

ARE YOU READY FOR THE SMOKING BAN?

The number of smokers in England has fallen from 28% of the population in 1998 to 25% in 2003. The report of the Scientific Committee on Tobacco and Health stated that passive smoking is a cause of lung cancer and childhood respiratory disease. The report also says there is evidence that passive smoking is a cause of ischaemic heart disease and cot death, middle ear disease and asthmatic attacks in children. Tobacco smoke can be a cause of discomfort and irritation, particularly those suffering from respiratory illnesses

such as asthma or bronchitis, and can

be unlawful from 1 July 2007 in England.

There is a fine of £1,000 for non-compliance.



lead to increased absence from employment.

The Health Act 2006 means that smoking in all enclosed public spaces and workplaces was outlawed from 2 April 2007 in Wales, from 30 April in Northern Ireland and will be

This means that employers can no longer allow employees to smoke in 'smoking rooms', or segregate smokers and non-smokers within the building. Employers must display 'no-smoking' signs in the workplace or face a

Many employers allow employees to go outside an office building to smoke. However this can cause problems relating to the amount of time employees are allowed away from their work to smoke. Other employees may feel it is unfair if smokers get more breaks and it can create a bad image if a business has smokers huddled outside.

Employers should ensure that they follow a consultation process and have a fair and consistent non smoking policy.

NO RISE IN THE SMALL CLAIMS LIMIT

The Lord Chancellor, used the APIL annual conference to announce that he proposed to leave the small claims limit at £1,000 for personal injury claims. There has been growing concern by industry observers that the government might increase this limit due to pressure from the insurance industry. The news that the limit will remain unchanged has been welcomed by both lawyers and consumer protection groups which will maintain access to justice for many people who suffer only minor injuries. In cases where the value of the claim is £1,000 or more

Claimants are permitted to recover their legal costs from their opponent in addition to damages.

The announcement however was a double edged sword. Lord Falconer used this high profile event to announce a consultation paper into the claims process. The focus of the consultation will be rolling fixed fees out to a wider selection of personal injury claims whilst at the same time raising the fast track limit from £15,000 to £25,000. Access to justice comes at a price it would seem and that price, if the proposals are implemented by the Lord Chancellor is

the quality of the advice and service injured people receive.

The other areas which will be subject to the consultation are;

- The introduction of a radically streamlined claims process
- Development of a claims valuation tool
- Binding admissions of liability
- Fixed tariffs for certain heads of special damage
- More fixed costs and success fees the level of which will depend upon the value of the claim and the stage at which it settles

•No after the event insurance policies for cases worth under £2,500 where liability has been admitted

It is proposed that the new claims process will apply to all personal injury cases falling within the fast track limit excluding clinical negligence.

The Department of Constitutional affairs has invited any interested parties to submit their response to the consultation by 13th July 2007 to Nina Skomorowski, Legal Services Regulation and Redress Division, 3.11 3rd Floor, 54-60 Victoria Street, London SW1E 6QW.



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Personal Injury: 01603 674544

FEARS FOR MIGRANT WORKERS

Thousands of migrant workers in Norfolk could be suffering the same kind of exploitation as that allegedly suffered by Eastern European staff at a fair trade banana supply business in Bedfordshire.

Richard Cassel, head of Hatch Brenner's Employment Law Department, said he was horrified, but not surprised, by BBC revelations concerning a Polish woman who claims she miscarried because she was forced to work excessive hours at Pratt's Bananas, in Luton.

"It would be inappropriate to comment on a specific case, but the abuse of migrant workers who slave away hour-after-hour, seven days a week for a pittance, and are subjected to all manner of threats and bullying if they refuse to comply, remains all too commonplace," said Mr Cassel.

"Many Portuguese and Eastern European people have come to Norfolk to work in our agricultural and shellfish industries, and

while many employers take a responsible and caring approach it is a regrettable fact that there are some who afford their workers neither dignity nor humanity.

"As lawyers we sometimes become pretty thick-skinned individuals, but I know I speak for my entire employment team when I say that these are the kinds of stories that make our blood boil every time."

Such cases illustrated the ongoing need for vigilance on the part of the Gangmasters Licensing Authority (GLA), which was set up to curb worker exploitation following the deaths of 21 Chinese cockle-pickers who drowned in Morecambe Bay in 2004.

"Gangmasters who supply or use temporary workers in the agriculture, shellfish gathering, and related food, fish and shellfish processing and packaging sectors must have a GLA licence," said Mr Cassel.

"It remains to be seen whether the recruitment agency which supplied staff to Pratt's Bananas had a GLA licence. They certainly should have done, in which case its future is presumably now in some doubt. If they have done so without a licence, those responsible are at risk of a substantial fine and imprisonment."

The BBC investigation revealed allegations that workers at Pratt's had to work excessive hours, six or seven days a week, and feared losing their jobs if they refused. It highlighted a Polish woman, known as Magdalena, who plans to take the firm to an industrial tribunal over her claim that she miscarried because of her treatment.

Workers also said breaks were refused if they did not meet production quotas, and that they were sometimes refused permission to go to the toilet during 10 to 12-hour shifts.

Our People

Employment Law

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.

Richard Cassel



Head of Employment Department. Richard specialises in all aspects of employment and discrimination law and has wide experience of advocacy and Tribunal practice and procedure. Part-Time Chairman of the Employment Tribunals since 1993.

Contact Tel: 01603 214205

Sally Davenport

Sally previously worked as a commercial litigation specialist with City firm Theodore Goddard before moving abroad with her family. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed an LLM in Employment law, with distinction, at the University of East Anglia. She is also a Fellow of the Chartered Institute of Arbitrators and is an adviser at a local Citizens Advice Bureau.

Contact Tel: 01603 214205

Jo Chimes

Jo joined Hatch Brenner in June 2002, having been admitted as a solicitor in 1989. She is highly active within the profession as a member of the Employment Law

Association, and a contributing member of the employment team of the Adviser editorial board. Jo also works as a freelance trainer – designing and delivering specialist employment training. She sits on the Law Society employment law committee. Her current practice focuses on complex discrimination matters in employment. Jo has extensive peer review experience, most recently for the Carter Review.

Contact Tel: 01603 214205

Takis Vachaviolos



Takis joined Hatch Brenner in April 2003, and has specialised in employment law since he was admitted as a solicitor in 2001. Takis has acted for both claimants and respondents in the employment tribunals and the employment appeals tribunal in London, and has received instructions from unions and national charities. He has achieved a very high success rate when carrying out his own representation before the employment tribunals. He writes articles for various publications and magazines.

Contact Tel: 01603 214205

Civil Litigation and Personal Injury

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win – no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.

Rosemary Escott



Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.

Contact Tel: 01603 674539

Mark Fitch



Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.

Contact Tel: 01603 674552

Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and

Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.

Contact Tel: 01603 674544

John Cushing



John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.

Contact Tel: 01603 674525