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In 2009 a number of legislative changes will come into force which are likely to significantly affect all employers. Clare Waller, a Partner at Hawkins Russell Jones, a leading law firm with offices in Welwyn Garden City and Hitchin outlines these changes.

2009 – THE YEAR OF CHANGE FOR EMPLOYERS.

Employment Act 2008

Perhaps most important is the new Employment Act 2008, which, in April 2009 will repeal the unpopular statutory dispute resolution procedures that have caused so much uncertainty since they were introduced in 2004. It is hoped that this will remove some of the harsh consequences for employers which have resulted from the statutory procedures.

Key changes include:

- a dismissal will no longer be automatically unfair where there is a procedural breach by the employer, although it may of course still be found to be unfair on normal procedural or substantive grounds.
- employees will no longer be prevented from bringing a claim in the employment tribunal without having first raised a grievance with their employer.
- the related provisions giving tribunals the power to increase or decrease awards by up to 50% and extending time limits for bringing claims in some circumstances will also be swept away. The Tribunal will be able to increase compensation by up to 25% for failure to comply with the revised ACAS Code of Practice on Discipline and Grievance.

Equality bill

The Government's commitment to an Equality Bill, designed to promote equality and fight discrimination, was confirmed in the Queen's Speech before Christmas. The Bill will consolidate various discrimination strands in one piece of legislation. In addition it is proposed that:

- In order to help tackle pay inequality, clauses preventing employees from discussing their pay will be banned.

- The scope of positive action in the workplace will be increased.
- Age discrimination legislation will be extended from the employment arena into the provision of goods, facilities and services.

Statutory leave entitlement to increase from April 2009.

From 1st April 2009, the statutory leave entitlement for employees will increase from 4.8 weeks (24 days) to 5.6 weeks (28 days), which can include bank holidays. All workers, including those working part time, will be entitled to 5.6 times their usual working week - capped at a maximum of 28 days. Employees will not have to work for a qualifying period and they will be entitled to the increased entitlement in full as soon as they start work. Employers will be able to restrict the rate at which they take leave in their first year of employment and include time off for bank and public holidays in the entitlement. Those employers who allow their employees to take 20 days holiday per year in addition to the statutory Bank Holidays will not have to amend their provision as a result of this amendment.

Retirement

This year will also see the ruling by the European Courts of Justice on what is known as the Heyday challenge, giving employers the ability to require employees to retire against their wishes once they reach 65 or the employer's normal retirement age if older. Current indications from the ECJ are that this challenge is unlikely to be successful.

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