HOW WELL DO YOU KNOW YOUR EMPLOYEES?

The time frame during which certain criminal convictions will have to be disclosed to potential employers has been reduced, effective from 10 March 2014. This means, for example, that candidates who served six month custodial sentences more than two years ago, will no longer have to inform prospective employers of this fact. These reforms are all part of the Government's commitment to reducing reoffending by making it easier for offenders to get back into work.

Under the Rehabilitation of Offenders Act 1974, certain criminal convictions become “spent” after a set period of time. As a general rule, this means that those convictions no longer need to be made known to prospective employers. This rule does not, however, apply to all job roles and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the “Exceptions Order”) stipulates that in some instances, a potential employee will be required to disclose all convictions, regardless of whether they are “spent” or not. These exceptions operate particularly in relation to professional roles and jobs which involve working with vulnerable adults or children.

To briefly summarise the changes to rehabilitation periods which apply to custodial sentences:

- For sentences between 0 to 6 months, disclosure will be required for 2 years following the end of the sentence.
- For sentences between 6 to 30 months, disclosure will be required for 4 years from the end of the sentence.
- For sentences between 30 months and 4 years, disclosure will be required for 7 years after the end of the sentence.
- For sentences over 4 years, the current rule will remain and such sentences will never become spent.

Practical tips:

As an employer, make sure that you are aware of the information that a potential employee is required to reveal in connection with their criminal convictions. In the same way, be aware of what you are entitled to ask for:

- Does the role require the individual to undertake a criminal records check via the Disclosure and Barring Service?
- Is the role included in the Exceptions Order and thus as an employer are you able to require disclosure of both spent and unspent convictions?
- If the job role being filled does not fall within one of the above categories, then you may only ask for details of unspent convictions.
- Remember, unless the role falls within the Exceptions Order, it is unlawful to refuse to employ an individual on the basis that they have a conviction which is spent.
If you would like more information on this topic or if you require help with any other employment law matter, then please contact the Brabners Employment Law team.

**Brabners wins employment team of the year**

Brabners wins employment team of the year at the Manchester legal awards. This is the second time the employment team have been awarded the title having won previously in 2011.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Nick Campbell in Liverpool on 0151 600 3154.

If you would like to receive the bulletin please let us know by contacting Jeanette Jackson at Jeanette.jackson@brabners.com.

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