

BirchCooper

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JULY 2009 - ENEWS

In this month's enews we report on various issues, including an update on employer fines for illegal workers and the success of the car scrappage scheme.

Please browse through this month's articles using the links below and contact us if any issues or questions arise.

Rise in prosecutions for employing illegal workers
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The logo for the Association of Accounting Technicians (AAT), consisting of the lowercase letters 'aat' in a bold, sans-serif font.

*Henry Cooper is licensed and regulated by the AAT
under licence number 1321*

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RISE IN PROSECUTIONS FOR EMPLOYING ILLEGAL WORKERS

Businesses are being warned to undertake more rigorous checks into applicants' backgrounds as the number of prosecutions for employing illegal workers increased over 500%, according to Giant Precision a business process outsourcer.

According to information they obtained from the Home Office, the introduction in February 2008 of the new penalty system has led to 233 prosecutions of employers for employing illegal workers. This compares with no more than 40 cases per year previously.

Matthew Brown, Managing Director of Giant Precision said:

“The new civil penalty for employers who hire illegal immigrants has made a big difference to the UK Border Agency's activity in bringing cases against employers. More employers than ever before are finding themselves hit with big fines.

The new regulations are tough on employers and recruiters who may have checked into candidate's backgrounds and been duped by fraudulent documents. Even if checks are carried out, the UK Border Agency can still levy fines if it deems recruiters and employers have not been sufficiently rigorous.”

For many years, there have been requirements for employers to verify the identity of their workers in order to prevent illegal working. Penalties under the Immigration, Asylum and Nationality Act 2006 were increased from 29 February 2008. The Home Office UK Border Agency website is regularly updated to show a list of employers fined since the introduction of the revised penalties.

Employers can avoid both a civil penalty and committing a criminal offence by checking, on recruitment, that workers have a right to work in the UK. To obtain this protection, employers must make the checks before the worker starts work.

There are two lists of acceptable documents for checking identity. List A contains items such as a British passport, which have no time limits on working in the UK. List B contains a list of documents which carry restrictions on the amount of time individuals will be able to spend in the UK. Employers now have to carry out annual checks for those workers whose documents appear on List B, such as work permit holders.

Please do get in touch if you would like any advice in this area.

Internet links: [Giant Precision press release](#) [Home Office Guidance](#) and [Home office list of employers fined](#)

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ARE YOU COMPLYING WITH THE NATIONAL MINIMUM WAGE RULES?

HMRC are reminding employers that since the beginning of the current tax year automatic penalties have been introduced for those who do not comply with the National Minimum Wage (NMW) Regulations.

The penalties range from £100 to £5,000 with 50% prompt payment discounts for employers who settle within 14 days of notification.

The penalty is payable in addition to arrears owed to the workers.

The penalty notice will detail the amounts due to workers (calculated according to the formula shown below) and any penalty due on those arrears. The penalty is calculated as half the total underpayment. The underpayments are updated to take into account the length of time the arrears have been outstanding.

For each payment period the formula is:

$$\frac{\text{Original underpayment}}{\text{Original NMW rate}} \times \text{Current NMW rate} = \text{Arrears}$$

In serious cases of non compliance the employer may be tried in a Crown Court and in those cases the fines are unlimited.

The current NMW rates are:

- £5.73 (£5.80 from October 2009) an hour for adults aged 22 and over
- £4.77 (£4.83 from October 2009) an hour for 18-21 year olds
- £3.53 (£3.57 from October 2009) an hour for 16-17 year olds.

Internet link: [Employer Bulletin article](#)

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BUSINESS PAYMENT SUPPORT SERVICES

According to government figures, as at the end of April 2009, over 116,000 businesses have agreed time to pay tax arrangements with HMRC to the value of two billion pounds.

The Business Payment Support Service, which was introduced last autumn, provides a 'fast track' service that offers support to those needing more time to pay their tax bills. Terms can be quickly agreed over the phone.

If you would like to discuss the Support Service in relation to your own or your business tax affairs, please do get in touch.

Internet link: [Employer Bulletin article](#)

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REDUNDANCY ALTERNATIVE

The Confederation of British Industry (CBI) has made a proposal for an 'Alternative to Redundancy' (ATR) scheme which could be introduced as part of a package of measures to reduce job losses.

Under the proposal employers would be able to use current redundancy procedures or place employees on the ATR scheme for a period of up to six months. The employees would not work during the ATR period but could seek employment elsewhere. They would receive an allowance of twice the rate of Job Seekers Allowance, which is currently approximately £50 and £65 a week dependent on age.

The proposal is that half of the allowance would be paid by the government and the other half by the employer. The employees could then go back to work once the ATR period expires or the business improves.

John Cridland, CBI Deputy Director-General, said:

"The worst of the recession may be over, but businesses still face a long convalescence and the dole queues will continue to grow. The alternative to redundancy scheme could save jobs by giving businesses more leeway as the economy recovers.

We considered various forms of wage subsidy and support for short-time working, but this approach is better. Businesses will be more able to cope with sharp drops in demand and prepare for recovery, while workers benefit from improved financial support and a door that is kept open for six months.

This is not about businesses ducking their redundancy responsibility - in fact if a scheme runs for six months and a redundancy is still made then the business will end up paying more."

For information on the calculation of statutory redundancy pay use the Department for Business Innovation and Skills link below.

Internet links: [CBI press release](#) [BIS website](#)

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STARTING A NEW BUSINESS

HMRC have amended the form CWF1 which is completed by those individuals who have set up a new business either as a sole trader or as a partner in a partnership. The form is used to notify liability to Class 2 National Insurance Contributions (currently £2.40 a week) amongst other things.

Under the revised behaviour based penalties, which apply from April 2009 anyone becoming or ceasing to be liable to pay Class 2 NICs must notify HMRC as soon as possible. Penalties may be charged where the liability is not notified by 31 January following the end of the tax year when they became liable.

Please do get in touch if you would like any clarification of your position.

Internet link: [Form CWF1](#)

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HSE WARNING NOT TO BE MISLED OVER NEW LAW POSTER

The Health and Safety Executive (HSE) is warning businesses not to be misled into buying unnecessary and expensive copies of the health and safety law poster. Employers have a duty to display the poster prominently in the workplace or provide employees with a copy of the pocket card version. Both poster and card set out the employer's and employees' responsibilities.

Apparently there is some evidence of misleading promotions wrongly claiming that the old posters must be replaced immediately and that the new law poster should be displayed on every notice board within business premises. This is incorrect and employers could be led to believe that they are not meeting their legal requirements. Employers can check they have a genuine HSE law poster by checking the unique, serially numbered hologram on each poster.

Vinny Kenny, from HSE said:

"The information that is being sent out by some companies may be misleading under consumer protection legislation and we want to put a stop to it. If businesses receive any promotions relating to the Law poster or pocket card and are in any doubt about their authenticity they should contact HSE on 0845 945 0055 before parting with their money."

The HSE launched updated versions of the health and safety law poster and pocket card in April 2009. The updated versions provide clearer information for workers about their right to have their health and safety properly protected.

Under HSE Information for Employees Regulations businesses have five years to switch to the new poster and pocket cards, so they must be replaced by 5 April 2014. Employers displaying the old poster after 6 April 2009 must ensure it is legible and that the addresses of the enforcing authority and the employment medical advisory service are up to date.

The new law poster, pocket cards and Easy Read and Large Print formats can be ordered from HSE Books on: 01787 881165. The pocket card and Easy Read and Large Print formats can also be downloaded free of charge from the HSE web site.

Internet link: [HSE guidance](#)

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SWINE FLU ADVICE FOR BUSINESSES

The UK has moved from the 'containment' to the 'treatment' phase of swine flu (H1N1) as the number of people catching swine flu continues to rise.

Health Secretary Andy Burnham said that cases are doubling every week and if it continues at this rate there could be over 100,000 cases per day by the end of August.

Internet links: [Direct gov latest](#) [Business Link guidance for employers](#)

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SCRAPPAGE INCENTIVE SCHEME SUCCESSFUL

According to the Society of Motor Manufacturers and Traders (SMMT) 29,796 vehicles have been registered under the scrappage scheme since it started on 18 May 2009. This accounted for 9.7% of June's new car registrations a total of 17,014 units. In addition to cars 323 vans were also registered in June under the scheme (1.9% of van registrations).

Paul Everitt, SMMT chief executive said:

“The scrappage incentive scheme is working well and has encouraged a lot more people back into showrooms. In the coming months, we will see an increase in the rate of deliveries and this will confirm further progress on the industry's long road to recovery.”

The vehicle scrappage scheme is a voluntary scheme for motor dealers. Participating dealers will give buyers a £2,000 discount off the purchase price of a new car (or small van) in exchange for scrapping their old qualifying vehicle which must, amongst other criteria, have been registered on or before 31 August 1999.

The scheme is expected to run until March 2010, unless funds are exhausted before then. For general information on the £2,000 scrappage discounts and the qualifying conditions for vehicles visit the [Directgov](#) link below. For HMRC's views on the business tax and VAT implications of the car and van scrappage scheme use the [HMRC](#) link below.

If you have any queries on the tax implications of the scheme please do get in touch.

Internet links: [SMMT article](#) [Directgov website](#) [HMRC Brief](#)

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PENSION PAYMENTS

Pension contributions made by an individual are usually paid net of basic rate tax. Where the individual is a higher rate taxpayer further relief is due which significantly reduces the net cost of the contribution.

In the Budget this year the government announced its intention to restrict tax relief on pension savings with effect from 6 April 2011 for people with taxable income of £150,000 or more. The relief will be tapered down until it is 20%.

Legislation has been introduced to prevent those potentially affected by the new rules from seeking to forestall this change by increasing their pension savings in excess of their normal regular pattern. The legislation has been amended on its way through the parliamentary process.

The forestalling measures as originally proposed potentially apply to individuals with incomes of £150,000 or more who, from 22 April 2009, change:

- their normal pattern of regular pension contributions, or
- the normal way in which their pension benefits are accrued, and

their total pension contributions or benefits accrued exceed £20,000.

The amendments will permit taxpayers who currently pay premiums of over £30,000 on an annual or irregular basis to benefit from higher rate tax relief on contributions of up to £30,000.

Andrew Hubbard, Chartered Institute of Tax (CIOT) president, said:

“The CIOT highlighted the unfairness in the original proposals, which favoured those who paid, or whose employer paid, regular monthly or quarterly pension contributions, while disadvantaging those who made less regular contributions.

The self-employed typically make annual contributions only once their income for the year has been determined.

We welcome the fact that the government has listened to our concerns. We had hoped that the changes would have gone further, but we can appreciate that the current adverse financial conditions have necessitated some tough decisions.”

If you would like advice on pension contributions please do get in touch.

Internet links: [CIOT article](#) [HMRC Budget pensions changes](#)