



### **Maternity and Adoption Leave**

With effect from April 2007 the work and families bill will introduce considerable changes to maternity and adoption leave and pay with further significant changes to paternity leave anticipated to follow. Employees with an expected due date on or after 1<sup>st</sup> April 2007 will be entitled to take 39 weeks paid maternity or adoption leave at the SMP rate. Furthermore the qualifying period for entitlement to paid leave is expected to be removed meaning that any employee who gives birth after 1<sup>st</sup> April 2007 will qualify. As yet the final regulations have not been published but the impact of this legislation is expected to be far reaching.

### **Pay in Lieu of Notice (PILON)**

As a cautionary note, employers are advised to consider the tax implications of any future PILON payments.

PILON is paid to an employee to compensate for the money they would have earned if they had worked their notice. Traditionally, where PILON is made with no contractual clause the first £30,000 is gross of tax and NI contributions. However, where an express PILON clause existed in the contract, then PILON has been subject to the usual deductions.

Within a recent case, consideration has been given to situations when it is unclear if there is a contractual right to PILON. As a result, it will no longer be enough to rely on the fact that there is no contractual PILON clause in determining if such payments are tax free. Where PILON entitlements are written elsewhere (such as in policy documents and employee handbooks) or where a custom and practice of paying PILON has developed over time, then such payments will be taxable.

### **Holidays**

Annual leave entitlement is expected to increase from 20 days to 28 days in 2007. This is due to the government's decision to prevent employers from including statutory or public holidays within the current 20 day entitlement. All employees will therefore be entitled to 20 days holiday per year in addition to any statutory or public holidays.

### **Flexible Working**

Forthcoming legislation which will come into force next year will extend the right to request flexible working to carers of adults. The definition of a carer is as yet unclear, but this may include a large number of employees and therefore affect many employers.

### **Age Discrimination**

Discrimination on the grounds of age is now unlawful under the Discrimination Regulations. Employers who have not already reviewed policies and procedures to ensure their practices do not discriminate against an employee or potential employee on the basis of their age should do so without further delay.

As part of the legislation the default retirement age for all employees is 65. Employers who wish to impose a lower retirement age now have to objectively justify doing so. Employees also have the right to request to work beyond 65 and employers have a duty to carefully consider such requests.

Another significant area of employment affected by the legislation concerns the area of rewards related to length of service. Rewards for service of up to 5 years are acceptable under the Regulations but for service over 5 years employers need to demonstrate that the service requirement fulfils a business need of the undertaking. The burden is on the employer to show that it 'reasonably appears' that the service requirement of over five years fulfils a business need of the organisation. Economic factors such as business needs and efficiency may be legitimate, but arguing that it could be more expensive not to discriminate will not be a valid justification.