



Global Connections International HR Forum Employment Law Update 8 November 2007

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Employment Contracts

- Section 1 of the Employment Rights Act 1996 (see Employment Law Fact Sheet)
- Written Particulars/Contract
- No later than two months after employment commenced
- Terms implied by law
- Terms implied by statute

Fixed Term Contracts

■ What is it?

- Terminate on the expiry of a fixed term
- Terminate on completion of a particular task
- Expire on the occurrence/non-occurrence of a particular event

■ Why Use Fixed Term Contracts

- Funding for a limited period
- Employed for a particular project

Fixed Term Contracts

■ Dealing with Expiry

- Amounts to a dismissal
- Need potential fair reason for dismissal
- Statutory dismissal procedures apply
- Notice to be given
- Right to bring an unfair dismissal claim (one year's service)
- Right to a redundancy payment (two years' service)
- Successive fixed term contracts (after 4 years it is permanent)

Fixed Term Contracts

■ Fixed Term Employee Regulations

- Not to be treated less favourably on grounds of fixed term status
 - In relation to the terms of their contract
 - By being subjected to any other detriment
- In particular consider
 - Period of service qualifications for certain benefits
 - Opportunity to receive training
 - Opportunity to secure a permanent position

Fixed Term Contracts

- Justifying less favourable treatment
 - Is it to achieve a legitimate objective
 - Is it necessary to achieve that objective
 - Is it an appropriate way to achieve that objective

Fixed Term Contracts

■ Practical Steps

- Audit terms and conditions offered to fixed term employees to review differences with permanent staff
- Make changes to ensure terms are equal or ensure differences can be justified
- Monitor expiry dates to ensure dismissal procedures can be completed in time
- Ensure permanent vacancies are notified to a central source

New Testament Church of God and Rev. Sylvester Stewart

- Court of Appeal decision
 - He was an employee
 - Each case will turn on its own facts
 - Spiritual duties will not be determinative
 - No employment contract where the implication of a contract inconsistent with the organisations beliefs

Disciplinary and Grievance Procedures

- Investigation/Procedures Role Play

Retirement

Employees

- Normal Retirement Age (less than 65 to be justified)
- Default Retirement Age of 65
- Right to bring unfair dismissal claim

Statutory Retirement Procedure

- Duty to notify employee between 6 and 12 months before intended retirement date of:
 - The date on which you intend the employee to retire
 - The employee's right to request working beyond retirement
- Employee's right to request to continue working beyond retirement
 - to be made between 3 and 6 months before intended retirement date
 - Request to continue indefinitely, for a stated period or until a stated date

Statutory Retirement Procedure

- Employer's duty to consider a request
 - Hold meeting to discuss
 - Right to be accompanied
 - Provide decision in writing
 - No duty to give reasons
 - Offer right of appeal
 - Meet to consider
- Process not substance
 - Ensure you have system in place to monitor when employees within 12 months of retirement