

UK Employment Law

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The Basics For Overseas Businesses

UK employment law is complicated. Whilst individuals can be classified as consultants and therefore self employed, on the whole individuals are deemed employees and therefore entitled to various rights.

Contract of employment

All employees are entitled to a basic statement of their terms and conditions of employment which must be provided within 2 months of commencing employment. We recommend that a contract of employment is provided to employees to protect the business and clearly set out the relationship between the parties.

The contract should include:

- **General** – place of work, job title, hours of work, etc.
- **Salary** – Salary is usually paid in arrears in 12 equal monthly instalments. It is compulsory for tax and national insurance payments to be deducted at source under a Pay As You Earn (PAYE) scheme. Individuals must be paid at least the minimum wage. The current rate from October 2009 for individuals of 22 years and over is £5.80 per hour. This is due to increase to £5.93 in October 2010
- **Sick Leave** – Employees are not legally entitled to be paid whilst off sick. However, if the employee is ill for 4 or more days, they would be entitled to Statutory Sick Pay which from April 10 is £79.15 per week. Some companies will continue to pay salary for a specified amount of days per year on a discretionary basis.
- **Holidays** – 28 working days holiday inclusive of 8 public holidays per year must be provided as a legal minimum. In some industries custom and practice may assume longer holidays.
- **Notice Period** – both employees and employers are under an obligation to provide each other with some notice upon terminating the employment agreement. Statutory minimum notice periods range from 1 week to 12 weeks depending on length of service (although longer periods are often agreed in the contract particularly for senior employees).

- **Disciplinary and Grievance procedure** – In addition, the business should have a disciplinary procedure (to deal with performance or conduct issues arising) and a grievance procedure (to deal with employees' complaints) in place and the rules applying to these are complex and change frequently.
- **Other issues which could be included** – probationary period; job description; reporting structure; benefits (such as private health insurance/death in service/pension contributions) details of incentives, bonuses or commissions should also be clearly defined. Confidentiality provisions, restrictions following termination and protecting the goodwill of the business should be considered and incorporated.
- **Pensions** – if a business employs 5 or more individuals, it is legally obliged to set up a stakeholder pension scheme for employees. The company does not have to contribute to this scheme. New rules about pensions are due in a 2011/ 2012 requiring companies to have contributing pensions schemes.

Further information

Benefits: business is not obliged to provide any benefits such as living allowances, private health care, death in service or pension contributions. If benefits are provided they are taxable.

Claims in the Employment Tribunal: Claims in the UK are common as an ex employee can issue a claim without paying a fee and without having to prove merit. Even if a claim against an employer is unsuccessful it is rare for the employer to recover the costs they have incurred in defending the claim.

The largest number of claims is for unfair dismissal. In the UK employers must have a statutory fair reason to dismiss the individual (conduct, capability, redundancy, retirement, statutory illegality and "some other substantial reason") and must follow a set statutory fair procedure to terminate employment (or even to discipline an employee). If this is not followed the individual may have a right to issue a claim that they have been unfairly dismissed.

Discrimination: if an employee succeeds in a discrimination claim (for example, on the grounds of gender, race, age or disability) a tribunal award is uncapped so can be very expensive.

Redundancy: It is possible to terminate an individual if the business is not making money or there is insufficient work. If the individual has been employed for 2 or more years they will be entitled to a statutory redundancy payment as well as their notice monies (unless the employer requires the employee to work out their notice period). A redundancy payment is based on an individual's age, length of service and capped at a maximum weekly wage. The current maximum award is £11,400.

Maternity/Paternity leave: Maternity leave of up to 52 weeks is allowed, for up to 39 weeks of which the employee will be entitled to Statutory maternity pay (SMP). SMP consists of 90% of the average weekly wage for the first 6 weeks and then a statutory amount (from April 2010 - £124.88 per week) for the remaining 33 weeks.

Paternity leave of up to 2 weeks can be taken. Statutory Paternity Pay as from April 2010 will be £124.88 per week.

Paperwork: Having appropriate offer letters, reference checks and a full contract of employment is highly recommended.

People represent the highest cost to most businesses and carry the highest risk so please obtain advice to reduce the risk exposure.

Please contact

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