

## Employment Law Update

### Increase in Redundancy Rates and National Minimum Wage

Applies from 1 October 2009

#### Redundancy Rates

Payments	Previous Rate (from 1 February 2009)	Current Rate (from 1 October 2009)
One week's pay for statutory redundancy and basic award	£350	<b>£380</b>
Maximum amount for the basic award and statutory redundancy payment	£10,500	<b>£11,400</b>

The statutory redundancy rates are increased on the 1 February each year in line with the RPI which usually amounts to £10. However, in view of the current economic climate, the Government has decided to bring forward the increase to 1 October, and the payment will increase by £30. This is to ensure rapid help for those being made redundant during these current difficult economic times without placing undue burdens on employers and the Exchequer (who are responsible for redundancy payments in the event of insolvency). The new rates are set out below and apply to all redundancy dismissals after 1 October 2009. In view of the early increase, there will be no further increase in February 2010 and the next increase will be 1 February 2011.

#### National Minimum Wage

The National Minimum Wage is increased on 1 October of each year. The rates for **October 2009** have now been determined and are as follows:

Age Group of Worker	1 October 2008 Hourly Rate	From 1 October 2009 Hourly Rate
Aged 22 & Over	£5.73	<b>£5.80</b>
Aged 18 - 21 and those aged 22 and over, doing accredited training in the first 6 months of employment	£4.77	<b>£4.83</b>
Aged 16 & 17	£3.53	<b>£3.57</b>
Accommodation off-set (maximum deduction per day from NMW where the employer provides accommodation)	£4.46	<b>£4.51</b>

## **National Minimum Wage and Tips**

The NMW Regulations have also been amended to prevent tips being included as part of the minimum wage. This means that employers in the restaurant sector should ensure that the basic wage rates comply with the NMW without any tips being taken into account.

## **Default Retirement Age**

The Age Discrimination Regulations introduced in 2006 provided for a default retirement age of 65. Provided employers complied with a six months notification procedure, they could lawfully retire employees at 65 without giving any reasons beyond retirement.

The age limit of 65 was recently challenged by two charities (Age Concern and Help the Aged) who argued that the age limit of 65 was contrary to the EC Directive on age discrimination.

The High Court has now ruled that the default retirement age of 65 was lawful and that it did comply with the EC Directive when it was introduced in 2006. However, the Judge did say that there was a “compelling case” for a change in the law. As the Government has already stated it intends to review the default retirement age and has brought this forward by a year to 2010, the Judge did not order a review.

The age limit is likely to change following the review in 2010, but until such time the retirement age of 65 remains lawful. However, employers still need to ensure that they follow the correct notification procedure when retiring an employee at 65.

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