BBi Group News

NEWS FROM THE HR TEAM

National Minimum Wage Changes

From 1 October 2015:

- The adult rate will increase from £6.50 to £6.70 per hour
- The rate for 18 to 20 year olds will increase from £5.13 to £5.30 per hour
- The rate for 16 to 17 year olds will increase from £3.79 to £3.87 per hour
- The apprentice rate will increase from £2.73 to £3.30 per hour

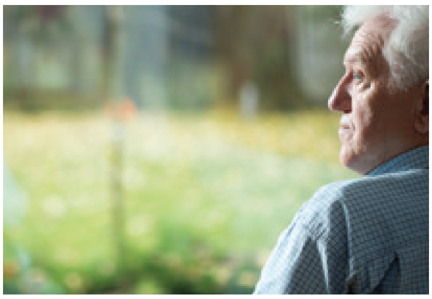
From April 2016, the National Minimum Wage will be replaced by the National Living Wage for employees aged 25 and over. The National living wage will be set at £7.50 per hour and for employees under the age of 25 the current NMW rates will continue to apply.

Fit for Work Service

We had in one of our previous newsletters discussed a new service to help employers, employees and GPs deal with sickness absence and facilitate individuals back to work. Currently operational only for GPs, this free service can provide occupational health services via email or telephone. From autumn 2015, employers can refer employees who have been off sick for four weeks or more to the Fit for Work service. Similarly GPs too can refer individuals who haven't been referred to the service after four weeks or more absence by their employers. Such service is set up to help employers get impartial and prompt advice and aims to work alongside existing occupational health services that the employers may already have in place.

State Pension Age

For those reaching the state pension age on or after 6 April 2016, they will now get a regular payment from the government. The amount, which is expected to be not less than £151.25 per week, is expected to be set in autumn 2015. To be eligible for the State Pension, individuals must have a minimum of 10 qualifying years.



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Garry Abrams Limited and another v EAD Solicitors LLP and others (2015)

Unlawful discrimination due to association not limited to employees

In a landmark ruling, the Eat has held that a claim of discrimination can be brought by a limited company. In this case a solicitor providing a service to a limited company through his service company was allowed to bring in a claim of unfair discrimination. Mr Abrams was the sole director of Garry Abrams Limited (GAL) and provided a service to EAD Solicitors LLP. According to EAD's LLP agreement, when a member reaches the age of 62, they would retire and not receive any further payment. Accordingly EAD stopped paying GAL at the end of the year when Mr Abrams reached the age of 62.

GAL raised a claim of associative age discrimination against EAD under section 13 of the Equality Act 2010. Section 13 refers to discrimination "against another… because of a protected characteristic" and there is no stated requirement in the Act for the "other" to be an individual person. The EAT upheld the tribunal's decision that a limited company can pursue a claim of discrimination.

The decision would imply that companies can now bring in a claim of unfair discrimination to a tribunal if they for example, lose a contract or fail to win a contract due to their senior managers' age, religious beliefs, or due to any such associations.

Two contrasting employment tribunal claims for unfair dismissal, one upheld and one rejected, have considered the fairness of dismissals for mobile phone use while driving.

Bus driver dismissed for breach of policy on mobile phone use while driving

In *Ruparell v East London Bus & Coach Co Ltd*, an employment tribunal held that the dismissal of a bus driver who was seen holding his mobile phone while exiting a bus stand, in breach of the employer's very strict and clearly communicated mobile phone rules, was fair.

A bus driver was parked on a stand at the end of his route, with the engine switched off and no passengers aboard.

He took out his mobile phone to set the alarm, and fell asleep thinking the alarm was set. He woke up abruptly only to realise that he had missed his scheduled departure time because the alarm did not go off.

CCTV footage showed the claimant starting his engine and moving off with his mobile phone in his hand. While the bus was moving, he took both hands off the steering wheel to put the phone into his pocket, then put one hand back on the wheel to secure the phone with his other hand.

The employment tribunal upheld the bus company's decision to dismiss the claimant, who was already on a final disciplinary warning.

The employment tribunal took into account the employer's strict and clearly communicated ban on mobile phone use, which included a prohibition on the "visible presence" of mobile phones in the cab area.

Dismissal of loyal employee spotted on mobile phone while driving into workplace

Meanwhile, in *Whitehead v FirstGroup Holdings Ltd*, an employment tribunal held that the dismissal of a long-serving employee who was reported for using his mobile phone while driving in his own car into a workplace car park was unfair.

The claimant had worked for a bus company for 36 years as an accountant, joining at 17 and working his way up to a management position. He had an unblemished record and was regarded as a "competent, conscientious and law-abiding employee".

A colleague reported witnessing the claimant driving into the workplace car park while using his mobile phone. He was driving his own car at the time. He was dismissed following an investigation.

The employment tribunal upheld the unfair dismissal claim. The tribunal said that it was by no means clear that the employer's policy on mobile phone use while driving applied while entering the workplace in a private car.

The employment tribunal was critical of the employer for not having taken account the mitigating circumstances, including the claimant's long and impeccable service, and the stress that he had been under in his work and private life.

Over the last couple of years, the number of discrimination cases reaching Tribunal has increased, disputes about equal pay, age, sex, race and disability discrimination.

With this being high on the agenda, we are able to offer our clients with not only hands on consultancy but also, an insured/legal expenses cover of up to £75,000 per claim.

For further information please contact Michelle Brinklow at BBi Risk Solutions:

Tel: 020 8559 2111
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BBi Risk Solutions
Health & Safety : Human Resources : Training : Risk Management

Other tribunal decisions in the headlines

£16,000 for Jewish woman over job rejection because she cannot work Saturdays

A Jewish woman has won £16,000 damages from a travel firm after it rejected her job application because her religion prevents her from working Saturdays, says the Manchester Evening News.

Payout for Scotland Yard sergeant in sex-bias case

A former Scotland Yard sergeant who claimed she was left suicidal after being "bullied" out of her dream career by Essex police is to receive a payout of thousands of pounds, reports the Evening Standard.

News from the Financial Planning Department

Auto Enrolment has been at the forefront of many business plans for the last few years and has created numerous administrative nightmares for companies along the way.

At Berns Brett we have taken our responsibility seriously to help both new and existing clients with their legal requirements. We have developed our proposition to create a smooth and efficient process for all.

Since joining the Auto Enrolment environment over 2 years ago our proposition has continuously evolved. We have recruited an Auto Enrolment specialist with a wealth of knowledge and experience specifically within this arena. We have re-developed our systems to assist clients further than previously possible. As a result of these changes, in the last 8 months, we have increased the number of businesses we are helping by over 160% and have helped streamline the service for our existing clients to relieve some of their administrative burden.

Over the next 2 years there are approximately 1.3m+ companies reaching their staging date. We know that for many companies this is going to create a logistical nightmare, but we are ready, willing and able to help remove this problem for you.

At Berns Brett we understand that many companies staging over the next 18 months will be looking towards their accountants or payroll bureaus to assist them. Therefore, in order to assist you, we are running a series of seminars in October aimed specifically at accountants and payroll bureaus. There will be representatives from the pension providers active within the Auto Enrolment environment presenting their propositions.

From November we will be running a new suite of webinars aimed at small businesses. We have had positive feedback about previous webinars from business owners and employees and are looking to build on this success.

A lot of companies are looking for a quick and simple solution to help them navigate the Auto Enrolment minefield. We are creating a new website focussing on Auto Enrolment and Employee Benefits and will keep you informed on the progress of this.

This is a very busy and exciting time for all of us and through the support of the BBi Group, we are ideally placed to rid you of your workplace pension woes.

The Pensions Revolution

"These significant changes offer greater flexibility and freedom in shaping your retirement"

What does this all mean?

- Ability to access full defined contribution pensions from age of 55, and use it however you wish (in line with existing rules, only the first 25% you withdraw is tax-free).
- Flexible drawdown option made more accessible by removing previous restrictions.
- Scope for annuity providers to develop new, more innovative products for those who require a guaranteed regular income in retirement.
- The 55% tax charge on pension lump sum death benefits has been scrapped if you die before you are 75. This means a chosen beneficiary can inherit your pension fund tax-free. If you die after 75, in the 2015/16 tax year, your beneficiaries will have to pay 45% income tax on the proceeds (after 2015/16, they would only pay tax at their marginal rate).
- Government to offer free guidance service (although this service will be informational only and won't include advice specific to your circumstances).
- Changes in income tax and inheritance tax treatment of pension funds on death after benefits are taken

We ask:

Do the changes recently introduced make pensions more appealing or more complicated?

Is it easier now to make the wrong decision and feed the tax man?

Retirement is supposed to be about enjoying the freedom to do whatever you want – but for many people this has not been reflected by the way in which they could access their pension.

If you are in a defined contribution scheme, there were restrictions over how you could utilise the pot of money that you have spent most of your life building up, once you came to need it in retirement. At least 75% of your pension had to be used to arrange a retirement income, which many people did not research properly, which caused many people to go down the increasingly unpopular annuity route.

But now the government has changed this, following a radical overhaul of the defined contribution pension rules (defined benefit scheme rules remain unchanged). As of this April, you have been able to access your full pot of money from the age of 55, and use it however you like. This is a significant change that offers greater flexibility and freedom in shaping your retirement – but it also requires a major rethink in how you plan for this important chapter of your life.

This is a major improvement in retirement planning, but we will highlight the perils of flexibility.

The pitfalls of a rash decision

The temptation to withdraw your entire pension fund in one swoop has to be tempered by the important tax considerations. In line with the previous rules, only 25% of what you withdraw will be tax-free. The remaining 75% will be treated as your income and taxed at your highest marginal rate. This could significantly reduce the amount of pension savings you receive.

Equally, withdrawing your pension should not be treated as an opportunity to go on a spending spree. If you plan to rely on this pot of money to fund your later years, it clearly needs to last. There are fears that some people will squander their full pension pot and rely on the basic state pension as a fall back option; but the state pension is highly unlikely to be enough to support your desired lifestyle. Relying upon means tested state benefits to top up the basic state pension will also be a problem if it is seen that pension funds have been spent on non-pension benefits deliberately.

Keeping your pension invested

The government has also scrapped the minimum income requirement rules around keeping your pension fund invested via flexible drawdown, making this option accessible to everyone.

Previously, if you wanted to keep your pension invested in retirement, but didn't have at least £20,000 guaranteed pension income sources (or from March 2014, £12,000) you had to choose the capped drawdown route rather than flexible drawdown. However, with capped drawdown, there are restrictions on how much income you can take each year. From 6 April 2015 flexi-access drawdown accounts have become available with no limits on the amount you can withdraw. With the minimum income requirement removed, it is now an option accessible for everyone.

The main advantage of keeping your pension fund invested via flexible drawdown is that it can continue to potentially rise in value. However, it also means that your fund remains subject to an element of risk and may fall in value. Making large withdrawals could also exhaust your pension's value completely.

It is good practice for people approaching retirement to reduce the level of risk their pension is exposed to as they prepare to give up work – in fact, many pension schemes automatically do this on your behalf. Yet if you do plan to keep your pension fund invested during your retirement, you might not want to alter your risk and reward approach in this way.

What about annuities?

For people who want a guaranteed regular income, don't want to be landed with a large tax bill for withdrawing their pension, or who don't wish to keep their fund invested, an annuity may still be the most appropriate choice.

Annuities have received a lot of bad press over recent years, largely due to rates tumbling over the long-term. The government has therefore relaxed some of the previous restrictions to allow annuity providers to develop more flexible products which suit different needs.

If you are interested in an annuity you MUST search beyond what your provider might offer you within their retirement documentation - shopping around for an annuity that is suited to your specific circumstances often significantly boosts your income.

Ultimately, these changes to pensions offer significant opportunities but also throw up potential pitfalls. Retiring is a major milestone, and your finances are likely to shape the lifestyle that you experience. You really do need a solid and robust plan that is right for your circumstances, which is why sitting down and devising one – with the help of a professional adviser – could prove vital.

How does this affect potential Inheritance Tax charges?

First of all, if you buy an annuity, the pension is payable during the remaining lifetimes of you and your dependants, depending on how the annuity is established.

Under the new drawdown regulations, any unused pension fund can be inherited free of IHT and depending on whether death occurs before or after age 75, possibly subject to income tax charges after 6th April 2016. Death before 75 means the fund can be inherited tax free, and this applies not only on the death of the person establishing the pension, but also on the death of whoever receives the remaining pension funds thereafter.

This has to be the subject of a discussion when the pension funds are first accessed and regularly reviewed with an Independent Financial Adviser.

News from Commercial

Insurance Act 2015

For UK clients the Insurance Act of 2015 comes into force on the 12th August 2016. This will replace the 1906 Act which was implemented to protect the insurance market from exploitation by companies and individuals.

Unsurprisingly the 1906 Act is now considered outdated for the 21st Century and hence the 2015 Act is aimed at commercial insurance and will make important changes to the existing insurance law.

Summary

- The Act will move some responsibility of disclosure away from the insured on to the insurer by imposing a duty of enquiry on the insurer
- Remedies for non-disclosure will be proportionate
- Allows the insured to correct any breach of warranty, whilst insurers suspend the policy rather than cancelling cover
- If the breach of a warranty did not increase the risk of the loss in question, it may remove an insurers defence of breach of warranty

What It Means For Clients

- With the implementation of the new Act it is vital that you are insured via an experienced quality broker. The Act will prompt more questions from insurers at the underwriting stage of a risk, be it new business or a renewal. BBi will advise clients to ensure that disclosure is made in a way which would be reasonably clear and accessible to a prudent insurer
- The Act imposes a duty known as "The duty of fair presentation" on insureds before entering into an insurance contract. It must be clear and reasonably accessible to a prudent insurer. Every matter of fact is substantially correct and made in good faith. It must include every material circumstance which the insured knows or ought to know or failing that gives the insurer sufficient information that they need to make further enquiries
- An insured is deemed to know what "should reasonably have been revealed by a reasonable search of information available to the insured". As a result, BBi will need to work with clients to assist them in having adequate processes and procedures in place to be able to meet their duties
- The above requirements may result in the need for a longer lead-in time prior to renewal. BBi will always approach clients well in advance of renewal to ensure that appropriate cover can be arranged in a timely manner

News from BBi Horsham

Home Insurance Advice

The Berns Brett Group's philosophy is simple - we treat every client as an individual and tailor everything we do to meet their specific needs. This is achieved by our qualified, experienced staff taking the time to discuss your needs with you to ensure you get the best cover at competitive premiums.

The home in which you and your family live, is normally your largest investment and there is no typical risk so package policies often do not offer the correct level of cover. Insurers like to offer covers that fit what they want to insure not what is needed.

Apart from your day to day contents, such as furniture and furnishings, you may have acquired or indeed inherited a variety of items. For example you may own antiques, artwork, jewellery, porcelain, handbags, musical instruments, assorted collections from stamps to train sets and watches. It is these personal belongings that make you unique and it is therefore essential your policy is unique and reviewed with care.

Our bespoke advice can range from advising on High Net Worth (HNW) policies to standard covers but in each case we take time to discuss your requirements rather than the restrictions of insurers. Our covers can also benefit from extended wordings such as trace and access and worldwide cover for all your contents. This can include your children's possessions whilst at university. Some HNW insurers are able to add your holiday home and your vehicles to ensure that one policy covers everything dear to you, saving cost and simplifying the management of your personal insurances.

For clients with larger sums insured Insurers will often offer the services of a professional appraiser who will visit your home and confirm that all the values are agreed in advance. An appraisal helps to ensure that if you are unfortunate to suffer a loss, however large or small; your policy will meet all your expectations.

To discuss your Home Insurances please phone our Horsham office on 0800 083 9232 and mention 'August Newsletter' to get a 5% new household customer discount on your first year's premium.

Existing household customers are offered a 5% first year discount on any additional policy they take out as a result of reading the BBi Group August newsletter. We look forward to hearing from you all.

BBi Horsham

News from BBi Ireland

BBi Ireland is delighted to announce the addition of a new Account Executive to their growing business.

Catherine Carragher has joined the team in Cavan, following a successful spell working for a major Dublin broker. Prior to this Catherine worked as an Underwriter with Quinn Insurance, where she worked with both of the local Directors Dessie Smith and Anthony Forde. Catherine is a Certified Insurance Practitioner and holds a certificate in Business Studies.

Catherine joins just in time to assist with the renewal of our exclusive facility with the Irish Farm Building Contractors Association, where BBi Ireland is the scheme's appointed broker.

Catherine compliments the skill set already within the business as BBi Ireland continues to grow its market share with its strategy of client service excellence. With the economy growing, wages and turnovers increasing coupled with more investment by government in new infrastructure, Ireland is continuing to build its road to recovery.

BBi Ireland

UAE News

Sanctions Relief announced under historic agreement concerning Iran's nuclear programme

On 14th July, 2015, the International Community announced an agreement with the Islamic Republic of Iran to limit Iran's nuclear programme in exchange for sanctions relief.

However, a number of hurdles remain to be cleared before any sanctions are lifted.

The UN must adopt a resolution to approve the Joint Comprehensive Plan of Action (JCPoA) and put in place the framework to remove the UN Security Council sanctions. It is believed that it will only be a matter of days before the UN Security Council considers such resolution.

Only once the International Atomic Energy Agency (IAEA) has verified that Iran has taken the agreed steps to reduce its nuclear programme, will sanctions begin to be lifted. It is understood that JCPoA sets out a ten year programme for Iran to continue with a peaceful nuclear programme before the complete removal of UN Security Council resolutions in respect of the Iran nuclear issue.

For those wishing to engage in trade with Iran, today's announcement will bring excitement and opportunity and today is seen as an historic moment between Iran and the international community. However, the note of caution is that until the various implementation hurdles are overcome, the UN, EU and US sanctions remain in force.

Dubai – enforcement of Health Insurance Law for expatriates

'Stiff Penalties' 'Blacklisting' ' Punitive Measures' – These are the results threatened for companies that don't comply with new DHA (Dubai Health Insurance Authority) but is it really that bad and how difficult is it actually to comply with?

http://gulfnews.com/news/uae/health/mandatory-health-insurance-violating-firms-to-face-stiff-penalties-1.1543418

With the growing concern surrounding the increasing regulation across health insurance in the UAE it can easily be viewed as an inconvenience that will become a tiresome and costly intrusion into the normal working day, but with the help of expert advice and assistance from your broker the process can be managed so that it becomes a simple, necessary and valuable part of your HR processes.

What are the facts?

Put simply by June 2016 all Dubai visa applicants will have to have medical health insurance cover in force that complies with DHA regulation in order to process visas. In reality the requirement will come much sooner as there are various timelines and requirements that force larger businesses (those with over 100 employees) to have compliance by the 31st July 2015. The official line and demarcation can be found in the circular issued by the DHA.

Already, there is a requirement for Abu Dhabi companies to provide health insurance for all ExPat Employees and their dependents, so how we can we help and what can you do?

Preparation is key. Firstly you need to have a group health insurance for all your employees, so if you don't already have one now is the time to look. BBM can help you identify and select the most effective and competitive plans from the leading local and international insurers and advise, implement and manage the program to meet your requirements and that of the regulatory bodies including DHA and HAAD (Heath Authority Abu Dhabi).

If you already have cover then the quality of the data that you keep and submitting that early to the insurers is vital. You also need to make sure that it is easily accessible and that you have all the relevant fields included so that you can avoid unnecessary delays from insurers when requesting the documents you need for visa processing.

So what do you need to provide in order to process a Dubai visa application?

In accordance with the GDRFA http://dnrd.ae/en/Pages/Home.aspx and DHA all visa applications will need to be initially supported by a Certificate of Health Insurance and included on the HFD (Health Funding Department) register which is populated by the Insurance Companies.

In the exact words of the DHA *'The following is an indication only of the fields required. A circular and schema will be issued showing exactly the descriptions of the required data and confirming which will be mandatory'*.

The official Dubai Government Enforcement of the Health Insurance Law release document as it applies to resident expatriates can be viewed at:

http://www.bbirisksolutions.com/uploads/images/pdfs/enforcement-of-the-law-through-visa-applications.pdf

Person	Mandatory
First Name	Y
Second Name	Y
Family Name	Y
Contact Number	N
Birth Date	Y
Gender	Y
Nationality	Y
Passport Number	Y
Marital Status	Y
Email	N
Emirate	Y
Residential Location	Y
Work Location	Y
Salary Band	Y
Commission	Y
Emirates ID Number	Y
UID Number	Y

Person	Mandatory
ID	Y
Relation	Y
Relation To	Y

Whilst we await official confirmation of exact requirements needed we would advise all businesses to collate and provide the above information and submit to their insurance companies (via BBM) in order for insurers populate the register with as much of the requisite information known and needed. This information will also enable insurers to issue a certificate without undue delay in the event the register is not accurate or updated.

The implementation of new regulations is a learning process for everyone and like any new system we can expect the boundaries and requirements to shift as well the competence and ability to deliver of the various stakeholders to change over time. Throughout this and as part of the key component that BBM provide as brokers we can provide you with updates on changes/progress as well as ensure that you are always informed prepared for any amendments that occur.

As always, BBM will be there to help and assist you in any requirements that you have and we will do our best to manage this change with the minimal disruption possible.

If you would like to discuss any of the issues above then please contact your normal BBM contact or Sam Carter on 02 676 1939.

BBi Berns Brett Masaood