



For Business

PREPARING FOR THE FUTURE

Head of the commercial department, Peter Allen, comments on this newsletter's theme of preparing for the future:

"By failing to prepare you prepare to fail", so said Benjamin Franklin. We at Birkett Long are certainly preparing for the future, having recently agreed to lease a 'soon to be built' 20,000 sq ft office in Colchester. This shows our confidence in our business and the economy of Essex, London, East Anglia and the South East.

To help you be prepared and avoid potential failure, this edition of For Business covers some changes in law and procedures that will be coming into force over the next few months. You will need to adjust your business practices to take account of these changes so if you need any help, please contact us.

More regulations - higher costs

All businesses know that energy costs are only going in one direction and that regulations are becoming tougher - and the targets associated with them, made tighter.

That trend is set to continue over the coming months and years, so even if you or your business do not believe that global warming or climate change is happening, here are two very good - and obvious - reasons for looking to make your business and premises more energy efficient. You don't have to want to save the planet to want to save costs and improve your bottom line! For some businesses there may be other reasons, such as wanting to bid for contracts with Government - local or central - or major companies, who will require evidence of an environmental policy as part of the tendering process; or reputational - where we have seen businesses such as Marks & Spencer, John Lewis and Hammerson all want to be identified with the 'green agenda'.

As an example, by 5 December this year all businesses that employed more than 250 staff or had an annual turnover over £38.94M and a balance sheet in excess of £33.49M on 31 December 2014 should have carried out an Energy Saving Opportunity Scheme assessment and sent it to the Environment Agency. Latest figures suggest that only 150 assessments have been submitted, which means that there are about 9,850

to be carried out in the few weeks remaining. The Environment Agency hasn't indicated any leniency, meaning that non-compliance by the deadline could mean a fine of £5,000 plus £500 per day for up to 80 days. The ESOS process is time consuming and will require sign-off by a board member.

Renewables are repeatedly in the news, with subsidies being cut. But very recent Government announcements about encouraging Chinese investment for the Bradwell 'B' nuclear power station will herald good news for Essex and the wider region in terms of jobs and skills. As ever, the Birkett Long Environment and Energy group continues to call for an holistic approach to energy needs so that all options are kept in play. Water security though, is something that also needs to be borne in mind by those planning future strategy for the region, with the ever increasing demands for housing and jobs in East Anglia.



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Zero hours contracts - recent developments

A Zero Hours Contract (ZHC) is a contract between an employer and a worker where the employer is not obliged to provide any minimum working hours and the worker is not obliged to accept any work offered. In this way, ZHCs offer flexibility to businesses and, it is argued by their proponents, to workers.

McDonalds have about 80% of its 100,000 plus workers on ZHCs and say that 92% of its workers at company restaurants are happy with these working arrangements. That said, 300 staff on ZHCs at Sports Direct are less happy, having brought claims on the basis of being excluded from the company's generous bonus scheme because they were on a ZHC.

ZHCs have been much in the news recently, with a 19% rise in their use in the last twelve months, as well as being a hot area of political debate, discussion and disagreement during the recent General Election. Dependent upon the outcome of that election, ZHCs may have been banned; although that hasn't happened, the Small Business, Enterprise and Employment Act 2015, which came into force on 26 March 2015, has now banned the use of exclusivity clauses in ZHCs. This means that a ZHC

may not seek to restrict a worker from working elsewhere whilst not required by the employer.

This must be right; an employer cannot be in a position where they don't have to offer work to a worker but at the same time can prevent that worker from working elsewhere. However, it seems unlikely that this change will curtail the use of ZHCs in any way.

For advice on this, or any other area of employment law, please get in touch.



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Bare essentials

Changes to debt threshold for certain recovery actions

From 1 October 2015, the minimum debt threshold for service of a Statutory Demand on an individual rose dramatically.

Since 1986, a creditor could serve such a Statutory Demand and/or present a bankruptcy petition if the debt was equal to or greater than £750.00; however, this figure has now risen to £5,000.

Whilst this may lead some creditors to conclude that it is not worth pursuing debts under £5,000, that does not need to be the case. We can assist by providing a low cost service to pursue and recover such debts.

We also offer a very competitive fixed fee for service of a Statutory Demand and presentation of a bankruptcy petition through to a final hearing.

With this cost certainty, recovery action can be taken, safe in the knowledge that the exercise will not spiral out of control.

To discuss on a no-obligation basis how we may be able to help you to recover monies owed to you or your business, please contact Margaret Davey or Kevin Sullivan.

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Court fees

- yet more increases on the way

The title of this article may invoke a feeling of déjà vu or you may think that we are behind the times because court fee increases have just taken place - you may even have read recent articles on this topic by us! However, although huge increases to court fees were only introduced on 9 March this year, the Government is once again in consultation on further increases.

The current maximum court fee is £10,000 for claims worth £200,000 or more. The proposal now is that the cap should be increased to £20,000. The court fee is based upon 5% of the amount claimed, which means that if your claim is worth £400,000 then your court fee would be £20,000. How many businesses who are chasing debts of £400,000 would want to spend £20,000 on a court fee to recover the money owed to them?

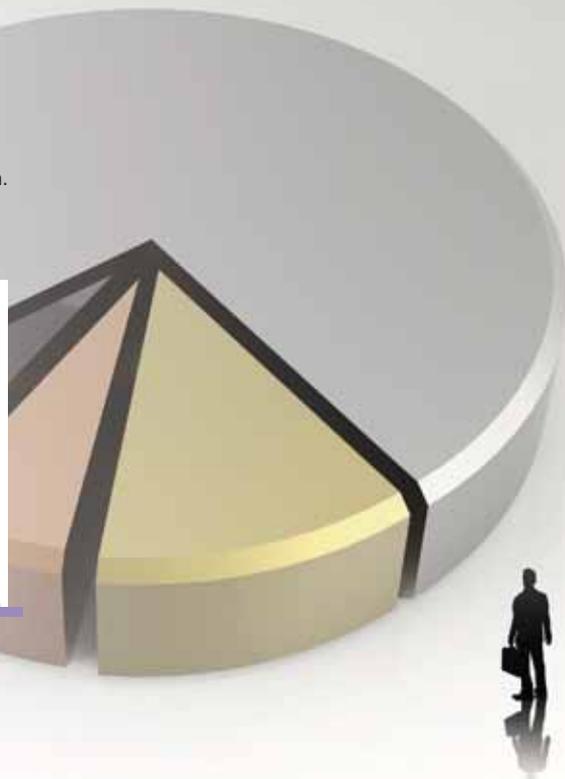
The rationale behind this change is that the Government believes that the court service should be funded by those who use it, and it should therefore be those users that pay the fees. Unfortunately, the entire burden is being placed on those who commence proceedings,

even though, of course, the other parties are also using the court. Most of the burden falls on civil and commercial claims. If you are unable to pay the increased fee, your ability to recover money owed will be affected, and if the other party is unable to pay either the debt or the court fee, you could be left seriously out of pocket.

To avoid these fees you may wish to consider commencing proceedings early or choosing a different method of resolving your dispute, such as mediation, arbitration or adjudication. If you need advice on these issues please contact us.



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Meet the team

Emily Brown

Emily is an associate solicitor at Birkett Long and gives practical, expert advice in employment law, acting for a wide range of businesses and individuals across various sectors. She can help whether you are taking on new employees, restructuring your workforce, need HR advice, embarking on a new opportunity or need help with a current challenge.

Emily says: "Running a small business makes many demands on your time. We understand that getting the right legal advice is seldom at the top of your priority list, but failing to do so could cost you a lot of money in the long run.

If you don't identify the legal risks at the outset, you could face significant penalties later on - in financial and growth terms. That's why we've put together a team of specialist lawyers who can help you tackle problems before they arise, make sure your house is in order and leave you free to get on with managing and growing your business."

Because price is often a factor for small businesses, we offer a number of services on a cost effective fixed fee basis. For more information please visit our website at www.birkettlong.co.uk/startup.html.



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small business advice

The end of the annual return

The Small Business, Enterprise and Employment Act 2015, which received royal assent on 15 March this year, will bring in various changes to procedures and requirements under the Companies Act 2006, one of which is to replace the annual return with a 'confirmation statement'. These particular changes are expected to come into force in June 2016.

A confirmation statement must be delivered by every company within fourteen days of the end of the relevant review period. The first 'review period' runs for twelve months from the day the company is incorporated, with the next review period running for the twelve months after that, and so on.

A confirmation statement must be provided once in every twelve month period and the date of the confirmation cannot be any later than the end of the review period in question. When a company delivers the confirmation statement containing an earlier confirmation date, the next review period will start the day after the new confirmation date and will run for twelve months from then. This will allow companies to have some control over their confirmation date as it will commence after they file their first confirmation statement.

In the statement the company will need to confirm that all information required to be delivered by the company to the registrar, in relation to the review period concerned, either has already been delivered or is being delivered at the same time as submission of the statement.

Similar to the annual return, the confirmation statement must detail certain changes to the company, which include:

- Details of a change of registered office;
- Details of company registers relating to directors, company secretaries and persons with significant control;
- Where a company keeps the company books at a different location to the company's registered office, details of any changes to that address;
- If the principal business activities of the company change, the confirmation statement must detail the new principal business activities using the categories available;
- If the company is limited by shares, a statement of capital must be provided if there have been any changes; and
- The company must provide certain information regarding its shareholders, if there have been any changes.

Company secretaries and directors of companies that fail to file the confirmation statement within the specified period will be committing an offence, as will every other officer of the company who is in default. The offending party is liable to be fined if found guilty.

If you require help with the above changes or have questions regarding your current annual return please contact Claire Hunt.



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