



## Employment Law Update - July 2013

In this employment law update issue we focus on the important changes to employment law that will come into force on 29 July 2013.

### 1. Q&A - Fees in the Employment Tribunal – from 29 July 2013

From 29 July 2013 fees will be payable in respect of any claim presented to an Employment Tribunal. A fee will be payable when issued, and also before a hearing. The amount of fees payable depends on whether the claim is a 'type A' claim or a 'type B' claim (referred to in further detail below). There are additional fees for applications and also for judicial mediation (£600).

#### What are the types of claims?

**Type A claims** include: statutory redundancy payments; equal pay; unlawful deductions from wages and breach of contract. The issue fee for Type A claims is £160; and the hearing fee is £230.

**Type B claims** include: unfair dismissal, discrimination and whistleblowing. The issue fee for Type B claims is £250, and the hearing fee is £950.

**Which fee is payable?** The fee payable will be that which relates to the highest level claim. For example, a claim containing a complaint of unpaid wages (Type A) and a complaint of unfair dismissal (Type B) would be charged one fee at the Type B rate.

**How will fees be paid?** Fee payments will be made via the online service (credit card/debit card) or will be otherwise collected through centralised processing centres.

**What if I bring a claim before 29 July 2013? (Transitional provisions)** Only claims made to the Employment Tribunal on or after 29 July 2013 will attract fees. Any claim in the system before 29 July 2013 will not attract fee payments.

**DKLM Comment** - We predict that there will be a push towards Alternative Dispute Resolution (ADR), most notably mediation, as a way of resolving employment related disputes. Mediation can provide a way of dealing with a dispute which is quicker and cheaper than going to the Employment Tribunal. Two of our partners, Philip Henson and Jeremy Kleinfeld, are accredited mediators. Please contact us, if we can be of any assistance.

### 2. Employment Tribunal Rules of procedure - from 29 July 2013

The main changes to the rules are:

- The introduction of a **sift stage** where an Employment Tribunal will review the case on paper after receipt of the Claim and Response with a view to making directions or, if appropriate, considering whether to strike out a weak Claim or Defence.

- The Employment Tribunal President is to issue **Presidential Guidance** to aid good practice and consistent approach across Tribunals.
- **Revised ET1 and ET3 Forms** - The Claim and Response forms have been redrafted although not yet published.
- A new rule to provide for a lead case mechanism in multiple cases or where cases raise the same point of law which brings Employment Tribunals in line with other Tribunals.
- A combining of separate case management discussions and pre-hearing reviews into a single **preliminary hearing**.
- **Cost Awards over £20,000.00** – These will no longer have to be referred to the County Court for detailed assessment.

**DKLM Comment** - It is hoped that the new sift phase will prevent weaker claims from getting through the net. We can expect to see Employment Judges flexing their case management powers and we expect an increase of technical appeals to the Employment Appeal Tribunal.

### **3. Unfair dismissal compensation cap - from 29 July 2013**

Subject to parliamentary approval, from 29 July 2013 a new cap for the compensation element of Unfair Dismissal will be introduced. The Unfair Dismissal (Variation of the Limit of Compensatory Award) Order 2013 will set the cap at the lower of the current cap (£74,200) or one year's gross pay.

### **4. Compromise agreements renamed as “settlement agreements”**

Compromise agreements are to be rebranded as “settlement agreements”. A recent ministerial statement explains that the intention is to build upon the existing system (compromise agreements) to facilitate their increased use, making it easier to make offers of settlement outside of dispute situations; although we recommend a cautious approach to such offers.

A new measure in the Enterprise and Regulatory Reform Act 2013 makes the offer of a settlement agreement inadmissible as evidence in an unfair dismissal claim. The legislative change and a new statutory code of practice (including template letters and model agreements) will be brought into effect on 29 July 2013.

### **Contact us**

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