Employment - Overview to UK Employment Law

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** – Names of employer, place of work, job title, hours of work etc.
- **Salary** – Salary is usually paid in arrears in 12 equal monthly installments. 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 minimum wage for:
  - Apprentices (aged under 19 or aged 19 or over and in the first year of their apprenticeship) - £3.70 an hour (£3.90 an hour from 1 April 2019)
  - Individuals under 18 - £4.20 an hour (£4.35 an hour from 1 April 2019)
  - 18-20 years - £5.90 an hour* (£6.15 an hour from 1 April 2019)
  - 21-24 years - £7.38 an hour (£7.70 an hour from 1 April 2019)
  - 25 and over - £7.83 an hour (£8.21 an hour from 1 April 2019)

- **Sick Leave** – Employees are not legally entitled to receive their salary whilst off sick. However, if the employee is ill for 4 or more days (including weekends), they would be entitled to Statutory Sick Pay which is currently £92.05 per week, this normally increases from 6 April each year (£94.25 per week from 6 April 2019). Statutory Sick Pay is reviewed on an annual basis. Please note that some companies will continue to pay salary for a specified amount of days per year on a discretionary basis.

- **Holidays** – 28 working days holiday must be provided as a legal minimum. Normally the 28 days includes public holidays. In some instances, 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. Longer periods of notice are often agreed in the contract of employment particularly for senior employees. If the contract of employment is silent on notice periods there are minimum legal requirements which are as follows:
  - Employers notice periods range from 1 week to 12 weeks depending on length of service of the employee.
  - Employees are only required to give one week’s notice irrespective of their length of service.

- **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 employee’s complaints) in place and the rules applying to these are complex and change frequently.
Other items which might be considered for inclusion

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.

Further information

Pensions: From October 2012 onwards new rules will require companies to have contributing pension schemes. The new rules began on a staged basis with larger companies, however small and micro business employers are now becoming obliged to put in place a qualifying workplace pension scheme and automatically enroll their qualifying workers. Employers then have to make contributions to their workers’ pensions every pay period.

Benefits: Businesses are 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 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 or fair reason to dismiss the individual (conduct, capability, redundancy, retirement (about to be repealed), 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. The maximum award for unfair dismissal is currently £83,682 (£86,444 from 6 April 2019) or 52 weeks gross pay if lower.

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.

Maternity/Paternity leave: Maternity leave of up to 52 weeks is permitted in the UK, 39 weeks of which the employee will be entitled to Statutory Maternity Pay (SMP). SMP consists of 90% of the employee’s average weekly wage for the first 6 weeks and then a statutory amount, currently £145.18 per week for the remaining 33 weeks (£148.68 per week from 7 April 2019). Please note in the UK a pregnant woman can take a whole year off work and then is entitled to return to work in the same/similar role.

On 5 April 2015, the regulations were amended so that parental leave can be exercised up until a child’s 18th birthday. In addition, a new system of “shared parental leave” was introduced.

Paternity leave of up to 2 weeks can be taken at the same rate as for statutory SMP, currently £145.18 per week (£148.68 per week from 7 April 2019).

Paperwork: Having appropriate offer letters, reference checks (including checking the employee is entitled to work in the UK – by seeing a passport / checking the correct visa documentation) 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.