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Trial periods for everyone, what does it mean?

Well, the government didn't waste time enacting their 100-day plan and Fair Pay agreements were repealed on 20th December, and the Trial Periods were extended back out to include all employers (not just those with under 20 staff) with effect from 23rd December. And minimum wage will increase by 45cents, or 2% to \$23.15 per hour with effect from 1 April 2024

Employment agreement templates updated.

I have now updated all of the employment agreement templates on the HRtoolkit website to reflect the new rules in respect of trial periods, and also, they have been updated to reflect that Personal Grievance claims in respect of Sexual Harassment now have an extended period of 12 months in which they can be raised. It is still 90 days for all other Personal Grievance claims.

The templates can be found at this link [HERE](#).

NB I have updated the Personal Grievance section to reflect that the timeframe is "as dictated by Legislation" to future-proof agreements as much as possible in case other claim timeframes are also adjusted to 12 months, or the Sexual Harassment change is repealed.

More changes are likely, so stick to the templates

There will likely be more changes to employment legislation over the next few years, and we are constantly monitoring these changes and updating our agreements to reflect this. As such, to minimise hassle for you, it is recommended that you utilise the HRtoolkit template documents as they are, and, if you do need additional clauses specific to your company, then have them as an appendix attached to the HRtoolkit template. This way, you can download the latest HRtoolkit template each time you need a new agreement, safe in the knowledge that the latest legislation changes have already been incorporated, and add the appendix document as required.

What are Trial Periods and Probation Periods?

Trial Periods and Probation Periods are different and defined in Legislation, and can now be used by any company, irrespective of the number of employees. In summary:

- A Trial Period is a maximum of 90 days duration, and, in theory, you can terminate someone within the 90-day trial period without the need for process, or without giving any specific reason. However, the courts do not uphold this approach as it flies in the face of good faith. Therefore, if you are considering termination under the 90-day trial period then we recommend that you meet with the employee, giving them the right to representation, laying out your concerns, and allowing them to respond before making a final decision. Trial periods cannot be used for employees who have previously worked for you in any role.
- A Probation Period can be for a longer period (usually 6 months, or maybe 12 months for more senior positions), but you do have to go through a formal performance management process to terminate under this. Probation periods can also be extended and can be used for employees who have worked for you previously.
- Both need to be written into the employment agreement if you want to use them.
- The longer probation period can be a useful tool if you have someone who is 'not quite there' by the end of 90 days, so you want to give them some extra time to get up to speed, rather than being forced to make a decision at the 90-day mark.
- A longer "testing period" can be unsettling for employees when they first start a job, as such, my general recommendation is to include both a trial period and probation period for employees in more senior, or more technical roles, but only to include the Trial period for more junior role.

2024 Webinar Programme

In this year's webinar programme, I'm taking a bit of a deeper dive into some of those more difficult issues that employers face such as dealing with conflict in the workplace, and managing stress in the workplace. As well as some of the regular questions such as "Which contract should I use". All the webinars are free and run for about 30 minutes with subtitles if you require them. I hope that you will join me on them, or, if you can't make those times, let me know and I will happily send you the recording after the event (click on the hyperlinks below to register for the webinars of your choice:

1. [23rd February 10am – Trial Periods V's Probation periods – when to use which one.](#)
2. [22nd March 10am - Employment law update – Q&A session with Max Whitehead on the first 100 days of our new Government and what we expect of the coming months.](#)
3. [3rd May 10am – Which employment contract should I use?](#)
4. [31st May 10am – Getting your staffing mix correct – how to create flexibility within your organisation and ensure you have all the necessary skills covered.](#)
5. [21st June 10am – HR Policies – what you need and why it is important to enforce them.](#)
6. [26th July 10am – Dealing with conflict in the workplace.](#)
7. [30th August 10am – Identifying signs of stress in the workplace and how to manage it](#)
8. [27th September 10am – Virtual working arrangements, what you need to consider.](#)
9. [1st November 10am – The importance of great induction and on-boarding processes.](#)
10. [29th November 10am – Managing the festive season.](#)

Here to help

We are here to help with any staff queries, so feel free to call me on 021 741 544 or 0800 HRtoolkit (0800 47 8665). Or sign up for our [DIY document library for only \\$399 + GST per annum](#), or our [DIY expert package which gives you access to the document library and unlimited phone and e-mail support for only \\$129 + GST per month](#) (minimum 12-month term).

If you would like to know more or require assistance please contact [Lisa Mackay](#)

Resource supplied by The Engine's provider:

The logo for HRtoolkit, featuring the text "HRtoolkit" in white and yellow on a blue rectangular background.