

# CHANCERY MANAGEMENT NEWS UPDATE

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## On This Day In Previous Years

1893 Puccini's Opera Manon Lescaut premieres in Turin.

1924 The new British MacDonald Government recognizes the USSR.

1961 The British Minister Enoch Powell makes medical insurance more expensive.

1964 The Beatles had their first no. 1 in the charts "I want to hold your hand" and it remained no. 1 for 7 weeks.

1972 The first scientific hand held calculator (HP-35) was introduced costing \$395.

1972 Kuala Lumpur is declared a Federal Territory.

## New Employment Law To Be Introduced

From April 2010 a new "fit note" will be introduced to allow doctors to inform employers of some of the jobs an employee is fit to carry out. The idea is to allow employees to return to work earlier and to provide guidance to the employer with regard to the type of work the employee is fit to carry out.

The time to train is also to be introduced from April. This gives an employee the right to request time off for training and employers will be obliged to seriously consider the request(s) from their employees. The employer will have the right to refuse but only if there is a good business reason for doing so. The right to request the time off for training excludes the right to be paid during the training and the employer is not obliged to pay for the training. This right will, when introduced, only apply to an employer with more than 250 employees but the Government has indicated that it will be extended to cover all employments regardless of size at a later date.

Paternity leave is to be extended from the current two week period to six months. This will allow fathers and partners the right to share up to six months maternity or adoption leave if the mother or adopter chooses to return to work early. These changes only apply to children born or adopted on or after 3 April 2011.

The Government announcement already made regarding plans to extend maternity pay for up to twelve months has been shelved due to the economic situation. The result of this being shelved means that the last three months of the new paternity leave will remain unpaid.

Anti-discrimination law is to be strengthened and streamlined under the proposed heading of the Equality Bill. The Equality Bill is intended to replace the various current parts of the legislation

dealing with discrimination with one single Act.

The purpose is to make it easier for individuals and employers to understand their rights and obligations and in addition to remove the alleged gender pay gap by making businesses to reveal gender pay differences.

Although there is no implementation date the Government has stated that it remains committed to pass the Bill before the Prime Minister is required to call a general election.

## **Proposed Increase Of Employer National Insurance**

The proposed one per cent increase of employer National Insurance effective from April 2011 has created a serious debate as to whether it is considered a tax on jobs.

The recently announced view from the chief economic adviser to the Chartered Institute of Personnel Development (CIPD) John Philpott is that whilst the hostile reaction to the announcement of the increase from some employers is understandable it is only partly justified.

In his opinion it is simplistic to state that costs such as employer National Insurance is a tax on jobs because he states that the employer will ultimately pass the additional cost on to the employee by taking into account the additional cost and offering lower pay increases. Therefore, he claims that the increase will have a neutral effect on the cost of employment and should not harm it. This does not mean that raising employer National Insurance by one per cent in 2011 is a good idea.

Shifting the increase on to employees is not easy especially as pay increases have been modest due to the current difficult economic situation which is likely to continue for the foreseeable future. In any event, the Government proposal to increase employee National Insurance for those earning more than £20,000 per year will have a considerable impact on employees take home pay.

The increase will therefore have a restrictive effect on the overall economy as a direct result of lower spending power.

Employer National Insurance is, in our opinion, an inappropriate title. It is not taken into account when calculating the employee pension or benefits save for the rebate on Statutory Maternity Pay / Statutory Paternity Pay (SMP) / (SPP) and similar types of statutory payments.

Government ministers have defended the proposed hike in National Insurance contributions stating that the Treasury is forecasting the economy will be growing well above trend from 2011.

From 29 February 2008 there are some changes with regard to the rules employers need to follow in checking the right of potential employees to work in the UK.

In addition to new procedures to follow, the level of fine is increased to £10,000 and / or two years in prison for persistent offenders.

The present lists 1 and 2 are replaced with lists A and B and if an employer is relying on documents from list B, these must be checked annually. Those producing a list B document will normally have time restrictions on their right to work here.

## **Disciplinary And Grievance Procedures**

It was not particularly well publicized but from April 2009 the complicated Statutory Procedures were replaced by the ACAS Code of Practice. It is similar to the previously used Statutory Procedures but is not compulsory.

Disciplinary issues include misconduct and / or poor performance.

Grievance issues include concerns, problems or complaints that employees raise with their employers.

A concise guide to the disciplinary procedure:

1. The employer has a duty to inform the employee of the problem(s). Although this can be discussed verbally it does not have to be in the first instance.

However it must, in every case, be in writing and detail the alleged issue(s) and the consequences of the issue(s) together with the details of the disciplinary meeting to be held.

2. Hold a meeting with the employee to discuss the problem(s).
3. Allow the employee to be accompanied at the meeting either by a colleague of their choice, a trade union representative or an official employed by a trade union.
4. Decide on appropriate action. The employee must be informed in writing of the decision and the written detail must state clearly that it is a first warning, a final warning or a dismissal as appropriate.
5. The employee must be provided with an opportunity to appeal.

A concise guide to the grievance procedure:

1. The employee must let the employer know the nature of the grievance and although this can be given verbally, but does not have to be, it must be confirmed in writing.
2. Hold a meeting with the employee to discuss the grievance. If it is considered necessary the meeting should be adjourned to allow time for investigation. The employee must be allowed to be accompanied at the meeting by a colleague, a trade union representative or an official employed by a trade union.
3. Decide and take appropriate action which must be confirmed and given to the employee in writing.
4. The employee must be given the chance to take the grievance matter further if it has not been resolved. The employee has the right to appeal and the result of the appeal must be in writing.

Whilst the ACAS Code of Practice does not apply to dismissals due to redundancy or to the non renewal of fixed term contracts, the procedures should still be in place, as and when necessary, to ensure that the minimum standard of the code is used in practice.

In employment tribunal cases if it is found that the employer failed to comply with the ACAS Code of Practice such failure could result in an employee being awarded up to an additional 25% in an employment tribunal settlement.

## Pre-Budget Report

The Chancellor, Alistair Darling delivered the Pre-Budget Report (PBR) to Parliament on Wednesday 9 December 2009.

**Income Tax Allowances:**

The Income tax allowances effective 6 April 2010-2011 will remain unchanged at the 2009-2010 levels. Therefore there will be no changes to the standard tax codes but emergency tax codes will, except those restricted by HM Revenue & Customs, change to cumulative on 6 April 2010.

**Income tax rates, bands and thresholds:**

There will be three main rates of income tax including new higher rate tax band all effective from 6 April 2010.

Taxable Bands Excluding Allowances	Tax Rate	2010-2011
Basic Rate	20%	£0-£37,400
Higher Rate	40%	£37,401-£150,000
New Highest Rate	50%	Over £150,000

The 2009 PBR states that in the tax year 2012-2013 the higher rate tax threshold being the total of the personal allowance and the basic rate limit will be frozen at the 2011-2012 level.

#### **PAYE Scheme Pooling:**

HM Revenue & Customs (HMRC) are considering allowing large or connected employers to combine or pool their PAYE references reducing the burden of administration time and costs. HMRC expect to publish draft regulations early in 2010.

#### **National Insurance Contributions Limits And Thresholds:**

The lower earnings limit (LEL) is the only level that is changing to reflect the increase in the basic state pension as it is linked by legislation. The weekly, monthly and annual LEL amounts are: £97, £421 and £5,044 respectively.

The primary threshold will increase by £570 in 2011-2012 to protect an estimated 15m people on incomes below £20,000.

#### **National Insurance Rates:**

The rates for 2010-2011 are unchanged and will remain the same as 2009-2010.

In the PBR the Chancellor announced a further increase in the main rates of Class 1, 1A and 1B of 0.5% on top of the increase already announced in the 2008 PBR. Therefore effective 6 April 2011 the National Insurance rates will increase by 1% to 12% for the employee and 13.8% for the employer. Also the employee additional rate with no upper limit will increase from 1% to 2%.

Benefits, Expenses, Vans And Fuel, Workplace Canteens, Travel Expenses, Enterprise Management Incentives, Extra Statutory Concessions and Pension changes will be shown in the March News Update.

The fuel benefit charge multiplier is to increase to £18,000 from 6 April 2010 for 2010-2011.

#### **Quotations for the Month**

Map out the future, but do it in pencil.

Know your limits but never stop trying to exceed them.

Goals are dreams with deadlines.

Great ideas need landing gear as well as wings.

The time to relax is when you don't have time for it.

Life's problems wouldn't be called hurdles if there weren't a way to get over them.

Source: The CML Collection

#### **Statistics of the Month**

45% of Britons on skiing holidays plan to drink every night on their trip. 23% start the day's skiing with seven units of alcohol in their bloodstream left over from the night before. That is almost twice the legal drink drive limit. Source: Metro/The Week

By 2020 there will be 24 million more single men than women in China as a result of the one child rule, which has led to widespread abortions of female foetuses. Source: BBC News/ The Week.

The average Scot consumes 12.2 litres of pure alcohol equivalent to 46 bottles of vodka per year, 25% more than the English and Welsh and enough to exceed the weekly guidelines for consumption all year long. Source: Daily Mail.

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