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Drug-Driving and Alcohol at Work

New legislation came into effect in March 2015 that made it illegal to drive whilst under the influence of a wider range of substances that included both illegal drugs and some prescription medicines. When this law was amended the Government took a zero tolerance stance on this.

Whilst the limits for prescribed medication are higher than the limits for controlled substances, a driver quite inadvertently could exceed their prescribed dosage of medication and exceed the legal limit.

It is illegal to drive if:

- The driver is unfit to do so because they are on legal or illegal drugs; or
- The driver has certain levels of illegal drugs in their blood (even if this hasn't affected their driving).

Limits apply to the following prescription drugs:

- Clonazepam
- Diazepam
- Flunitrazepam
- Lorazepam
- Methadone
- Morphine
- Oxazepam
- Temazepam.

The illegal drugs under the limits are:

- Cocaine/benzoyllecgonine
- MDMA/ecstasy
- Heroin and diamorphine
- LSD
- Methamphetamine
- Ketamine
- Cannabis/THC.

With such drugs as Cannabis, this slows reaction times whereas Cocaine promotes overconfidence, meaning faster driving and greater risk taking. Besides these drugs, there is a new illegal drug on the market which is a synthetic cannabis called 'Spice'. This drug has been giving people severe psychotic episodes, terrifying hallucinations, vomiting and seizures and an overall 'zombie' effect. Currently, whilst not listed above, it will still be classed as an illegal drug.

The Police can pull over a driver on suspicion of drug-driving and may ask them to take a 'field impairment assessment' as well as a roadside saliva



swab test. If the driver is pulled over and the Police think they are unfit to drive because of taking drugs they will be arrested and will have to take a blood or urine test at a police station.

There are severe penalties if found guilty of drug-driving, including up to 6 months in prison. It will also be on the driving licence for 11 years.

Drug-driving can be just as dangerous as driving under the influence of alcohol and affects driving in different ways. Therefore, if you have employees that drive on Company business they should inform you if they are taking legal drugs and you need to ensure that their driving is not impaired. Your company policies should incorporate drug-driving and you must inform your employees of this policy. With those who drive you may get them to sign a declaration that they have read and understood this policy as this will help to provide you with a defence against liability for any accidents that might happen, although as you have a duty of care to your employees you need to ensure that they are fit to drive.

The Misuse of Drugs Act 1971 defines a series of offences that includes unlawful supply; intent to supply, trafficking and unlawful production of drugs.

Employees working in safety sensitive positions or who drive as part of their job should not drink alcohol at work and the Transport and Works Act makes it a criminal offence for certain workers to be unfit through drugs/and or drink whilst working on railways, tramways and other guided transport systems.

Whilst there is no legal requirement to implement alcohol policies per se at work, under health and safety legislation employers have a duty of care to maintain a safe working environment. Therefore, each Company should have their own policy on alcohol in the workplace that provides employees with guidance about drinking and the help that will be provided.

If you wish us to check your Driving or Alcohol policies or wish to discuss any current drink/drug driving issues please do not hesitate to contact us.



Data Protection and Subject Access Requests

Fuel Charges

With the General Data Protection Regulation (GDPR) coming into effect in May 2018, the rules that affect how you collect, use and transfer personal data, and how to handle subject access requests for personal information that you hold about individuals, will change.

The GDPR will bring subject access requests to the fore as the deadline for supplying the information following receipt of a request is decreasing from 40 days to a month, so companies should be ready. Whilst this timescale may be extended to three months for complex requests, employers should look to see if they can manage requests within shorter timescales. This will include correcting inaccurate information and providing additional information and checking how quickly you can isolate data pertaining to a specific individual.

Data subjects may ask to have inaccuracies corrected, information erased or direct marketing not to be sent without consent. They may not only request a copy of the information you hold on them, but also are entitled to be:

- told whether any personal data is being processed
- given a description of the personal data, the reasons it is being processed, whether it will be given to any other organisations or people (such as third party outsourcers) and for how long it will be retained;
- given details of the source of the data (where this is available).

Data subjects are allowed to view their own personal data, but not to see copies of entire documents that contain their personal data or information relating to other individuals.

In addition to the reduction in the timeframe to respond to a subject access request, companies will no longer:

- be able to charge for complying with a request unless the request is 'manifestly unfounded or excessive'. The data controller may charge a reasonable administrative fee if further copies are requested.
- if a request is 'manifestly unfounded or excessive', data controllers can charge a fee or refuse to respond but will need to be able to provide evidence of how the conclusion that the request is manifestly unfounded or excessive was reached
- data subjects should be able to exercise their rights easily and at reasonable intervals
- the request should allow the individual to establish what information is held about them and what processing is being carried out. In responding to a request, data controllers may need to provide further information such as the relevant data retention period and the right to have inaccurate data corrected
- data controllers can withhold personal data if disclosing it would 'adversely affect the rights and freedoms of others'. This is reflective of the current position.

We are currently reviewing all of our Data Protection documentation to help you with responses to letters/emails and a new policy to help you to ensure that your obligations under the GDPR are being complied with.

However, in the meantime, you should review your current systems, who is/will be your data controller, and whether the data is being held in line with minimum retention periods, but for no longer than is needed nor used for any purpose other than that for which it was originally supplied.

If you receive a subject access request, please do not hesitate to contact us.

With effect from 1 March 2017 new rates applied to employees using a Company car:

Engine Size	Diesel - amount per mile	LPG - amount per mile
1400cc or less	11 pence	7 pence
1401cc to 2000cc	14 pence	9 pence
Over 2000cc	21 pence	14 pence

Engine Size	Diesel - amount per mile
1600cc or less	9 pence
1601cc to 2000cc	11 pence
Over 2000cc	13 pence

Hybrid cars are treated as either petrol or diesel cars for this purpose.

The mileage allowance rates to be claimed for using own vehicles remains unchanged at:

- Under 10,000 – 45p a mile
- Over 10,000 – 25p a mile



SME Northamptonshire Business Awards 2017

HR Solutions is proud to be a **Headline Sponsor** for this year's SME Northamptonshire Business Awards.

With 17 awards up for grabs, many local businesses will be entering the various categories, hopeful of winning the award for their business on the night. HR Solutions is sponsoring the Enterprising Business of the Year Award and Greg Guilford, CEO of HR Solutions, will be presenting the award to the lucky winner at the awards ceremony in October.

Greg is also on the judging panel this year, and after entries close on 7th July, the judging panel will be sitting down to choose which businesses will receive the award for each category.

The awards available are:


- Apprentice of the Year
- Best E-Business
- Best New Business
- Business Innovation
- Business of the Year less than 50
- Business of the Year greater than 50
- Community Business of the Year
- Employer of the Year
- Enterprising Business of the Year
- Entrepreneur of the Year
- Green Award
- Service Excellence Award
- Not for Profit Business of the Year
- Young Business Person of the Year
- Training and Developing
- Networking Group of the Year
- Rural Business of the Year



For more information, or to enter any of the above categories, please visit www.northamptonshireawards.co.uk.

HR Solutions is excited to be a Headline Sponsor of our first SME Northants award, and looks forward to seeing all of the local business entries.

We wish all entrants every success.



London Seminar

On Wednesday 24th May 2017, HR Solutions held their annual London Employment Law Seminar at the St. Pancras Renaissance Hotel.

Our sold out event had a fantastic turn out and we were delighted to welcome so many professionals from a variety of industry sectors.

Our presenters were Greg Guilford - CEO, Sue Watson - HR Operations Manager, and Alison Blackhurst - HR Knowledge Manager. Topics covered on the day included:

- Trade Union Act
- Tribunal Processes and Fees
- Increase in Statutory Rates
- Gender Pay Gap Reporting – changes in the regulations
- Apprenticeship Levy
- Work Permits: Changes to Tier 2 Visas
- Public Sector Exit Payments
- General Data Protection Regulation (GDPR)
- Employment Status Review
- Brexit and Trump
- What's New in 2017
- Interesting Cases

We would like to thank all of our delegates for attending, and hope that they found the update useful. If you wish to discuss any of the topics in more detail and how they may affect your business, please feel free to contact us for further advice.

On Wednesday 22nd June 2017 we will be holding another Employment Law Seminar covering the same topics as above, which will take place at Kettering Park Hotel, Kettering, Northamptonshire.

If you are interested in booking a place please visit www.hrsolutions-uk.com/resources/seminars-events or call Hannah Patel on 0333 241 4350.

Question and Answer

Q We have a colleague who is working in our London Office, but her family is from Sweden. Her grandfather is ill and it's not looking very good. She was wondering if she would be able to take extended remote time to be at home with her family until he passes. We weren't sure since it's sort of open ended the best way to handle this. Remote days haven't been something that we can really provide as a lengthy solution since they typically don't do all of their job functions (specifically phone calls) while remote, but we weren't sure if there was any overarching corporate policy preventing that.

We know that bereavement leave is available and she does not have much holiday entitlement left. Please help!

A Although in the UK an employee can take 'reasonable time off' to deal with an emergency, it must be for a dependant. We don't believe that the employee's grandfather would be classed as a dependant and therefore cannot benefit from this statutory right.

In terms of bereavement leave, this would technically not apply because the grandfather is still alive. If she has any holiday entitlement then she can utilise this. If she doesn't then it will be at the company's discretion to allow authorised unpaid leave (however as this is not a legal entitlement you would be within your right to refuse).

Points to Consider:

- Have you allowed others to work from home or remotely in the past?
- Have you approved unpaid time off for your employees in the past?
- How would remote working work if she is in Sweden? You have to also consider how she can liaise with you and other employees, how can she retrieve the necessary information to work remotely, her availability for face to face meetings, how she would achieve objectives, etc.
- Could she take an unpaid sabbatical?

Subject to the above, if she has any annual leave remaining then she could utilise this. However, if she doesn't then you could permit her to take authorised unpaid time off for up to e.g. 1 week. I would not recommend this to be open ended.

Once this period has come to an end then the employee would either be expected to return back to work or she could have the option of working from home (subject to the above and only at your discretion) but once again you would define how long this could last for (e.g. 1 week).

The difficulty is that if you refuse altogether, she may not be fully focused at work and therefore likely to make mistakes and could subsequently go off sick with stress.

Also, you have the legality around health and safety issues with working from home. Therefore, there is a lot to consider and we would be happy to advise in more depth on how to manage this and the requirements in regards to working from home.

What's new with HR Solutions...?

Employment Law Seminars 2017

Thank you to all that attended our Employment Law Seminar in London last month, it was great meeting you all and we hope you found the information useful.

Our Kettering seminar will be held on **22nd June 2017**, if you have not already booked your place and are interested in coming please email your HR Consultant directly, or contact Hannah Patel on 0333 241 4350.



Webinars

HR Solutions is now holding monthly webinars on a range of HR topics and important changes that may affect your business. Please email us at enquiries@hrsolutions-uk.com to register your interest in our webinars and we will be sure to send you an invitation.



In the March newsletter we provided you with the changes in regards to National Minimum Wage and statutory increases.

Changes to Whistleblowing

From 1 April 2017 a change took effect in relation to Whistleblowing. In order to be protected under the Public Interest Disclosure Act, disclosures should normally be made either internally (to their employer, client, legal advisor, etc) or to a "prescribed person or body", before making a public disclosure (for example to the press, police or an MP).

The role of a prescribed person is to provide workers with a mechanism to make their public interest disclosure to an independent body where the worker does not feel able to disclose directly to their employer and the body might be in a position to take some form of further action on the disclosure.

The list of prescribed persons or bodies is updated annually by the Department for Business, Energy and Industrial Strategy (BEIS) and the new Regulations require them to report each year on the disclosures they have received.

The list can be found here: www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies.

A good prescribed persons guidance can be found here: www.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf

Brexit

Whilst negotiations on the UK's exit from the EU have not commenced yet and when they do they will take at least 2 years, the Government in March 2017 published a white paper called the Great Repeal Bill which is expected to come into force when we leave the UK. This Bill will:

- repeal the European Communities Act 1972 (which enables EU law to take precedence over UK law)
- transpose directly applicable EU legislation into domestic law
- preserve the UK laws which implement EU Directives (eg the Equality Act)
- create the power (via secondary legislation) to correct laws which would not operate appropriately when we leave the EU
- provide that historic (but note, not future) CJEU case law is given the same precedent status in UK courts as decisions of the Supreme Court. This aims to protect rights that have been extended by CJEU judgements (such as those relating to the Working Time Directive). The Times reports that the City is also expecting that the CJEU may still be given ultimate jurisdiction over financial services disputes for many years after Brexit. Brussels also wants it to preside over key rights for EU citizens in the UK, including pensions and welfare payments.

This Bill is expected to gain Royal assent in early 2018 but of course will be dependent upon the outcome of the general election. For now there is no immediate effect on employment law or the right of EU nationals to work in the UK and our current legal framework will remain in place during the 2 year exit process. However, if you employ EEA nationals (and/or their family members) in significant numbers, or in especially key roles within your business, it may be worth ensuring that such staff are aware of actions they may take which may help them to remain in the UK after we exit the EU, including registration certificates, permanent residency and possibly, British citizenship.

Disclaimer. The information and expressions of opinion in this newsletter are given as a guide only. They are not intended to be comprehensive nor to provide legal advice. They should also not be treated as a substitute for specific advice concerning individual situations. Always seek professional advice or give us a call.

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