Because Recruitment Matters

Legal bulletin

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New Onshore/Offshore Intermediaries tax rules – 6 April 2014

Barely a day goes by when we do not hear about tax evasion (illegal) or aggressive tax avoidance (legal but objectionable according to some) and what HMRC is or is not doing to tackle this.

In the recruitment sector, HMRC is concerned that temporary workers are either treated as falsely self-employed or working through overseas businesses, the result of which is payment of insufficient PAYE or national insurance and the loss of secondary (employers) national insurance. As a result HMRC is ramping up its anti-tax avoidance legislation and compliance activity.

This article outlines the two key consultations on HMRC's plans to tackle arrangements whereby individuals are supplied via intermediaries.

The 'offshore intermediaries consultation' ran from 30 May 2013 to 8 August 2013 and the legislation proposed is due to come into force on 6 April 2014.

The 'onshore intermediaries: false self-employment' consultation ran from 10 December 2013 to 4 February 2014 and the legislation proposed in it is also due to come into force on 6 April but this has not yet been confirmed as the Government has not (at the time of writing) issued its response.

Significant legislative and reporting changes will take effect from 6 April 2014 where an employment business engages with an overseas intermediary. Let us look at the proposals regarding both offshore and onshore intermediaries in turn.

1.Offshore intermediaries

In late 2012 the story broke of thousands of UK based workers (including a significant number of teachers) being employed by overseas intermediaries including umbrella companies. HMRC considered that some of these offshore intermediaries were neither paying secondary (i.e. employer) national insurance contributions (NICs) nor deducting appropriate tax and NICs from temporary workers' pay. HMRC has no powers outside of the UK and so could not tackle these overseas businesses directly, though it could pursue the end user client via the "host regulations". This has proven unwieldy and so HMRC has decided to move liability for those deductions and payments onshore. Please note – an offshore intermediary is a business incorporated outside the European Union (EU). HMRC has arrangements in place with the tax authorities in all EU states to help them recoup unpaid tax and NICs so intermediaries incorporated in the EU are not covered by these changes.

Terminology:

The UK based business which has the contract with the end user client will be "Intermediary 1". This could be a master or neutral vendor or an employment business. Businesses further down the supply chain will be Intermediary 2, 3 etc. These could be employment businesses which are second tier suppliers or limited companies which employ the temporary worker, including umbrella companies. See the flowchart on page 3 which gives an example of such a supply chain.

The following changes will take effect from 6 April 2014.

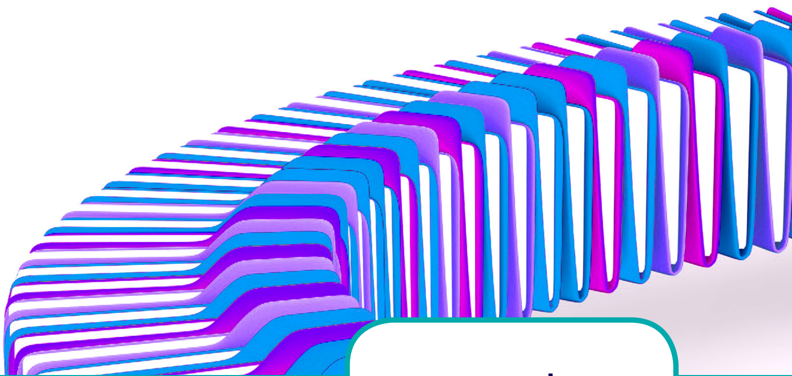
- **Liability for deducting PAYE and NICs**
  Intermediary 1 will be "wholly and immediately" responsible for accounting for the tax and NICs obligations of all temporary workers who are ultimately engaged by an offshore intermediary. It will also be responsible for secondary (employer) NICs in respect of such workers. Clearly there will be a significant cost increase in engaging workers via offshore intermediaries. Interestingly, in the case of default, these obligations will not pass to the end user client, but it is not yet clear whether HMRC would ultimately pursue the directors personally if Intermediary 1 did not pay the due sums. Changes will be made to Chapter 7 and section 689 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) regarding tax and the Social Security (Categorisation of Earners) Regulations 1978 regarding national insurance.

  There is a separate proposal for the oil and gas sector – where the offshore employer has an associated company, body or agency based in the UK, that associated company, body or agency will be responsible for accounting for the tax and NICs of its offshore associate. Where the offshore employer has no associated company in the UK, then the oil field licensees will be responsible for accounting for the tax and NICs. A company is another's "associated company" at a particular time if, *"at that time or at any other time within the preceding 12 months (a) one of them has control of the other, or (b) both are under the control of the same person or persons"* (section 449 the Corporation Tax Act 2010). We think this will affect very few, if any, REC members, but if it does, do let us know.

- **Record keeping**
  in addition to the liability for deducting tax and NICs, Intermediary 1 will also have to account for any offshore workers by submitting a "simple" quarterly electronic return for all workers not already accounted for through RTI. Penalties will apply for failing to make or for making an incorrect return. At the time of writing we are still waiting for the detail as to what will be required in the quarterly report. These record keeping requirements will not apply in the oil and gas sector which will have separate requirements.

- **Statutory payments**
  Temporary workers who do not pay sufficient national insurance may find at a later date that they are not eligible for certain statutory payments such as Statutory Sick Pay (SSP) or Statutory Maternity Pay (SMP). The consultation response states that liability for SSP or SMP will now fall to Intermediary 1. However it is not clear why this should be given there is no contractual arrangement between Intermediary 1 and the temporary worker who has a contractual relationship with the overseas intermediary - we will look into this in more detail and advise members when we know more.

In late 2012 the story broke of thousands of UK based workers being employed by overseas intermediaries including umbrella companies



REC has a number of concerns about the changes:

- Clearly the obligation to deduct PAYE and NICs raises issues re contractual arrangements. Firstly Intermediary 1 will be required to deduct PAYE and NICs from a temporary worker with whom it has no contract and who is not in its payroll and secondly what should Intermediary 1 pay to Intermediary 2 (if a second tier supplier) or the offshore intermediary? In fact, what will be the purpose of the offshore intermediary in this instance? Also, the temporary worker may find that his or her net pay decreases unless the increased deductions are balanced out by reduced admin fees charged by the overseas intermediary, or the temporary worker simply ceases working through that business and therefore is no longer subject to the company's administration charge (this may be one of the unstated aims of the proposals).
- Due diligence is a huge issue particularly in long supply chains. In order to work out its responsibilities, Intermediary 1 will have to know whether a temporary worker has been engaged via an overseas intermediary. Some, particularly in a vendor situation may contractually prohibit the use of overseas intermediaries to ensure that the obligations do not arise in the first place. This prohibition may be backed up by an indemnity from Intermediary 2 to cover Intermediary 1 where it has been found liable to pay penalties because of its failure to comply with any obligations which have arisen.
- As for quarterly returns, the first return is supposed to be due in October 2014 and the first penalties for late or incorrect returns in April 2015. However, as we report on page 5 in this Legal bulletin, HMRC recently announced some delays to the RTI returns and penalties system. We don't know as yet if these delays will apply also to these reporting requirements.

Flowchart to show new obligations:

End user client (e.g. school, NHS trust, bank, office) ← **Intermediary 1** (e.g. vendor or employment business if no second tier suppliers) ← **Intermediary 2** (e.g. second tier) ← **Offshore Intermediary** (employs the temporary worker)

Intermediary 1 is liable to deduct PAYE and NICs from a temporary worker's pay and to account for any other workers, employed by an offshore intermediary, who do not appear on another RTI return.

REC recommendations:

Clearly, given the new liabilities and reporting obligations, members now need to consider carefully whether they should continue to engage with overseas intermediaries. Whilst HMRC recognise that there are legitimate reasons for individuals to work through an overseas company, including where the individual does indeed work overseas, those reasons will not apply to vast numbers of temporary workers currently engaged via overseas intermediaries. For example, does a teacher working in a UK school or a nurse working in a NHS trust have a legitimate reason to work through an overseas intermediary? It is hard to see that this is the case. Members may of course wish to work only with UK based intermediaries, which is where the next consultation comes in.

2. Onshore intermediaries

The onshore intermediaries consultation opened on 10 December 2013 and closed on 4 February 2014. This was shorter than the usual 12 week consultation period because the Government intends for the proposals also to take effect on 6 April 2014. The proposals are intended to tackle what Government considers to be the growing problem of false self-employment within the recruitment sector. The consultation identified 4 sectors as being particularly problematic (construction, drivers, catering and security) but states that false self-employment is now an issue across all industry sectors. Having sought members' views throughout January, REC submitted a detailed response on 4 February. That response is available here.

The proposals:

1. To amend section 44 Income Tax Earnings and Pensions Act 2003 (ITEPA) (the "agency legislation") to remove the obligation to provide services personally in order to come within the legislation. It is this legislation which requires the agency to deduct PAYE when supplying a temporary worker. The effect will be to remove the ability for employment businesses to rely on substitution clauses to argue that the temporary worker is self-employed and therefore does not meet the criteria to come within the agency legislation. Similar changes will be made to the Social Security (Categorisation of Earners) Regulations 1978 with regards to national insurance contributions.

   Importantly, this change will not apply where the temporary workers are employed by the intermediary on a contract of employment because that intermediary is already responsible for applying PAYE and NICs. So, REC members will have to know how a temporary worker is engaged by the intermediary in order to know what its obligations regarding that temporary worker will be.

2. To impose additional reporting requirements – again, employment businesses will be required to report on individuals paid via intermediaries. The consultation document listed a number of items to be reported on including, date of birth, national insurance number, gender, and passport or other ID details in the case of non-UK citizens. We pushed back heavily on this during the consultation process in our response (see section 12) and expect HMRC to review this. With regards to Personal Services Companies (PSCs), the reporting requirements may be reporting the name of the PSC, the name of the individual supplied by the PSC and the gross sum paid. HMRC can then pursue the PSC for any sums due.

The proposals are intended to tackle what Government considers to be the growing problem of false self-employment within the recruitment sector

Issues

We made it clear in our response that we support any attempt to tackle tax evasion by eliminating false self-employment. We have long been concerned that compliant businesses are undercut by those willing to supply temporary workers at rates which can only be achieved by non-compliance with tax, NICs or other statutory requirements. However we have grave concerns that the proposals are ill-thought out, rushed through and will not achieve HMRC's aims. There are a number of key issues including:

- **There is no liability for either the client or the individual supplied.** The proposals require the employment business to deduct PAYE and NICs from individuals working under the "supervision, direction and control" of a client (except where the individual is employed by the onshore intermediary). The employment business will need to know what level of supervision, direction and control the client will exert over the individual. It can already be quite difficult to clarify with the client what the extent of supervision, direction and control is. Given that there is no liability for the client where it has supervised, directed or controlled the temporary worker there is no incentive for the client to be forthcoming the employment business it has engaged with.
- **The impact assessment.** We believe that the impact assessment has not properly considered all of the possible impacts, including what we consider to be some unintended consequences. We are particularly concerned that the government considers annual costs of £100,000 (or one off costs of £3 million) to be negligible. These represent administrative costs only and not the actual costs on rates and margins, and are certainly not negligible for REC members;
- **Real sectorial risks.** The consultation identified the construction sector as one of the sectors having a particular problem with false self-employment. We calculate that the proposals would add up to 25% extra on the cost of supplying a temporary worker within that sector. Margins are low in this sector, contracts are negotiated and costs agreed years in advance and the "missing PAYE and NICs" are simply not accounted for in rates;
- **The speed of the proposals coming into effect.** False self-employment has been an issue for many years, yet the Government allowed for only 8 weeks consultation to be followed by the implementation of the changes just 8 weeks later. This is too short to allow for the necessary negotiations and contractual amendments to take place and for the appropriate due diligence processes to be put in place;

- **The inclusion/ exclusion of Personal Services Companies (PSCs).** The consultation states that PSCs are excluded. However it is not clear from the draft legislation that they are and there is no statutory definition of a PSC. In discussions with HMRC they have said that PSCs are definitely out of scope (for the purposes of deducting tax and NICs only) though businesses will still have to report on them (see above). They have said that they will not provide a statutory definition of a PSC but that businesses will simply have to check the bona fides of a company to check that it is a PSC. That would include checking its incorporation documents and that the individual supplied by the PSC is a company officer. We are waiting for detailed guidance on this. In the meantime, for more detailed information on how the proposed changes will apply to PSCs and employment businesses engaging with them please see section nine of the REC response;
- **Additional software requirements.** These proposals will require additional investment in software which will require time and costs to develop.
- **Unintended consequences:**
  We expect to see a significant increase in the number of PSCs employment businesses and HMRC will have to engage with;

  We may see an increase in claims brought under the Agency Workers Regulations 2010 (AWR), including some backdated AWR claims, by individuals now subject to higher levels of deductions and who may argue that they were agency workers all along. An AWR claim should be made within 3 months of the alleged breach though the employment tribunal can extend this deadline if it is just and equitable to do so;

  Increased VAT costs – already clients seek imaginative ways to mitigate VAT including in the public sector (healthcare in particular). Increased pay rates will increase the VAT take – this is good for HMRC but employment businesses will come under increased pressure not to apply VAT on some elements of their charge rates.

REC recommendations:

In our response we made 13 recommendations to HMRC. These are set out in detail in pages 31 and 32 of the response but include:

- Delaying the legislation to April 2015;
- Revising the legislation to:
  - include client liability;
  - impose reporting requirements on clients;
  - introduce a “reasonable steps” defence;
  - include a statutory definition for PSCs;
  - expressly exclude PSCs;
- Properly enforcing IR35;
- Providing proper, detailed guidance.

What next?

We wait to see the Government’s response to the consultation submissions. We do not know whether they will proceed with these changes or will amend and therefore delay them. We also do not know whether an announcement will be made before or within the next budget on 19 March 2014, though obviously the later the announcement, the less time to prepare if the proposals do go ahead on 6 April 2014. We are also waiting for final guidance on both the offshore legislation and the onshore proposals. Changes have been made to the National Insurance Manual and the Employment Status Manual but these remain draft at the time of writing.

Separately, these changes are clearly all part of a longer term strategy to deal with tax and NICs avoidance. We think a next step may be to tackle aggressive travel and subsistence schemes though as yet have not seen detailed proposals.

We appreciate there is still a lot of uncertainty about the changes but will keep members updated as and when we know more.

RTI
– delays to penalties regime

In early February HMRC announced that it would delay the introduction of penalties for late real time returns by up to one year. This is in response to complaints from accountants and businesses about errors and glitches in the system. The plan had been to start fining businesses for late filing and payment of payroll tax and national insurance contributions from 6 April 2014. The new timetable is as follows:

- Up to October 2014 if RTI is filed late, there will be an interest only charge.
- From October 2014 if RTI is filed late and payment made late, there will be a penalty only charge.
- From April 2015 there will be an automatic penalty for late payment of payroll tax and national insurance.

HMRC is also suspending its generic notification service for late filing and payment until April 2014. Looking at some of the comments on this in social media, businesses are not impressed by HMRC’s “conciliatory” moves, suggesting that the problems associated with RTI are not so much with non-compliant businesses but with fundamental problems with the technology e.g. prescriptive deadline which do not take account of different payroll dates business may apply.

FAQs

Chris Cuckney, Legal Advisor at the REC, brings you a sample of questions posed to the Legal Helpline

Q: Do I have to include a worker's commission and overtime payments in assessing whether to automatically enrol them into a qualifying pension and make contributions into that pension?

A: This question needs to be addressed in two parts:

1) whether commission and overtime payments should be included in an employer's assessment of whether to automatically enrol a worker; and

2) whether commission and overtime payments should be included in a worker's pay when trying to calculate how much the worker and the employer should contribute.

1) Assessing a worker's earnings for automatic enrolment:
Whether to automatically enrol a worker into a qualifying pension scheme is determined by the age and the qualifying earnings of the worker. Section 13 of the Pensions Act 2008 (and page 31 of the TPR guidance) states that *'qualifying earnings'* is a reference to earnings of between £5,668 and £41,450 (these are the current statutory figures which are reviewed annually) made up of any of the following components of pay that are due to be paid to the worker:

- salary
- wages
- commission
- bonuses
- overtime
- statutory sick pay
- statutory maternity pay
- ordinary or additional statutory paternity pay
- statutory adoption pay.

Therefore where you are assessing your worker's earnings in order to establish whether you are obligated to automatically enrol them into a qualifying pension scheme, you are required to include all the above components of pay in the earnings assessment, including commission and overtime payments.

2) Assessing a worker's pay in order to calculate how much each party should contribute:
Once your worker has been automatically enrolled into a qualifying pension scheme, you are required to make deductions from your worker's pay and make the appropriate contribution to the pension based on a percentage of the worker's **pensionable pay**. The appropriate minimum pension contributions are being phased in over a five year period ultimately resulting (from 1 October 2018) in 5% from the worker and 3% from the employer. Members can check the minimum contribution percentages in the REC Legal Guide, however the minimum contributions at the time of writing are 1% from the employer and 1% from the worker (although either party can of course choose to contribute more). These minimum contribution percentages apply to Defined Contribution pension schemes that have used the above definition of 'qualifying earnings' when defining pensionable pay. However other schemes may have incorporated a different definition of what amounts to pensionable pay (i.e. they may not have used the above 'qualifying earnings' definition), it is therefore advisable to check the minimum pension contributions with your chosen pension provider.

The Pensions Regulator (TPR) has produced guidance outlining the different pension schemes under automatic enrolment, which is available here.

The complete TPR guidance on automatic enrolment can be found here.

Q: My client has asked me to find a suitable permanent candidate who they will employ directly. The hours and salary information indicates that the hourly rate the client will be paying is below the national minimum wage (NMW) for individuals over the age 21 but it is over the national minimum wage for individuals under the age of 21. Can I still go ahead and advertise for the position?

A: There are two possible issues that could arise as a result of the above situation. Firstly, the client will be breaching NMW if they pay a permanent candidate who is 21 or over under the respective NMW rate. The current NMW rates can be found in the REC Legal Guide. Secondly, age is one of the nine protected characteristics under the Equality Act 2010 (the Act) and as such both the client and the employment agency could be liable for an age discrimination claim in this situation. Age discrimination will arise where a worker is subjected to less favourable treatment because of their age. The client will be liable for direct age discrimination where, with a particular salary in mind for the role, they deliberately choose candidates who are under the age of 21 so as to not breach NMW.

Additionally (under Section 56(2) of the Act) an employment agency will be operating as an 'employment service provider' as they will be 'supplying employers with persons to do work.' The employment agency can therefore be liable for direct age discrimination where they pick and choose which candidates to introduce to clients based on their age (i.e. the agency only supplies permanent candidates under the age of 21 to the client).

Alternatively an employment agency could also be liable for indirect age discrimination, which occurs where the agency applies a provision, criterion or practice to all their candidates which results in people who have a protected characteristic being placed at a disadvantage in comparison to people who do not have the protected characteristic. Turning to the question at hand, indirect discrimination could arise where the employment agency advertises for a role that only pays NMW for individuals under the age of 21, which will potentially place individuals over the age of 21 at a disadvantage.

Therefore advertising pay rates that are only compliant with NMW legislation for individuals under the age of 21 could result in a direct or indirect age discrimination claim being brought against the employment agency and the client.

Q: One of my employees is currently on maternity leave and she has informed me she does not want to return to work after her maternity leave has ended. She has handed in her notice as is required in her employment contract. Do I have to pay her for her notice period?

A: Under Regulation 9 of the Maternity and Parental Leave etc. Regulations 1999 an employee who is on maternity leave is entitled to the benefit of all of the terms and conditions of her employment which would have applied had she been at work, with the exception of remuneration which (where the employee has met the qualifying criteria) is replaced by statutory maternity pay. Furthermore any *'sums payable to an employee by way of wages or salary are to be treated as remuneration'*.

Therefore Regulation 9 (above) appears to suggest that an employee who hands in her notice while she is on maternity leave would not be entitled to be paid for the notice as this would be a term and condition of her employment which relates to remuneration. However this is not always the case.

Under section 88 of the Employment Rights Act 1996 (the ERA) where an employee has normal working hours (i.e. working hours fixed by their contract) and is on maternity leave, the employer must pay the employee for those hours during any period of statutory notice. However the ERA further states that Section 88 will not apply where, under the contract, the period of notice that the employer is required to give to the employee to terminate the contract is **one week or more above the statutory minimum notice period (Section 87(4)**).

Therefore where the notice period that the employer is required to give under the contract of employment is a week or more above the statutory minimum notice period, the employer is not required to pay the employee full pay. In such a situation the employer should pay their employee statutory maternity pay if they are eligible to receive the payment, if the employee is not eligible the notice period would simply be unpaid.

However if the period of employer's notice as per the contract of employment is either the statutory minimum or a period of time which is less than one week above the statutory minimum notice period, the employer is obligated to pay the employee full pay for the portion of the notice period that is statutory (as per section 88 ERA). Where an employer is obligated to pay full pay, the employee is not entitled to both full pay and SMP during this period (i.e. the employer should top up the SMP payment to full pay).

The statutory minimum notice periods can be found in the REC Legal Guide.

Legal round up

**Lorraine Laryea, Solicitor
and Commercial Advisor, REC**

Case law

East of England Schools (trading as 4MySchools) v Palmer and Sugarman Group

The recruitment sector is one in which data relating to clients and candidates is highly valued and restrictions are regularly included in the contracts of employment for recruiters which prohibit them from working with competing businesses on termination of employment. This case looks at issues that can arise when it comes to enforcing those restrictions.

The case involved a recruitment consultant, Ms Palmer who left her employment with 4MySchools (4MS), an education supply agency, to join another agency (Sugarman Group (S)) that was looking to develop its education supply agency in the area that 4MS operated in.

Ms Palmer's contract with 4MS contained restrictive covenants which prohibited her for a period of six months from the date of termination of her contract from soliciting or dealing with clients (i.e. schools) and candidates that she had dealt with in the previous twelve months.

Sometime after taking up her employment with S, 4MS received information that led it to believe that Ms Palmer had breached her restrictions.

The case examined the factors to be taken into account when determining whether an injunction should be granted to prevent further breach of such restrictions.

The starting point is that such restrictions are unenforceable on public interest grounds (see the May/June 2013 Legal bulletin unless it can be demonstrated that the party enforcing it has a legitimate business interest and that the restrictions are reasonable and go no further than required to protect that interest. Here the judge assessed whether 4MS had a proprietary interest that the restrictive covenants were designed to protect.

4MS argued that it required the restrictive covenants to protect its proprietary interest in the trade connections with its clients and candidates and in respect of the close relationships that Ms Palmer had built up with schools and candidates as part of her role.

Ms Palmer and S denied this. They argued that information about schools was widely available in the public domain and that candidate details were also in the public domain via social media channels. They also argued that schools tended not to be loyal to specific agencies but used agencies that could give them the best price and get the best candidates.

The court accepted Ms Palmer's argument to a degree, but nevertheless found that 4MS was entitled to protect its client and candidate connections because the relationship developed by the her with schools and candidates could be a deciding factor in ensuring that that particular agency had first chance to fill a vacancy or that a candidate went with a particular agency.

The court also accepted that Ms Palmer would have taken with her some valuable confidential information that she would have acquired about schools and candidates which was over and above the general information that was in the public domain, such as information about the personalities of individuals she had dealt with and their particular likes and dislikes. This would have been of use to her in her new role, should she have sought to acquire the business of those she had previously dealt with.

The case also looked at the issue of the duration of the restrictions and whether this was reasonable. Interestingly the court found that six months was reasonable, particularly taking into account the impact of the 13 weeks of school holidays.

The court also addressed the wording of the restrictions. Parts of the restrictive covenant clauses which potentially prohibited Ms P from merely holding a minority share interest in a competing business were found to be unreasonable and therefore unenforceable. However the construction of the contract meant that these elements could simply be removed from the clause which ensured that 4MS retained the benefit of the remaining parts of the restrictions.

Criminal records changes

At the time of writing there are two changes that are due to come into force on 10 March 2014 regarding criminal records:

1. Individuals will be able to apply to the Disclosure and Barring Services for a Criminal Conviction Certificate (CCC).

In contrast to criminal record certificates and enhanced criminal record certificates, there will be no need for a third party to countersign the application for a CCC, but the certificate will only contain information about unspent convictions, or if there are no unspent convictions, confirmation of the same.

The cost of the certificate will be £25.

2. Changes to the rehabilitation periods for criminal convictions and cautions.

Under the Rehabilitation of Offenders Act 1974, convictions which result in a custodial sentence of 30 months or less are treated as 'spent' after a period of time (which depends on the penalty received). The effect of this is that ordinarily, an individual seeking employment cannot be asked about and is not required to disclose, **spent** convictions. There are exceptions to this where the work relates to certain professions for example or involves certain work with children or vulnerable adults.

The changes will mean that offences with sentences of four years or less will become spent after a period of time that takes into account the period of the sentence and a 'buffer' period of two, four or seven years. See the Gov.UK website for further information.

National Minimum Wage increase proposed

The Low Pay Commission (LPC) has announced its recommendation for a 3% increase to the adult NMW rate which will take the current adult rate from £6.31 to £6.50. This is well below the £7 hourly rate that had been touted by politicians last year but does nevertheless represent an above inflation increase for the first time in 6 years. The LPC is tasked with reviewing the NMW rates annually and making recommendations to Parliament. The proposed increase is yet to be agreed by Parliament, but if it is accepted (as is normally the case) the increase will take effect as usual from 1 October.

The Low Pay Commission is tasked with reviewing the NMW rates annually and making recommendations to Parliament

HAVE YOU TAKEN THE REC COMPLIANCE TEST YET?

The REC introduced the Compliance Test to assess a member's knowledge of the relevant industry legislation and the REC Code of Professional Practice. By doing this the REC can determine if new applicants can become full members and existing members may renew their membership. New members have six months to pass the test and existing members must pass the test every two years.

From January 2013 the REC has required all existing REC members to take the test and they must pass the test by the end of 2014 to renew their membership at the next renewal point.

The Compliance Test is an online test made up of questions in a multiple choice format, which cover the key requirements of industry legislation and the REC's Code of Professional Practice.

The test has been designed so that members only answer questions that relate to the type of business they operate in, for example, if an agency only acts as a permanent recruiter, they will only answer questions that relate to permanent recruitment.

Members have three attempts to pass the test and there is a range of support available to help members pass the test:

- a training test (this can be taken as many times as the member wants and gives an idea of both the format and types of questions);
- two guidance documents on the test site, which cover the Compliance Test processes and areas covered;
- a webinar explaining the content of the test;
- REC Compliance Executives, who are on hand to answer questions about the test and offer assistance to members.

All of this support is available when you access the test. Please click here to find out more.

There are also regular Compliance Workshops which will provide you further assistance. Just check the REC events page for the next available dates.

And of course REC members can also access the REC Legal Guide or call the Legal Helpline (corporate members only) 0207 009 2199 for any legal queries.

So, if you are an existing member that has not already taken the test, please click here to find out more. Alternatively, please contact the REC on **0207 009 2100** or email **info@rec.uk.com**. For further information about the Compliance Test.

This publication is not a substitute for detailed advice on related matters and issues that arise and should not be taken as providing legal advice on any of the topics discussed.

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