



EMPLOYMENT LAW NEWSFLASH E BULLETIN

SSP for Agency Workers

It has been announced that the Department of Work and Pensions are currently considering provisions to extend the right to Statutory Sick Pay to agency workers with contracts of less than three months in duration.

Whilst there is currently no indication of when this change will become effective, it has been suggested that the preparatory work will commence shortly.

Employment proposals in the Queen's Speech

During her speech on 6 November 2007, the Queen outlined several employment proposals:

1. The Employment Bill

Aimed to simplify the current voluminous amount of employment legislation, to include an enforcement framework for the National Minimum Wage.

2. Reform of the Statutory Dispute Resolution Procedures

A well-documented subject in recent months, a response to the consultation on this issue is expected by the end of 2007.

3. National Insurance Contributions Bill

Containing provisions to raise the upper earnings level for National Insurance Contributions, to align with the higher rate income tax threshold.

4. Pensions Bill

Contemplation of a duty on every employer to contribute to workplace pensions for their employees.

Following the Queen's speech it was indicated that the Government intends to extend flexible working rights to parents with children older than six, the highest age to which the current provisions operate.

There is also an ongoing review of the apprenticeship programme, which will address the introduction of a statutory definition of apprenticeships and cover the rights and responsibilities of both parties.

TUPE

The Court of Appeal has held in the case of *Jackson v Computershare Investor Services* that TUPE will not confer additional rights following transfer improving an employee's terms and conditions.

The Court confirmed that TUPE simply safeguards existing rights of employees, and does not create access to benefits to which an employee was not entitled before the transfer.

Liability for acts of MD's husband

In *De Clare Johnson v MYA Consulting Ltd* an employee claimed constructive dismissal having resigned as a reaction to the conduct of the Managing Director's husband. The husband was not an employee but did on occasion provide consultancy services to his wife's limited company. The employee claimed that his behaviour was a breach of the implied term of trust and confidence.

The EAT stated that the company was liable for the conduct given that the Claimant was a housekeeper working in the marital home and that he was therefore impliedly authorised to give instructions.

This decision should therefore be a stark warning to employers whose immediate family are involved in the running of a business, however limited their input.

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