

In addition to our employment newsletter, this update is provided to remind employers of the current rates and limits applicable in employment law. This information contained in this factsheet is correct at September 2008. It is intended as a summary only and professional advice on specific action is recommended.

### NATIONAL MINIMUM WAGE

Age	Current Rate	1 October 2008
22 and over	£5.52	£5.73
18-21	£4.60	£4.77
16 and 17	£3.40	£3.53

### STATUTORY REDUNDANCY PAY

Statutory Redundancy Payments are calculated by reference to an employee's age and length of service. For each complete year's service, in which the employee was aged:

under 22 years	½ week's pay
between 22 and 40 inclusive	1 week's pay
41 or over	1 ½ week's pay

A week's pay is currently capped at the upper limit of £330 gross. Employers' are reminded that an employee must have 2 years continuous service in order to qualify for a redundancy payment.

### STATUTORY NOTICE PERIODS

Less than 2 years continuous employment (but more than one month):	1 week's notice
2 years continuous service	2 week's notice
3 years continuous service	3 week's notice etc.

Thereafter 1 week's notice for each completed year of employment up to a maximum of 12 years.

Unless an employee's contract provides for longer, an employee is also obliged to give statutory minimum notice to their employer.

**COMPENSATION LIMITS**

	<b>Maximum Award</b>
<b>Unfair Dismissal</b>	
Basic Award	£9,900 (based on redundancy calculation)
Compensatory Award	£63,000
<b>Discrimination</b>	
Race, Sex, Disability, Age, Religion or Belief or Sexual Orientation	No Limit
<b>Breach of Contract</b>	
Brought in an employment tribunal	£25,000
Brought in civil courts	No Limit
<b>Breach of Right to be Accompanied</b>	2 week's pay (capped at £330 per week)
<b>Failure to inform and consult over collective redundancies</b>	90 days' actual pay
<b>Failure to inform and consult over a transfer of undertakings (TUPE)</b>	13 weeks' actual pay
<b>Failure to provide a statement of employment particulars within 8 weeks of employment</b>	2-4 weeks' pay (capped at £330 per week)

**WORKING TIME REGULATIONS**

Key Facts:

**Working Week**

- Limit of 48 hours per week (averaged over a 17 week period)
- Young workers (above the minimum school leaving age and under 18 years) may not ordinarily work more than 8 hours a day and 40 hours per week.
- Workers can agree to work longer than the 48-hour limit and should be required to enter into an opt-out agreement. There is no opt-out available for young workers.

**Holiday**

- All workers are entitled to 4.8 weeks paid holiday per annum, which can include paid public holidays;
- Employers are permitted within the regulations to stipulate shut-down periods;
- Employers may not pay in lieu of holidays, except at the end of employment.

**MATERNITY RIGHTS**

Applicable to:

<b>Antenatal care appointments - Paid time off</b>	All pregnant employees
<b>2 weeks compulsory maternity leave</b>	All employees immediately after childbirth
<b>4 weeks compulsory maternity leave</b>	All factory employees immediately after childbirth
<b>Maternity leave (up to 52 weeks)</b>	All pregnant employees
<b>Statutory Maternity Pay</b> <ul style="list-style-type: none"> <li>➤ 90% of employee’s average weekly earnings (or SMP rate if higher)</li> <li>➤ 33 weeks at £117.18 per week</li> </ul>	All pregnant employees that have been continuously employed by their employer for 26 weeks into the 15 <sup>th</sup> week before the baby is due & those employees that earn more than the Lower Earnings Limit (£90 per week)
<b>Keeping in Touch (‘KIT’) Days</b>	All employees on maternity leave can agree to work up to 10 days during her maternity leave without bringing it to an end.

**PATERNITY RIGHTS**

- Eligible employees
  - Fathers or those with parental responsibility
  - 26 weeks continuous employment into the 15<sup>th</sup> week before the baby is due
- Entitlement
  - 1 or 2 weeks consecutive leave to be taken within 56 days of the date the baby is due or the actual date of birth (whichever is later)
- Rate of Pay
  - £117.18 per week (or 90% of average weekly earnings if less)

**PATERNITY LEAVE**

- Eligible employees
  - Mothers and fathers and those with parental responsibility that have 12 months continuous service
- Entitlement
  - 13 weeks unpaid leave in total (which should be taken to enable the employee to care for the child) to be taken before the child’s 5<sup>th</sup> birthday or in the five years following adoption (up to a maximum 4 weeks leave per year)
  - 13 weeks unpaid leave for parents of disabled children, to be taken by the child’s 18<sup>th</sup> birthday (up to a maximum 4 weeks leave per year)

## FLEXIBLE WORKING

- Eligible employees
  - Mothers and fathers and those with parental responsibility for a child under the age of 6 (or under 18 years if the child is disabled)
  - Employees who are carers of a spouse, civil partner or near relative, or other adult that lives at their address
  - All employees must have 26 weeks service at the date of the request
  - Only one request can be made each year
  
- Entitlement
  - To make an application to vary their terms and conditions, such as hours or place of work, to enable the care of a child or adult

## HOLIDAY ENTITLEMENT

The statutory minimum holiday entitlement is currently 4.8 weeks (24 days if you work a five-day week). From 1 April 2009, this will increase to 5.6 weeks (28 days if you work a five-day week), pro rata for those working part-time. The holiday entitlement is inclusive of bank holidays.

## WARNING TO EMPLOYERS!

Finally, there is no doubt that employment law is a minefield. This is confirmed by the fact that an employment tribunal has jurisdiction in 63 different areas of law, which fall under 33 different pieces of legislation, 26 of which has come into force within the past 15 years.

Any statutes mentioned in this newsletter can be accessed from the website of Office of Public Sector Information - [www.opsi.gov.uk](http://www.opsi.gov.uk)

Feel free to contact Hacking Ashton LLP with any queries regarding the content of this newsletter using the contact details listed below.

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