



HR Briefing

Employment Law Update - October 2009

This month we take a look at the **Default Retirement Age** and changes to “pay.”

Default Retirement Age (“DRA”)

The final decision in what has become known as the “Heyday Case” was reached last week. This arose from a High Court challenge by Age Concern and Help the Aged. Mr Justice Blake has clarified that the DRA of 65 is still lawful.

He based his findings on the fact that an impending Government review of the DRA has been brought forward and will now take place early next year. The final Judgment also stated that it was likely to be unjustifiable to keep the DRA at the current level, or at all, after this review.

So, for the moment the situation remains unchanged. Employers still have the right to compulsorily retire employees on or after their 65th birthday, regardless of whether they wish to stop working. As long as the statutory procedure is used, the retirement is lawful. Employers also maintain the right to employ someone over the age of 65, but change is imminent so employers would be advised to review their retirement policies now and prepare for either a higher DRA or not one at all. For further information on this topic, please see the article on our website at <http://berg.co.uk/01-10-09-heyday>.

Pay

Changes to the National Minimum Wages and Allowances

As of 1st October 2009, the National Minimum Wage (NMW) rate will increase to the following amounts:-

- £5.80 to workers aged 22 or above
- £4.83 to workers aged between 18 and 21 years
- £3.57 to workers aged between 16 and 17 years

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Tips and gratuities

As of 1st October 2009, it will no longer be legal for employers to use tips, service charges and gratuities paid to employees via payroll to top up wages to meet the NMW.

Weekly pay limit

The limit on a week's pay – used to calculate statutory redundancy payments – will rise from **£350 to £380** where the event, giving rise to compensation or payment occurs on or after 1 October 2009. Please see our website at <http://www.berg.co.uk/01-10-09-national-minimum-wage> for more details.

If you have any queries on any of the above please contact **Alison Loveday** at alisonl@berg.co.uk to discuss further issues. Alternatively you contact **Alison** on **0161 833 9211**. If you do not wish to receive further mailings please email alisonl@berg.co.uk with the words "unsubscribe" in the heading.

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