

Employment legislation update - May 2016

Our employment law update highlights recent and forthcoming legislative changes.

Up to date at 26 May 2016

Law/change	Key points	Implementation date
National Minimum Wage penalties	The penalty for breaching the NMW has increased to £20,000 for each underpaid worker.	26 May 2015
Pensions auto-enrolment	Employers with fewer than 50 employees will reach their staging dates to automatically enrol "jobholders" into a pension scheme and make minimum contributions.	Between 1 June 2015 and 1 April 2017
Employment Tribunal recommendations in discrimination cases	An Employment Tribunal's power to make wider recommendations in successful discrimination cases has been removed (e.g. that an employer retrain staff or introduce a diversity policy). Tribunals do, however, retain the power to make recommendations that benefit an individual claimant.	1 October 2015
Health and Safety at work	Section 1 of the Deregulation Act 2015 amends the Health and Safety at Work Act 1974 to exempt the self-employed from health and safety law if they have no employees and do not conduct a "prescribed undertaking".	1 October 2015
Modern Slavery Act 2015	Commercial organisations with a turnover above £36 million must publish an annual slavery and human trafficking statement. The statement must disclose what steps the organisation has taken to ensure that human trafficking is not taking place in any of its supply chains or its business, or state that it has taken no such steps.	29 October 2015 (the requirement to publish an anti-slavery statement applies in respect of financial years ending on or after 31 March 2016)
Zero-hours contracts (exclusivity clauses)	Zero hours employees/workers have the right to bring unfair dismissal and detriment claims if they are dismissed or subjected to a detriment for breaching an exclusivity clause in a zero hours contract.	11 January 2016
Postponements in the Employment Tribunal	Parties in an Employment Tribunal case are limited to two requests for a postponement and requests made less than 7 days before the hearing (or at the hearing) will only be granted in 'exceptional circumstances' (including to facilitate a settlement).	6 April 2016 (applies to claims presented on or after 6 April 2016)
National Living Wage for over 25s	A premium has been applied to the National Minimum Wage payable to over 25s (known as the National Living Wage (NLW)). The	April 2016

	NLW is currently £7.20 and is set to increase to £9 per hour by 2020.	
Statutory Maternity Pay and other statutory payments	There will be no increase to statutory maternity, paternity, adoption and shared parental pay, maternity allowance and statutory sick pay (or qualifying earnings thresholds) for 2016-2017. Figures will remain the same as for 2015-2016.	April 2016
Employer NICs for apprentices under age 25	Employer NICs are no longer payable for statutory apprentices under age 25	6 April 2016
Trade Union Act 2016	The Act reforms various aspects of the law on industrial action and trade union obligations and activities. This includes a 50% ballot turnout threshold (and a further 40% threshold of support from eligible members in important public services) for industrial action. Unions must give 14 days' notice of industrial action and there is a 6 month expiry date for industrial action to be taken following a ballot.	4 May 2016
Immigration Act 2016	The Immigration Act 2016 curbs illegal working and aims to prevent the exploitation of migrant workers by strengthening enforcement, imposing tougher sanctions on employers and making it a criminal offence to work illegally.	12 May 2016
European Referendum	EU Directives influence UK employment law in areas such as working time, collective redundancy consultation, discrimination and business transfers. An 'out' vote would not have the effect of repealing EU derived laws overnight but there would inevitably be a longer term impact on the UK employment landscape.	23 June 2016
Whistleblowing in the financial sector	Accountability and Whistleblowing Instrument 2015. Deposit-takers with total assets of more than 250m will be subject to new stringent rules on whistleblowing. Wording in employment contracts and settlement agreements must not deter an individual from whistleblowing.	7 September 2016
Cap on public sector exit payments (Enterprise Act 2016)	Termination payments made to most public sector workers to be subject to a £95,000 cap on total aggregate value (including payments in lieu of notice).	Expected 1 October 2016
Enterprise Act 2016 (apprenticeships)	Regulations will be passed to limit the use of the word "apprenticeship" to cover only government-accredited schemes. It will be a statutory offence to label any training an 'apprenticeship' unless it satisfies the statutory requirements or forms part of an	Regulations yet to be passed but are expected later in 2016

	individual's employment.	
Gender pay gap reporting for employers with over 250 employees	Employers with over 250 employees must publish details of their gender pay gap (and bonus pay gap) on their website. Draft Regulations have been published and are expected to be brought into force in October 2016. Employers must calculate their gender pay gap using data from the pay period in which 30 April 2017 falls. The gender pay information must be published on the employer's website by April 2018.	Regulations expected to take effect from October 2016. First gender pay reports must be published by April 2018
Increase in free childcare for pre-school children	The Childcare Bill 2015-16 will increase free childcare to 30 hours for 38 weeks of each year, for qualifying children of working parents in England who are under compulsory school age.	Expected by October 2016
Immigration Skills Charge	A charge of £1,000 per employee per year that will be levied on employers that employ migrant workers in skilled areas. There will be a reduced rate for small or charitable organisations and some exemptions for PhD-level jobs and international students switching from student to working visas.	April 2017
Apprenticeship levy	An apprenticeship levy of 0.5% of paybill will apply to employers with an annual paybill of £3m or over. Businesses will receive training credits or vouchers which must be used on Government approved training schemes.	6 April 2017
Childcare payments	The Childcare Payments Act 2014 will introduce a new tax-free childcare scheme to support eligible parents with childcare costs.	Scheme scheduled to commence in early 2017
Public sector exit payment recovery Regulations	The Government's public consultation on draft regulations allowing the recovery of exit payments made to public sector employees who return to work in the public sector closed on 25 January 2016. It is proposed that the exit payment recovery would apply to individuals earning £80,000+ who return to work in any part of the public sector.	Date for implementation yet to be announced
Caste discrimination	The Equality Act 2010 will be amended to specifically outlaw 'caste' discrimination. The Government announced that there will be a public consultation before this amendment is implemented.	Public consultation is yet to be announced
Taxation of termination payments	The Government ran a consultation between July and October 2015 on simplifying the tax	Government's response to consultation is awaited.

	and NI treatment of termination payments including removing the current £30,000 tax exemption and replacing it with a lower exemption which increases according to the employee's years of service. Employer's NI contributions will be due on termination payments over £30,000 that are already subject to income tax.	Legislation is expected to take effect from April 2018
EU General Data Protection Regulation (GDPR)	The GDPR will replace the Data Protection Directive 1995 from 2018. It will introduce a more prescriptive framework with tighter controls on records and data processing. It will also introduce higher penalties on the level of fines that Supervisory Authorities can impose. The changes are significant so, despite the long lead up time, businesses should begin preparing now.	25 May 2018
Shared parental leave for grandparents	Grandparents will be entitled to shared parental leave and pay in certain circumstances	Anticipated during 2018
State pension	State pension age for both men and women will rise to age 66	October 2020

If you would like any further information about any of the changes listed above please contact Andrew Rayment or David Smedley on andrew.rayment@walkermorris.co.uk or david.smedley@walkermorris.co.uk

This tracker is up to date as at **26 May 2016**.

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