



New business regulations: 1 October 2010

Each year, the government introduces regulatory changes affecting businesses on two common commencement dates. These dates are 6 April and 1 October.

There are a number of changes due to come into force on 1 October 2010. What follows is a summary, but not an exhaustive list, of the more important new rules with which businesses will need to comply.

NEW MINIMUM WAGE RATES

Employers are being reminded that new national minimum wage rates will be coming into effect in October. There is also a new rule affecting 21-year-olds.

As from 1 October, employees will no longer have to be aged 22 to become eligible for the top hourly minimum wage adult rate.

The new rates are: £5.93 per hour for low paid workers aged 21 and over, up from £5.80; £4.92 per hour for 18-20 year olds, up from £4.83; and £3.64 per hour for 16-17 year olds, up from £3.57.

For the first time there will be an apprentice minimum wage of £2.50 per hour. The new rate will apply to those apprentices who are under 19 or those that are aged 19 and over but in the first year of their apprenticeship.

The accommodation offset will rise from £4.51 per day to £4.61.

EQUALITY ACT 2010

The purpose of the Equality Act is to bring together much of the previous anti-discrimination legislation and to ensure that there is a consistency in what employers are required to do in order to make sure workplaces are fair and equitable.

The Act covers those groups within the population who are already safeguarded by existing laws that ban discrimination on grounds of age, race, disability, religion, belief, gender, sexual orientation, marriage, civil partnership and pregnancy.

The Act does, however, introduce some new rules of which employers will need to be aware.

In the matter of harassment, the Act includes treatment that is based on perception and association. For example, employees will be able to complain of harassment even if it is not directed against them should they be able to prove that the harassment creates an offensive environment. Additionally, employers could be held liable for harassment of an employee by a third party – customers, suppliers – in the workplace if they don't take reasonable steps to stop the harassment happening.

The Equality Act adds an extra dimension to disability discrimination. Should a person be treated unfairly as a consequence of something that arises from their disability – they are dismissed because of absences from work that are related to their disability – then the employer could be seen as having discriminated against that person.

Employers should no longer send out health questionnaires with employment application packs, although there are some exemptions for questions that relate to making reasonable adjustments for applicants who are disabled.

Employment tribunals will be allowed to ask employers found guilty of discrimination to amend their policies and practices to ensure that discrimination does not occur in the future.

Employers with at least 250 employees may have to publish information that relates to the differences in pay between men and women. A claim for equal pay can be made even when there is no 'comparator' – such as a colleague who is doing similar work – so long as the unfair treatment can be demonstrated to be the consequence of a person's gender (an employer saying they would pay more money if the employee were a man). The Act also prohibits employment clauses that prevent employees from discussing how much they are paid where the aim of the discussion is to find out if they have been discriminated against.

CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT BUSINESSES REGULATIONS

The new rules stop employment agencies from taking upfront fees from photographic and fashion models. Cooling off periods are to be extended for certain occupations.

The changes also remove administrative steps that employment agencies are required to take. These include carrying out identity checks for candidates apart from those seeking to work with vulnerable groups and obtaining agreement on terms when introducing job-seekers to permanent employment except in those instances where a fee is charged for a work-finding service.

Job ads won't need to include a statement that the organisation is acting as an employment agency but they must make clear whether a position is permanent or temporary.

BUILDING REGULATIONS

Construction firms will need to comply with changes to parts F, J and L of the Building Regulations 2000. Builders will also be required to notify local authorities of CO₂ emission rate calculations for new dwellings.

FOOD AND ALCOHOL RETAILING

Retailers will be able to sell non-pre-packaged bread and alcohol in any size.

BUSINESS REGULATION SYSTEM GETS OVERHAUL

The government has announced a series of measures aimed at reducing the level and cost of business red tape. As from 1 September, a new one-in, one-out system is introduced.

When government departments wish to implement new regulations that impose costs on businesses, they will have to identify current regulations with an equivalent value that can then be removed.

To bolster the approach and to ensure that the cost of red tape is being addressed across the whole of the UK economy, the government is also introducing other policies. These include a set of principles of regulation that government departments must apply when considering the effect of new regulations on business, social enterprises, individuals and community groups.

And the Regulatory Policy Committee (RPC) has been given extra powers so that it is more closely involved in the early stages of legislative planning.

The RPC will consider new regulatory proposals and consultations, and ministers will be given an independent view on whether or not there is sufficient evidence and analysis to support the regulation before they decide whether to go ahead with it or not.

Initially, the reforms will apply to UK legislation only. But the government has also promised to take a more rigorous approach when dealing with EU regulations.

This will mean an earlier engagement in the Brussels policy process, and an ambition to end the so-called 'gold-plating' of EU regulations so that when European rules are transposed into UK law it is done without putting British business at a competitive disadvantage compared with other European-based companies.

SUMMARY

Although many businesses are concerned at the amount of red tape with which they must comply, it is important to be aware of the rules and not to breach the law. If you are unsure about the rules as they apply to your business, you may wish to take professional advice.