



Employment Law in the United Kingdom

Insights

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The United Kingdom (“UK”), comprised of England, Northern Ireland, Wales and Scotland, has a population of over 62 million people, is culturally diverse and remains one of leading financial and service centers of the world. It is often considered the entry way to the rest of Europe and is a major international trading power. For these reasons, many companies decide to do business in the UK. This article will provide a brief overview of some of the basic employment and labor laws in the UK and will also introduce some of the most critical 2013 labor reforms.

I. Employment Contracts

Employers within the UK can choose the legal system they wish to govern employment agreements. However, if no choice of law designation has been made in the employment agreement, the law of the country in which the employee is located will typically apply. Additionally, pursuant to the Employment Rights Act of 1996, all employees in the UK are entitled to receive, within two (2) months of hire, a written statement from their employer setting forth the terms and conditions of the employment. This statement is required for both fixed-term and indefinite contracts and must include the following information:

- the employee’s date of commencement of employment and the duration of the employment;
- job title and duties;
- amount of pay and pay intervals;
- place of employment;
- sick pay;
- normal hours of work;
- holidays;
- pension entitlement;
- grievance and disciplinary procedures;
- notice of termination requirements; and
- probationary period if applicable.

II. Wage and Hour

The National Minimum Wage Act of 1998 sets forth the minimum pay per hour almost all workers within the UK are entitled to by law. The minimum wage rate varies per age group up to the age of twenty-one (21), but for any employee over twenty-one (21) years of age, the minimum wage rate is currently £6.19 an hour. The government is also set to publish consolidated and simplified National Minimum Wage Regulations in late April of 2013.

An employee's standard number of working hours are the hours set forth in the employee's particular employment contract. Typically, adult employees may not be required to work in excess of forty-eight (48) hours per week. Employers are not required to pay workers for overtime for hours worked in excess of that set forth in the employment contract but, the employees' average pay for the total hours worked may not fall below the national minimum wage.

III. Holiday Entitlement

Pursuant to the Working Time Regulations of 1998, almost all employees in the UK are legally entitled to 5.6 weeks paid holiday time per year (known as statutory leave entitlement or annual leave). Part-time workers are entitled to a pro-rata amount of holiday pay based upon the 5.6 weeks for full time employees.

IV. Discrimination Laws

The primary legislation prohibiting discrimination and harassment in the UK is the Equality Act 2010. The law, which follows three major European Union Directives, strictly prohibits discrimination and harassment based upon a wide array of protected characteristics, including the following:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race, ethnicity, national origin or skin color;
- religion or belief;
- sex;
- sexual orientation;
- part-time work;
- fixed-term work; and
- trade union membership activities.

The laws prohibiting discrimination apply to hiring, the terms and conditions of employment, training, promotions, terminations, and employee compensation. The law also prohibits both direct and indirect discrimination. Direct discrimination occurs if the reason for a person being treated

and indirect discrimination. Direct discrimination occurs if the reason for a person being treated less favorably than another employee is based upon the employee's protected characteristic as defined by the law. Indirect discrimination refers to the situation when a particular employment policy adversely affects or disadvantages a group of employees who are of a particular protected characteristic as set out in the Act.

Other anti-discrimination legislation in the UK includes the Equal Pay Act of 1970, the Race Relations Act 1976, the Disability Discrimination Act of 1995 and the Employment Equality Regulations relevant to sexual orientation and age.

V. Maternity and Paternity Leave

Employees are entitled to twenty-six (26) weeks of maternity leave which is referred to as "Ordinary Maternity Leave" and can receive either maternity allowance or statutory maternity pay. Some employees are entitled to a longer period of leave, referred to as "Additional Maternity Leave" for another twenty-six (26) weeks for a total of fifty-two (52) weeks per year, if they satisfy certain qualifying conditions. It is unlawful to dismiss an employee for any reason related to her pregnancy. At the expiration of maternity leave, the employee is entitled to resume her normal job pursuant to the same terms and conditions which existed prior to the leave. However, in a redundancy situation or if there is some other genuine reason why the employee's original position is no longer available at the expiration of the leave, the employee must be offered another suitable available position within the company.

Pursuant to the Revised Leave Directive, effective March 8, 2013, each parent is now also entitled to eighteen (18) weeks, instead of thirteen (13) weeks, of unpaid leave per child but limited to a maximum of four (4) weeks per year. Some employers offer longer or more flexible leaves but they must offer at least the minimum amount of leave under the law.

VI. Terminations

Employment contracts can be terminated for various reasons including expiration of the employment contract, termination by mutual agreement, death or retirement of the employee, dismissal of the employee, or due to a redundancy. Both the employee and employer are normally entitled to a minimum period of notice of termination of the employment relationship as set forth in the employee's employment agreement. The UK government is in the process of preparing a model template settlement agreement to be utilized when employers and employees wish to terminate the employment relationship and plans on introducing the template in the summer of 2013.

VII. Redundancies

In the UK redundancies are implemented when employers determine that the company cannot afford to keep an employee and must terminate the employment. Long-term employees are entitled to compensation from their employers in the event they are made redundant and the law requires employers to act fairly when making redundancy decisions. Specifically, the employer is required to send the employee a written statement explaining why the employer wants to implement the redundancy and hold a consultation meeting. If the employer plans on dismissing more than twenty (20) employees, it must have a group consultation; otherwise the employer may consult employees individually. The employer must always consult with the employees at least 30 days before the

dismissal and give them or their representatives written information about the proposed number of dismissals, the effect dismissals will have on the company and alternatives to dismissal.

If the employer is proposing to implement one hundred (100) or more redundancies, effective April 6, 2013, there is now a forty-five (45) day minimum consultation period pursuant to the Trade Union and Labor Relations Consolidation Act. Prior to April 6th, there was a ninety (90) day minimum consultation period.