNDANCY CONSULTATION CHANGES TO RULES. EFFECTIVE 6 APRIL 2013

The Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment) Order 2013.

Consultation period for proposals to make more than 100 people redundant from 90 days to 45 days and bring fixed term employees to the headcount.

EMPLOYEE OWNERSHIP.

George Osborne announced in budget would come in on 1 September but voted down in House of Lords. Now returns to Commons. Rumoured the Lib Dems are against so watch this space!

Amendment to Companies Act 2006. Employees entitled to between £2000 and £50000 shares, exempt from capital gains tax, in exchange for giving up unfair dismissal rights (still protected from automatic unfair dismissal), certain rights to request flexible working and training, and statutory redundancy pay. Employee owners to give longer notice to return from maternity leave or adoption leave.

ENDING THE EMPLOYMENT RELATIONSHIP. Summer 2013.

Part of Employment Law Review. Government considering employment

relationships not working out and what state can do to support parties to make informed decisions and give more certainty about outcomes when parties separate.

Covers ways to encourage settlement agreements whereby employee will receive severance payment and perhaps reference for waiving right to take case to Employment Tribunal.

- Government feels benefit to employers will be certainty.
- Settlement offers inadmissible in unfair dismissal claims.
- Discrimination not protected.
- ACAS will produce templates.
- Limit of compensatory award in unfair dismissal cases will change to a limit of 12 month's pay.

CHILDREN AND FAMILIES BILL ON SHARED PARENTAL LEAVE AND FLEXIBLE WORKING. Anticipated 2015.

- Includes proposals on shared parental leave and pay and extending right to request flexible working to all employees.
- First reading on 4 February 2013
- Consultation document published on administering leave and pay. Closes 17 May 2013
- ACAS consultation document published on code of practice. Closes 20 May 2013.

WORKERS TO BE ABLE TO ASK FOR FLEXIBLE HOURS

On 13 November 2012 Government announced new mothers able to share leave with partners and all workers have right to flexible hours. Mothers could return to work two weeks after childbirth and hand over leave to the father. Spring 2014.

- Extension of rights introduced in 2009 for parents of children.
- Grandparents able to apply to look after grandchildren.
- Mother could decide to stop maternity leave at any point and hand over rest of year to partner.
- Parents can "chop up" time between them or take time off together as long as no more than 12 months in total and no more than 9 months at guaranteed pay.
- Must be taken in minimum of one week blocks with pattern of leave agreed with employer
- Fathers to be given legal right to take unpaid leave to attend two antenatal appointments.
- Parents who adopt also eligible together with intended parents of child through surrogacy arrangement who meet criteria to apply for Parental Order.

- Unpaid parental leave increased 8 March 2013 from 13 to 18 weeks
- Age limit on parental leave will increase from 5 years to 18 years in 2015, providing each parent with right to up to 18 weeks' unpaid parental leave for each child under 18.
- Consultation document on how system will work will be issued in 2013.
- Flexible leave reviewed by 2018 and extending paternity leave re-examined then.

TUPE REFORM

In force autumn 2013.

The Transfer of Employment (Pension Protection) (Amendment) Regulations 2013

- Consultation paper published 25 February 2013. Closes 5 April 2013.

SICKNESS ABSENCE

New Health and Work Advisory and Assessment Service to be introduced in Summer 2014 providing (amongst other things) state funded occupational health testing for employees off sick for more than four weeks.



Agency Workers—review Summer 2013

- Consultation on Conduct of Employment Agencies and Employment Business Regulations 2003.
- Review of Agency workers regulations 2013

Equal Pay Audits

Compulsory equal pay audits for employers who lose equal pay claims in the ET.

FREE TO CIPD MEMBERS & THEIR GUESTS & John Stamford +Associates Clients.

CIPD Bedfordshire Group:
Evening Mock Employment Tribunal
Tuesday 23 April, 6 p.m. for 6.30 p.m.
Rufus Centre, Flitwick MK45 1AH
Presented by John Stamford. A real life case from our casebook, role played by local CIPD members before an Employment Judge.

To book:
www.cipd.co.uk/branch/bedford/events