



The Advocate

The newsletter of Bennett Griffin Solicitors | issue 5

Welcome to the first Advocate of the decade.

Informative and thought provoking we know you will learn, enjoy and benefit. Have a well informed start to 2010!

The Companies Act 2006 – a Quick Checklist

The Companies Act 2006 came fully into force on 1 October 2009, with the implementation of the final stage of the provisions introduced by the Act. The Companies Act 2006 will impact on the management of a company's affairs by the directors of private and public limited companies incorporated or operating in England and Wales.

The following checklist highlights some of the points that Companies and Directors should be following:

1. Whether it is necessary to adopt new articles of association in accordance with the Act.
2. Whether any resolutions are needed to take advantage of the benefits of the 2006 Act. This will ensure that Directors understand fully their duties under the new Act.
3. Renew the authorisation and procedures for Director's conflicts.
4. Decide whether to dispense with the Company secretary and if so who will be responsible for statutory filings and maintaining Company records.
5. Ensure that all procedures and Company meetings and resolutions are updated for the 2006 Act.
6. Review the procedures of the Company in light of the Company's capital requirements and classes of shareholding.
7. Ensure that the Company's statutory details are included on all hard copy documents, emails and company websites.
8. Review all register record requirements to ensure that they comply with the 2006 Act.
9. Decide where to keep the registered members records and all the statutory records and how to make any necessary notifications to Companies House.
10. Review the financial reporting titles to comply with new filing deadlines.
11. Ensure that all auditors are appointed by a Shareholders, resolution rather than by Directors.
12. Review the signing procedure of standard documents.

Barney's Big Band Bash supported by Bennett Griffin which raised over £6,000 in 2008 for St Barnabas and Chestnut Tree House is back on 26 March 2010 and promises to be bigger and better than the last!

Toby Barrett, Partner at Bennett Griffin said "Barney's Big Band Bash was an enormous success in 2008 when we all had a fantastic night and we were delighted that we were able to raise such an impressive sum in one evening. We were extremely grateful for the generous donations received from local individuals and businesses for the raffle and auction. We hope this year to exceed the money raised in 2008."

Donations for the auction and raffle can be made to the Bennett Griffin offices in Worthing, Ferring or Rustington.

Tickets for Barney's Big Band Bash featuring Littlehampton Concert Band and Phoenix Big Band are £35.00 each or £300.00 for a table of 10 and may be obtained by calling 01903 229999 or for further information visit our website."



EMPLOYMENT ISSUES IN 2010

Statutory payments to rise while compensation limits fall

The Secretary of State for Work and Pensions has announced the proposed rates of various statutory payments for 2010 as follows:

- The earnings threshold for statutory adoption, maternity, paternity and sick pay will rise from £95 to £97 per week.
- Statutory adoption, maternity and paternity pay and Maternity Allowance will all rise from £123.06 to £124.88, but
- Statutory sick pay will remain at £79.15.

It is expected that these changes will come into effect on 6 April 2010.

Meanwhile, on the 1 February 2010 the RPI-linked compensation limits are set to fall for the first time.

Under the Employment Rights (Revision of Limits) Order 2009:

- The maximum compensatory award for unfair dismissal falls from £66,200 to £65,300
- The minimum amount of compensation where an individual is unlawfully excluded or expelled from a union and not admitted or re-admitted by the date of a tribunal application falls from £7,300 to £7,200
- The maximum guaranteed payment payable to an employee in respect of any day under S.31(1) of the Employment Rights Act 1996 falls from £21.50 to £21.20.

The revisions made by the Order take effect when the event giving rise to the entitlement to compensation or other payment occurs on 6th April 2010.

Note: The use of the same RPI formula in relation to the limit on a week's pay used to calculate redundancy payments and the unfair dismissal basic award, among other things, was suspended following a one-off increase in October. The limit on weekly pay for calculating redundancy and the basic award for unfair dismissal claims is £380 until February 2011 at the earliest.

If you require further advice about any employment issue please contact Elaine Smith on 01903 706966 or email es@bennett-griffin.co.uk or Charlotte Hammond on 01903 706981 or email ceh@bennett-griffin.co.uk

The Minimum Wage

Since our last issue of the Advocate the national minimum wage has increased.



Ensure that you have implemented the minimum wage increases as follows:

Hourly

For workers aged 22 and above £5.80

For workers aged 18 to 21 £4.83

For workers aged 16 and 17 £3.57

A failure to do so can be met with severe sanctions.

The "Fit Note"

Currently known as a "sick note" the Med 3 is a proforma completed and signed by GPs to assist employers in determining whether an employee should or should not work on the grounds of ill health or is fit to return to work after a period of sick absence.



This form is about to change. The Department of Work & Pensions is to introduce new regulations which will add to the current criteria (fit for work/not fit for work) an additional option. The additional option will enable a GP to recommend, for example, a phased return to work, work place adaptations or altered hours. The new form will be known as a "statement of fitness for work".

It is hoped that the change from a sick note to a fit note will represent a cultural shift in the approach to ill health. The new approach should recognise the benefits to employees and employers from returning to partial work at the earliest possible opportunity. Prolonged absence can build up barriers on both sides to a return to work whereas a phased return can often benefit employer and employee.

The change is expected to be implemented on 6 April 2010.

For further advice contact **01903 229999**, email info@bennett-griffin.co.uk or visit www.bennett-griffin.co.uk or if you prefer please talk to your usual Bennett Griffin contact.



Don't Slip Up

“It's absolutely freezing”

workers up and down the country have been muttering at their desks still wearing their scarves. So what is the minimum office temperature?

Employers are obliged by law to heat inside workplaces for sedentary workers to a minimum of 16 degrees Celsius (63F) and for those who undertake physical work to a minimum of 13 degrees Celsius (58F). If the temperature drops below these levels the employer is obliged by law to bring in additional heaters to raise temperatures to the legal minimum requirements although there is no legal right to vacate the workplace as a result of extremes of heat and cold, unless there is “serious, imminent and unavoidable danger”.

For those working outside the employer is obliged to undertake a risk assessment and where necessary provide appropriate thermal clothing and regular breaks for hot drinks. Those exposed to risks of falls in slippery conditions may need to be redeployed to suitable alternative work if gritting cannot be done or if the ice cannot be removed.



Better Safe than Sorry

Statistics suggest that those who drive in connection with their work are much more likely to be involved in an accident on the road. Business vehicles are involved in more than one third of all driving accidents.

Every week, nearly 20 people are killed whilst 250 are grievously injured driving in the course of their employment. Under the Corporate Manslaughter Act 2007, an employer can be charged with manslaughter if the way in which the company is managed by its senior managers causes the death of someone owed a duty of care by that company (such as an employee, another driver, pedestrian etc.) and falls so far short of an acceptable standard. Employers face an unlimited fine if convicted. Companies that do not have detailed driving policies in place should think about

introducing them and ensure they are monitored and enforced via training and if necessary, the disciplinary procedures if they are to demonstrate they are properly discharging their obligations.

If you require further advice about employment issues please do not hesitate to contact Charlotte Hammond on 01903 706981, or email ceh@bennett-griffin.co.uk or Elaine Smith on 01903 706966 or email es@bennett-griffin.co.uk. Why not join our Employment Club. Visit our website for further details.



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New right to request time training

The Apprenticeships, Skills, Children and Learning Act received Royal Assent on 12 November 2009. The Act will introduce a new apprenticeship structure and a right for employees to request time off work to undertake study or training.

The right for employees to request time off for training will apply to employees with more than 26 weeks' service and will closely mirror the existing flexible working application procedure. Therefore, any requests for unpaid time away for training will need to be considered seriously by the employer and such requests may only be rejected on prescribed statutory grounds where there are sound business reasons for doing so. In addition, employers may also be able to reject such requests if the proposed training will not "help the employee's effectiveness on the employer's business and the performance of the employer's business". The purpose of the training must be to improve the employee's effectiveness at work and the performance of their employer's business.

The right to request time off for training will apply to businesses with 250 or more employees from 6 April 2010. It will then be extended to all businesses regardless of size from April 2011.

The provisions regarding apprentices are due to come into force in 2013.

Congratulations

Bennett Griffin is pleased to confirm the appointment of Mark Diamond as an assistant solicitor in BG Commercial following the completion of his training contract with the firm.



Partner, Peter Bennett, Head of BG Commercial, said "Mark has a great future as a bright, motivated Commercial Lawyer and his place in the Commercial Team is both good for us and for our clients"



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SOLICITORS AND NOTARIES

The information contained in this newsletter is for general information purposes only and does not constitute legal advice or any substitute for it. Bennett Griffin, Solicitors do not accept liability for any loss that may arise from relying on or using the information contained in this newsletter. If you have a particular query or issues you are advised to obtain specific advice

Legal Services for your Business

Here is a handy reminder of the legal services provided by BG Commercial. If you need a trusted and local force in the law for your business, we are your powerful legal ally.

- Commercial Disputes
- Buying and Selling Companies
- Commercial Property
- Commercial Property Disputes
- Construction Disputes
- Debt Recovery
- Employment
- Landlord and Tenant
- Licensing and Gaming
- Notary Services
- Professional Negligence
- Intellectual Property
- Terms and Conditions
- Business Buy Out
- Business Contracts

If you would further information on any of these services please do not hesitate to call 01903 229999 and ask to speak to one of our specialist lawyers, email bgcommercial@bennett-griffin.co.uk or visit our website.

For further advice contact **01903 229999**, email info@bennett-griffin.co.uk or visit www.bennett-griffin.co.uk
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