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# briefingpages

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## ■ HEALTH & SAFETY

### EUROPEAN SAFETY WEEK 2006: A SAFE START FOR YOUNG WORKERS

European Safety Week runs from 23-27 October 2006 and this year's theme is the safety of young workers, in particular those starting their first jobs. Employers rarely take the needs of young workers into consideration and, as young people rarely have any training in health and safety awareness during their education, most start their first job without the faintest idea of how to work safely.

Hazards Magazine has recently reported that at work, a worker aged 16-24 is injured every 12 minutes, seriously injured every 40 minutes, and killed every 4 weeks. For more information see **www.hazards.org/2young2die/**.

European Safety Week is organised by the European Agency for Safety and Health at Work. For this year's campaign there are several fact sheets with advice for young people, parents, supervisors and employers. These can be found at **http://osha.europa.eu/publications/factsheets**.

The TUC has produced a leaflet for safety representatives on health and safety and young workers and one of these should be enclosed with this issue of The Activist.

HSE resources for the week can be found at **www.hse.gov.uk/campaigns/euroweek/index.htm** including downloads and details of events and activities.

## NATIONAL INSPECTION DAY, WEDNESDAY 25 OCTOBER 2006

As part of European Safety Week 2005, Wednesday 25 October 2005 has been designated "National Inspection Day" when all safety representatives are asked to inspect their workplace. The TUC has produced a guide containing checklists for carrying out your inspection on the day. This can be downloaded from **www.tuc.org.uk/h_and_s/tuc-10433-f0.cfm** along with various posters.

Amicus has also produced resources on inspections, including inspection checklists and forms, hazard checklists, Union Inspection Notices, risk assessment guidance and accident investigation forms, together with more general information on being a safety rep. These can be found at **www.amicustheunion.org/inspections** but if you can't access these you can request copies by calling Ray Cawley in Research on 020 7780 4014 or by emailing **ray.cawley@amicustheunion.org**.

The HSE has published some new guidance to simplify risk assessments, including examples of good risk assessments and answers to common questions. This can be found at **www.hse.gov.uk/risk/index.htm**.

## AMICUS SECURES YET ANOTHER WORKING TIME VICTORY FOR UK WORKERS

Following an Amicus complaint to the European Commission in 2001, The European Court of Justice (ECJ) has ruled that the UK Government has broken the law by failing to enforce employees' rights to breaks at work.

In our original complaint we argued that the implementation of the European Working Time Directive in the UK (through the UK Working Time Regulations) encouraged employees not to take breaks at work - breaks which are required by law. Workers are entitled to an uninterrupted rest period of 11 hours between each working day and a full day off every week (or 2 days every fortnight). Workers who work 6 hours or more in one go are entitled to a rest break of at least 20 minutes.

But DTI advice on working time rest breaks states that **"Employers must make sure that workers *can* take their rest, but are not required to make sure they *do* take their rest."** Employers are under no obligation to inform workers of their entitlement to breaks, so many workers do not even know that they are entitled to breaks. The European Commission agreed with Amicus, and the case ended up in the ECJ, which has now ruled in our favour.

The ECJ judgment also covered another element of our original claim. We argued that the Government also failed to protect millions of white-collar workers from companies pressuring employees to do extra work at home. Under section 20(2) of the original Working Time Regulations, workers whose hours are predetermined (say, by their contract of employment), but who volunteer to do more hours, were not protected by the regulations during those extra hours, as these hours did not count towards the 48 hour weekly limit. The ECJ again ruled that this “partly unmeasured working-time” exception to the Working Time Regulations was unlawful, and the UK Government clearly expected this to happen as they introduced The Working Time (Amendment) Regulations 2006 with effect from 6 April 2006 - before the ECJ reached its judgment - as we reported earlier this year.

For more details of the original Amicus complaint, see pages 16-18 of our Working Time Conferences Guide. This, and more resources on working time, can be found at **www.amicustheunion.org/workingtime/**.

## OFFSHORE OIL & GAS SAFETY

Amicus is the largest union in the offshore oil and gas industry. Offshore oil & gas officers met with trade union reps from the Health and Safety Commission (HSC) during September's TUC Congress in Brighton.

The Amicus delegation explained their members' dissatisfaction and concerns with the approach adopted by the HSE Offshore Division following a complaint lodged by Amicus in March 2003, and in the run up to the two fatalities on Shell's Brent Bravo platform in September 2003.

The meeting was productive and Amicus will now raise these issues formally with the HSC and HSE. Offshore officers are also seeking a meeting with the Government Minister, Lord Hunt, who has responsibility for Health & Safety, and will formally approach Shell Exploration & Production with a view to setting up an independent review panel, to examine Shell's response in relation to allegations concerning Shell's chronic safety management made by a former employee.

## OFFSHORE OIL & GAS HOLIDAY ENTITLEMENTS

Following years of lobbying by Amicus, the Government has introduced legislation that will prevent offshore employers denying their employees their full holiday entitlement under the Working Time Regulations (WTR). For years these employers have argued that oil & gas platforms were outside Britain's territorial waters and therefore the WTR did not apply, despite Government advice to the contrary.

Due to the employers' intransigence the Government has had to introduce this legislation to remove any doubt on the matter. After 1 October 2006 employers can no longer argue that the Working Time Directive does not apply offshore.

An Employment Appeal Tribunal on offshore holiday claims will proceed on 3-5 October in relation to cases submitted prior to 1 October 2006.

After 1 October, it will be necessary for affected members to resubmit a request for holiday entitlement. Further guidance will be issued on how this leave should be applied for.

## NEW FIRE REGULATIONS BEGIN 1 OCTOBER 2006

From 1st October 2006, the responsibility for fire safety will lie with employers, self-employed with premises, voluntary organisations, those responsible for buildings with public access and any contractor who exercises a degree of control over any premises. Department for Communities and Local Government guidance on the new regulations can be found at **www.gnn.gov.uk/content/detail.asp?NewsAreaID=2&ReleaseID=218725**.

## NEW HSE GUIDANCE ON MANAGING SHIFT WORK

The HSE has produced a new book that aims to improve the understanding of shift work and its impact on health and safety. More than 3.5 million people are employed as shift workers in the UK. They work in a wide variety of industries including the emergency services, healthcare, the utilities, transport, manufacturing, entertainment and retail. Poorly designed shift-working arrangements and/or long working hours may put them at risk of fatigue, accidents, injuries and ill health.

## SIGN UP FOR HSE EMAIL BULLETINS

The HSE has started a new e-bulletin service. Optional topics include construction, stress, statistics and general health and safety updates. Sign up at **www.hse.gov.uk/new/ebulletins/index.htm**.

## BETTER BACKS SAFETY REP MATERIALS

The HSE is running a national campaign to tackle back pain in the workplace, in partnership with Local Authorities. The campaign will aim to reduce the incidence of back pain caused or made worse by work, its impact and the number of working days lost due to back pain. The HSE has produced an inspection checklist for safety reps and a short guide to managing sickness absence caused by back pain. These can be found at **www.hse.gov.uk/msd/campaigns/youcould.htm**.

## MULTI-LINGUAL SAFETY GUIDANCE FROM THE HSE

The HSE is expanding its range of advice in languages other than English. This includes a range of publications and a telephone interpreting service. At the time of writing, this includes Albanian, Arabic, Bengali, Chinese, Czech, Farsi, French, Greek, Gujarati, Hindi, Italian, Kurdish, Lithuanian, Pashto, Polish, Portuguese, Punjabi, Romanian, Russian, Slovak, Russian, Spanish, Tagalog, Tamil, Thai, Turkish, Ukrainian, Urdu and Welsh. For more details see **www.hse.gov.uk/languages/index.htm**. The telephone interpreting service number is **0845 345 0055**.

## UPCOMING EVENTS

**Corporate Accountability Conference, London, Friday 3 November**

Whither Enforcement? A conference on corporate manslaughter, health and safety enforcement and penalties. This will bring together the Home Office Minister responsible for the Government's draft corporate manslaughter bill, the chair of the Health and Safety Commission, bereaved families, trade unions, academics and campaigners to discuss a number of key legislative and policy initiatives of the Government. For more details go to **www.corporateaccountability.org** or call **020 7490 4494**.

**National Stress Awareness Day, Wednesday 1 November 2006**

More details at **www.isma.org.uk/aware.htm**.

**Members and reps unable to access any of the above electronically may contact Chris O'Leary in the Research Department on 020 7780 4006 or email chris.o'leary@amicustheunion.org to receive the information by email or post.**

## ASLEEP BUT ON THE JOB!

This case serves as nice reminder of the definition of Working Time. The Appellant was a hotel night manager who claimed to be entitled to pay while asleep on the job. His employer, Jarvis Hotel claimed that in the nine months that Mr Anderson was a night manager he was only asked to work once and that was to deal with an incident involving rowdy guests. The Employer claimed that this time could not really be called "on call" time as there was little risk of him having to do anything during that time. However it also transpired that Mr Anderson had on one occasion left the hotel for half an hour one night and was disciplined for that. The Employment Tribunal agreed with the Employer and dismissed the case. The Employment Appeal Tribunal did not agree and in overturning the ET's decision held that that time during which Mr Anderson was contractually obliged to be present at the hotel was plainly working time, and he was entitled to be paid in respect of it. For further information on working time see **www.amicustheunion.org/workingtime/**.

## AGE MATTERS

The Employment Equality (Age) Regulations 2006 come into force on 1st October 2006.

In short the regulations apply to employment and vocational training. Direct and indirect discrimination on the grounds of age - young or old is prohibited as well as all forms of harassment and victimisation on the grounds of age.

**These are the top ten highlights**

1. The age legislation comes into force on 1 October 2006.
2. All employers and providers of vocational training, including trade unions, are covered by the legislation.
3. Goods facilities and services are not included in the regulations.
4. The upper age limit for unfair dismissal and redundancy will be removed.
5. The Regulations introduce a national default retirement age of 65 and make compulsory retirement below that age unlawful unless objectively justified. The Government proposes to review this in 2011.
6. All employees have the right to request to work beyond the default retirement age or any other retirement age set by the employer.
7. Occupational pensions are covered by the regulations. However the Government has decided to hold back on the introduction of the pension provisions until 1 December 2006.
8. The Regulations do not affect the state pension.
9. Benefits based on a length of service requirement of 5 years or less will be exempted. After five years employers will have to show that length of service benefits are necessary to reward loyalty, encourage motivation or recognise the experience of workers.
10. Employers are allowed to follow the age bands and minimum wage levels used in the national minimum wage legislation.

## IS THE TAXMAN HAVING HIS CAKE AND EATING IT?!

**A word of warning to our self employed members**.

A recent case has held that HM Revenue and Customs (or the Inland Revenue as we affectionately know them) is entitled to charge an employer full tax and NI under PAYE where the employer and the employee have wrongly viewed the employee as self employed.

For 10 years Mr Bone sent invoices and was paid gross by his employer. Both he and his employer genuinely believed him to be self employed. The Revenue decided otherwise and their assessment that Mr Bone was an employee was agreed by the Special Commissioner. The employer failed to agree a back tax payment with the Revenue and the Revenue levied a tax determination for the full amount without giving credit for the tax which Mr Bone had been paying each year!

While it is accepted that Mr Bone could claim for the tax paid over the years, sometimes, as was the case here, the claims date back too far. He would have therefore lost his right to claim back for the lost years effectively paying tax twice!

This is an important decision which highlights that it is preferable for employers to directly employ rather than use self employed contractors. Both could potentially lose out in the long run.

## COLLECTIVE REDUNDANCIES

1 October 2006 will see a minor amendment to the Trade Union and Labour Relations (Consolidation Act) 1992 as a result of a European case Junk v Kuhnel, which stated that notifications should be made before any notice of dismissal is issued.

Under the existing legislation employers are required to notify the Secretary of State when they are proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days. Where the employer proposes to dismiss 100 or more employees as redundant the Secretary of State must be given at least 90 days' notice before the first of those dismissals takes effect (30 days where 20-99 redundancies are proposed). This amendment is significant in that it conceivably gives the employees and their representatives more time for consultation. Amicus supported the amendment but felt that the government was not going far enough and should take the next step, which is to say that consultation should be completed before notices of dismissal are issued. Unfortunately the Government did not share the view of Amicus or the other trade unions who took part in the consultation process.

## NEW ET1 FORM EFFECTIVE 1 OCTOBER 2006

A new ET1 form will be operating in Employment Tribunals from 1 October 2006. The new form will incorporate a section relating to age discrimination claims.

We are informed by the Tribunal Service that the forms should be on the Tribunal website from 1 October 2006.

Potential employment tribunal claims should always be referred to your full time officer for legal advice.

amicus **Payline** a service provided by LRD

The Amicus*Payline* database is maintained by the **Labour Research Department** (LRD) as an online resource for union negotiators.

Please return this form to **LRD, Freepost, 78 Blackfriars Road, London SE1 8YX**, or fax it to **020 7902 9815**. If you have a query, call **020 7902 9811** or email pay@lrd.org.uk

**You may not know answers to all these questions, but please complete as many as you can.** LRD also welcomes copies of agreements or policies on pay and conditions.

| | | |
|---|---|---|
| **Name of employer**<br>Workplace, agreement or bargaining unit title | | |
| **Type of workers** covered<br>(e.g. "manual" or "non-manual")<br>**National or local** agreement | | |
| **Union(s)** recognised | | |
| **Level of recognition**<br>Please tick as appropriate | Full negotiating rights<br>Conditions of employment only | |
| | Representation only | |
| | No recognition, membership only | |
| Is it a **recent** recognition agreement?<br>If yes, please supply the date it was signed | | |
| Is the workplace covered by an **"industry" or "sector" level agreement**?<br>(e.g. local authority NJC) If yes, please specify | | |
| **Public or private sector?** | | |
| **Employer's main business or industry** | | |
| **Main location(s)** of workplace<br>(e.g. Nottingham) | | |
| **Number** of workers covered<br>(approximately)<br>**Date current pay rates** came into force | | |
| Date of any future **staged pay rise**<br>(if applicable, e.g. 2-year deal) | | |
| **Date next** agreement due<br>**Outline of most recent pay settlement**<br>(e.g. "two year deal with 3% on basic rates, shift premia increased from 25% to 26%, paternity leave increased from 3 to 5 days") | | |
| **Current basic pay rates**<br>• please give full-time rates | **Grade** | **Pay rates**<br>basic/min (& scale max if applicable) | **Occupation(s)** |

| | | | |
|---|---|---|---|
| • weekly, annual, or hourly<br>• if there are lots of grades, please give the main ones<br>• you are welcome to provide additional information on pay rates if you wish | | | |
| Any pay progression or service increments **within grades**? | | | |
| Are there any **regular additions** to basic pay rates? (e.g. allowances, shift premia) | | | |
| Are there any **bonus or performance payments?**<br>**Basic weekly hours** (full-time) | | | |
| **Annual leave** (basic and, if applicable, service-related) | | | |
| Number of **Statutory/public holidays** (e.g. "8")<br>**Any other annual leave** (e.g. "customary", "extra-statutory") | | | |
| **Maternity pay & leave** (please specify the amounts & the service requirement, if known) | | | |
| **Paternity pay & leave** (please specify the amounts & the service requirement, if known) | | | |
| **Adoption pay & leave** (please specify the amounts & the service requirement, if known)<br>**Any other parental** or similar leave | | | |
| **Any other special leave** (e.g. bereavement) | | | |
| **Any childcare provisions** (e.g. nursery, vouchers) | | | |

| | |
|---|---|
| **Name** of person supplying this information<br>**Position** in union | |
| **Postal address**<br><br>**Telephone**<br><br>**Email** (if any) | |

**Thank you for completing this form. Please return it to LRD at the address overleaf.**

**Please note that data from *Payline* may also be published in LRD magazines and booklets.**

**www.lrd.org.uk**

**LRD provide news and information for trade unionists**

amicus the union

# Pay and conditions database

a service provided by LRD Payline

## What is the Amicus Pay and conditions database?

The database is an online resource maintained by the Labour Research Department (LRD). It contains details of more than **2,600 collective agreements** covering over nine million workers, with information on all sectors of the economy and all regions of the UK.

For each agreement, the database provides details of the **latest settlement** where available, plus **pay rates**, **working hours**, **holiday entitlement**, **regional allowances**, **maternity, paternity and adoption leave and pay**, **dependency leave** and **mileage allowances**. You can also search for references to particular aspects of agreements.

As an Amicus member, you have automatic access to the database.

## Using the Amicus Pay and conditions database

You can gain access to the database by visiting either:

- **www.amicustheunion.org** (click on "Resources", then "Amicus pay & conditions database"); or
- **www.lrd.org.uk/payline**

You'll be prompted to supply your username and password. These are (lower case, no spaces):

| | |
|---|---|
| **Amicus username:** amicus | **Amicus password:** rd2002 |

Once you've logged on, you can search the database by **industry**, **region**, **job**, **type of agreement** or various other criteria. We suggest that you start searching using fairly broad criteria, and then narrow your search down, rather than starting with a very specific search. To explore the range of industrial or occupational categories, click on the red text.

## New features

We have recently added a number of new features to the service which we hope will make it easier to use and more helpful. These include:

- a new way of searching for **pay rates for specific jobs**. In the "Pay rates" screen, type in the job title you are looking for in the "Job title or description" box to find all the rates for this job.
- a new **Payline latest** front page, listing key recent developments.
- a new **Pay medians** report, enabling you to check increases in your industry or region.

We will be introducing **further improvements** in the future, so **keep checking** the site.

## More information

For more information about the Amicus Pay and conditions database, call LRD on **020 7902 9811** or e-mail **pay@lrd.org.uk**. You can also write to us at **Pay and Conditions Department, LRD, FREEPOST, 78 Blackfriars Road, London SE1 8YX**, or fax us on **020 7902 9815**.

***LRD provides news and information for trade unionists: www.lrd.org.uk***