

Employment legislation tracker - October 2019

Our employment law tracker highlights recent and forthcoming legislative changes.

Up to date at 1 October 2019

Law/change	Key points	Implementation date
Changes in 2019		
Gender pay gap reporting in the private/voluntary sector	Employers with over 250 employees must publish details of their gender pay gap (and bonus pay gap) on their website. Employers must calculate their gender pay gap using data from the pay period in which 5 April falls. The gender pay information must be published on the employer's website by the following April.	Last gender 'snapshot' date was 5 April 2019. Next gender pay reports must be published by April 2020
Corporate Governance/reporting changes	The Companies (Miscellaneous Reporting) Regulations 2018 amend the reporting requirements for some companies, introduce mandatory reporting on employee and stakeholder engagement and information on the ratios between CEO and average staff pay. They also require large private and public companies to include in their strategic report a statement explaining how the directors have had regard to the matters in section 172(1)(a) to (f) of the Companies Act 2006 when performing their duty to promote the success of the company.	Takes effect for financial years beginning on or after 1 January 2019 (first pay ratio reports to be published in 2020)
Itemised payslips	Employers are required to show the number of hours worked on payslips where the worker's pay varies. Itemised payslips are now required to be issued to all workers, not just employees.	6 April 2019
Aggravated damages	The maximum level of penalty an employment tribunal may order in respect of an employer's aggravated breach of employment law increased from £5,000 to £20,000 for breaches of workers' rights that take place on or after 6 April 2019.	6 April 2019
Upated Vento bands for awards for injury to feelings	For claims presented in England and Wales on or after 6 April 2019, the following bands apply: <ul style="list-style-type: none"> • Lower band: £900 - £8,800 • Middle band: £8,800 - £26,300 • Upper band: £26,300 - £44,000 	Claims issued on or after 6 April 2019
Changes due in 2020		
National Insurance Contributions Act 2019	Under the NICs Act 2019, from 6 April 2020, all termination payments above the £30,000 threshold will be subject to class 1A NICs (employer liability only).	6 April 2020
Written statement of terms and holiday pay	The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (SI 2018/1378) amend the Employment Rights Act 1996 to require that a written statement of terms must be provided on the first day of employment, rather than within the first two months. They also add to the information that must be provided.	6 April 2020

	<p>The Regulations also amend the Working Time Regulations 1998 to increase the reference period for determining an average week's pay (for the purposes of calculating statutory holiday pay) from 12 weeks to 52 weeks. This will protect workers with no normal working hours whose pay fluctuates.</p> <p>The Employment Rights (Miscellaneous Amendments) Regulations 2019 (SI 2019/731) extend the right to a written statement of terms to all workers from 6 April 2020.</p>	
Off-payroll working in the private sector – IR35 reforms	From April 2020, changes to the way the current IR35 rules are applied to 'off-payroll' working in the private sector will mean that the end-user will be responsible for determining the tax status of contractors/freelancers who work through an intermediary and deducting PAYE and NICs where applicable. Companies that regularly use contractors are likely to be affected by the proposed changes.	6 April 2020
The Parental Bereavement (Leave and Pay) Act 2018	All employed parents will have a day-one right to two weeks' leave if they lose a child under the age of 18 or suffer a stillbirth from 24 weeks of pregnancy.	6 April 2020 (expected)
The Employment Rights (Miscellaneous Amendments) Regulations 2019	The Employment Rights (Miscellaneous Amendments) Regulations 2019 lower the threshold required for a request to set up information and consultation arrangements from 10% to 2% of employees, subject to the existing minimum of 15 employees.	6 April 2020
Agency workers	The draft Agency Workers (Amendment) Regulations 2019 will remove the 'Swedish derogation' from the Agency Workers Regulations 2010 to give agency workers a right to pay parity with direct employees after 12 weeks.	6 April 2020
Conduct of Employment Agencies and Employment Businesses	Employment businesses will be required to provide agency work-seekers with a key facts statement before agreeing to any terms by which the work-seeker will undertake work.	6 April 2020
On the horizon		
Cap on public sector exit payments	During 2019, the government consulted on draft regulations and guidance to impose a cap of £95,000 on public sector exit payments. Subject to certain exceptions, the proposed exit payments that will be subject to the cap include redundancy payments, severance payments, ex gratia payments, payments to reduce or eliminate an actuarial reduction to a pension on early retirement, payments in lieu of notice that exceed one quarter of the employee's annual salary or any other payment made in consequence of termination of employment. Nothing further has happened on this since the consultation ended in July 2019.	Awaiting further Government announcement
Ethnicity pay gap reporting	In October 2018, the government launched a consultation on mandatory ethnicity pay gap reporting which closed in January 2019. The government's response to the consultation is now	Awaiting Government's response to consultation

<p>Statutory code of practice on sexual harassment</p>	<p>awaited but it is thought that it would take effect in much the same way as gender pay gap reporting.</p> <p>The Government is consulting on proposals to introduce a new statutory code of practice on sexual harassment and a mandatory duty to protect workers from sexual harassment (including third-party harassment). Other proposals include extending protection to interns and volunteers and extending time limits in sexual harassment claims (from 3 to 6 months).</p>	<p>Consultation closes in October. Government response then awaited</p>
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If you would like any further information about any of the changes listed above please contact David Smedley, Andrew Rayment or Shakeel Dad - david.smedley@walkermorris.co.uk, andrew.rayment@walkermorris.co.uk or shakeel.dad@walkermorris.co.uk

This tracker is up to date as at **1 October 2019**

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