

## **What's going to change in 2012**

### **An overview of the key items of employment law that are going to change or come into effect in 2012 from Jane Middleton of The Middleton Partnership**

#### **6 April 2012 – Tribunals**

The qualifying period for unfair dismissal will double to two years from 6 April 2012. Tribunal fees are looking at being introduced – employers could be fined up to £5,000 (on top of any damages) if they lose a tribunal case, but the fine would not apply to employees. These changes might mean that more cases are settled rather than going to a full hearing

#### **June 2012 Holidays - extra bank holiday**

The Queen's Diamond Jubilee will be marked with an additional bank holiday on Tuesday 5 June 2012. The late May bank holiday will be moved to Monday 4 June to create a long weekend of celebration.

#### **July / August 2012 London Olympics**

Many employees are likely to request time off to watch Olympic events while others may claim that they are 'unwell'. The Working Time Regulations 1998 allow employers to specify, subject to certain notice requirements, when their employees can and cannot take leave.

Your employees' contracts of employment may also entitle you to refuse holiday requests where there are business reasons for their having to be at work on a particular date. Both of these powers exist whether or not the employee got lucky in the Olympic lottery. You should ideally be able to justify those decisions - for example, that a minimum number of staff is required to operate a particular system /coverage of a desk or shift.

A more proactive approach would be to decide early on how requests for holiday during the Olympics will be approved, ensuring that the process does not discriminate against any particular section of the workforce and that it is fair and consistent. You might decide, for example, to approve holiday on a first come, first served basis, or by way of a lottery/draw and/or capping the number of people within the team who are allowed to take holiday at the same time. Communication and clarity will also be very important. Once a strategy has been decided for the Olympic period, it is important to communicate this to employees - ideally ahead of the 2012 holiday year so that (if appropriate) they can make arrangements and ask for time off work well in advance.

#### **October 2012 - Pension reform**

The government is set to introduce compulsory workplace pensions from 2012 and vast numbers of employers, from the largest to the smallest, will be affected.

Initially, smaller businesses with fewer staff need not to worry, because the reform will be carried out in stages. Only employers with over 30,000 staff will be forced by law to offer their workers a company pension scheme in 2012. However, by 2013 any employer with more than 350 staff on its books will be obliged to set up and contribute into workplace plan for its employees. And between 2014 and 2016, those employers

with less than 350 staff will be subject to the same rules. Employees will be auto-enrolled and can expect their company to put a minimum 3% of any earnings between £5,035 and £3,540 into each worker's fund. To help, the government is introducing NEST – National Employment Savings Trust – which will be provide a state-led alternative for any employer wishing to use it.

### **2012 - Mandatory equal pay audits to be introduced - Equality Act 2010**

Tribunals will gain new powers this year to order employers to conduct and publish a pay audit if they have breached the Equality Act 2010.

### **2012 (month tbc) Working Time Regulations**

Government have suggested that workers who are unable to take annual leave during one holiday year should be able to carry it forward to the next.

### **2012 (month tbc) - Flexible working - proposed extension of right to request flexible working**

The Government plans to extend the right to request flexible working to all employees. The right is currently available only to parents of children under 17 (and disabled children under 18) and certain carers. Under the proposals, the 26-week qualifying period will remain, but employers will be encouraged to consider flexible working opportunities at the point of recruitment. Requests would be considered by using the current statutory process, but there would be a new duty to consider requests "reasonably" alongside a code of practice providing guidance for employers.

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