

Annual Review of Employment Law

Northern Ireland 2019

Part 1

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Contents

- Developments in 2019
- 5 Statutory Rules (NI)
- GB Developments 2019 into 2020
- 10 GB consultations Summer 2019
- Top 10 cases (first 4)

Backdrop

- Brexit – deal or no deal
- Themes – Consultations as roadmaps?
- Appeals – Court of Appeal – holiday pay, vicarious liability
- Evolving case law – investigations, equality and holiday pay

5 Statutory Rules

- The Social Security Benefits Up-Rating Order (Northern Ireland) 2019
- The National Minimum Wage (Amendment) Regulations 2019

- The Employment Rights (Increase of Limits) Order (Northern Ireland) 2019
- The Employment Rights (Amendment) (Northern Ireland) (EU Exit) Order
- The Employment Rights (Amendment) (Northern Ireland) (EU Exit) (No 2) Order

GB Only

- The Employment Rights Act (1996) (Itemised Pay Statement) (Amendment) Order 2018
- The Employment Rights Act (1996) (Itemised Pay Statement) (Amendment) (No 2) Order 2018

GB Only

- Parental Bereavement Leave Act (2019)
- The Employment Rights (Employment Particulars and Paid Annual Leave) Amendment Regulations (2018)

GB Only

- The Agency Workers (Amendment) Regulations 2019
- The Employment Rights (Miscellaneous Amendments) Regulations 2019

GB Summer consultations (Part 1)

- One sided flexibility
- Redundancy – new and expectant mum
- Parental leave – pay and transparency
- Banning NDA's – Harassment / discrim
- Phased return – sickness

Part 1 Cont'd

- Reasonable adjustment – Non DDA cases
- Modern slavery reporting
- Offenders disclosure reforms
- Single employment enforcement body
- Stronger sexual harassment laws

Top 10 Cases (first 4)

- 10 – Kuteh v Dartford and Gravesham NHS Trust
- 9 – Tillman v Egon Zehnder Ltd
- 8 – Patel v Folkstone Nursing Home Ltd

- 7 – Phoenix House Ltd v Stockman

- Early Conciliation – Be ready for January 2020

Takeaways

- Use consultations as indicator of reform – family friendly, worker status
- Consider being proactive on new worker statement of written particulars
- Ensure you are on top of you holiday pay calculation processes
- Be aware of the widening NI and GB differences – Agency workers, payslips for workers

Takeaways

- Ensure “improper proselytising” is covered in your harassment policy (staff and clients)
- Ensure that contract clauses are not too broad or potentially unlawful – confidentiality, post-termination restrictions
- Ensure your investigations protocols stand up to scrutiny (recording, excluding material)
