

Employment Law Update

Welcome to the Summer 2008 O'Reilly Stewart Employment Update. A number of important developments have recently taken place affecting employment law in Northern Ireland, some of which we have highlighted below. For further information contact Seamus McGranaghan on 028 9032 1000 or by email seamus.mcgranaghan@oreillystewart.com

HOLIDAY ENTITLEMENT

The statutory holiday entitlement is set to change once again. The current entitlement for workers as of 1st October 2007 is 4.8 weeks. This entitles those who work a five day week to 24 days holiday and part time workers are entitled to the same pro-rata.

From 1st April 2009, this entitlement will increase to 5.6 weeks pro rata which equates to 28 days for an employee who works a five day week. These entitlements include bank and public holidays.

SEX DISCRIMINATION

The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2008 came into force on 6th April 2008. This legislation has far reaching consequences for those employers whose business is based on interaction with customers, especially those in the hospitality or retail industries. These Regulations extend the grounds on which an employer subjects a woman to unlawful harassment to include where a third party subjects the woman to harassment in the course of her employment, and the employer fails to take such steps as would have been reasonably practicable to prevent the third party from doing so. This "third party" means someone other than the employer and another employee, and could be, for example, a customer, a client, or a visitor. There must be two prior incidents of harassment and, more onerously for the employer, these incidents of harassment do not necessarily need to be perpetrated by the same person. In order for an employee to bring a successful claim, the employer must have known of the two prior incidents of harassment.

In summation, this legislation makes it unlawful for an employer to fail to take reasonably practicable steps to protect employees from harassment by third parties where such harassment is known to have occurred on at least two other occasions.

WATCH THIS SPACE:

Currently the Employment Equality (Age) Regulations 2006 Amendment Regulations 2008 and the Northern Ireland equivalent legislation sets a mandatory retirement age of 65 at which an employee can be forced to retire. At present, employers have a duty to consider requests to work beyond the age of 65 but have no duty to accept such requests.

Heydey, a membership organisation launched by Age Concern, has challenged this legislation as it claims the UK government is in breach of the EU's equal treatment directive.

The hearing before the European Court of Justice is due to start this week (w/c 30 June 2008), the outcome of which may radically change retirement procedures for employers.

If you require further information on any of the topics covered in this newsletter or would like to see specific areas covered in future issues, please contact Seamus McGranaghan, John Finnegan or Shauna McAleese on 028 9032 1000 or email:

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The information contained in this update is only intended to be a synopsis. Before acting on it, professional advice should be sought.

O'Reilly Stewart's Employment Department provides comprehensive advice and assistance in a wide range of employment issues to a broad spectrum of clients including:

- Recruitment procedures.
- Drafting and reviewing employment documentation, including contracts of employment, staff handbooks and contracts for service.
- Employment due diligence in mergers and acquisitions.
- Information and Consultation of Employees and TUPE transfers.
- Working Time Regulations.
- Maternity, Paternity and Family friendly legislation.
- Drafting and reviewing fair employment documentation and practice.
- Disciplinary, Grievance and Dispute Resolution.
- Company Restructure and Redundancy.
- Termination of Employment and Compromise Agreements.
- Retirement.
- Acting on behalf of clients in all Industrial Tribunal Claims.

O'Reilly Stewart advise a range of employers from private limited companies to employment agencies and provide practical guidance and employment documentation review in order that the modern day employer can overcome the challenges of an ever increasing litigious employment environment.