



VOISIN LAW

Whilst sprucing up the office or workplace at the start of this new season employers should also consider spring cleaning their current employment contracts and practices.

As of 1st April 2017 the amendments below came into force following the commencement of the Employment (Amendment No.10) (Jersey) Law 2016 (the "Amendment"). Employers are urged to take note (if they have not done so already) and take necessary action to ensure that their contracts and practices are compliant with the law - no one wants to be an April fool!

The Employment and Discrimination Tribunal now have the power to award compensation to employees where their employer fails to comply with the Employment Law in relation to written statements of employment, pay slips and statutory-rest day entitlement.

These compensation awards relate to fundamental employment rights that have been in place since the inception of Jersey's employment law in 2005. Compensation of up to 4 weeks' pay would be available at the Tribunal's discretion, depending on the seriousness of the employer's non-compliance.

The Amendment does not replace the criminal offence committed by an employer under the Employment Law should they fail to provide an employee with a written statement of employment within 4 weeks of the start of their employment or where they fail to provide a written statement of changes which have been made to an employee's contractual terms within 4 weeks of those changes. Such failures remain criminal offences under the Employment Law and leave the defaulting employer exposed to a financial penalty of up to £10,000.

The payment of a fine upon conviction for the above failures shall be additional to and shall not be taken as discharging any liability of the employer to pay compensation to the employee.

The Amendment makes similar changes to provisions of the Employment Law concerning pay statements and confers power on the Tribunal to determine what particulars should have been given in a pay statement and whether compensation (up to 4 weeks' pay) for lack of the same is due to the employee. Details of what the Employment Law stipulates should be in a pay statement are

- (a) gross amount of wages;
- (b) amounts of any variable deductions from that gross amount and the purposes for which they are made;
- (c) net amount of wages payable; and
- (d) where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.

The Amendment now also gives employees the opportunity to present a complaint to the Tribunal where they have been prevented by the employer, whether by the employer's refusal or otherwise, from taking a rest period to which the employee is entitled to. Again, such action by an employer gives the Tribunal the discretion to award compensation to the employee of up to 4 weeks' pay.

Protection for Armed Forces Reservists in the employment sphere has been afforded by the Amendment.



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The Employment Forum consulted on whether greater protection should be afforded to reservists in 2013 given the potentially greater call on their services in the future. In light of the MOD's strategy requiring the number of reservists in Jersey to increase by an additional 40-50 members in the next 4 to 5 years, the lack of specific employment protection for reservists was viewed by the States as a potential barrier for their recruitment.

The number of reservists in Jersey is currently small and so the Amendment in respect of reservists will only impact upon a small number of employers. The amendments are summarised below.

A right to return to the same job or an equivalent job after a period of reserve service.

A requirement for the reservist to notify the employer of their intention to return to work.

Protection of the reservist's continuous employment.

Protection against unfair dismissal from day 1 of employment where dismissal is related to a membership of a reserves force.

Provision for an employer to fairly dismiss an employee who was contracted to temporarily replace a reservist.

Not introduced by the Amendment but very much relevant to employers is the further increase to the minimum wage. As of 1st April 2017 the minimum wage increased from £6.97 per hour to £7.18 per hour. The minimum wage for trainees in their first and second years have also increased to £5.39 per hour and £6.28 per hour respectively as have offsets against minimum wages for accommodation and food.