

## Employment legislation tracker – March 2021

*Our employment tracker highlights forthcoming and proposed legislative changes.*

Development	Key points	Key dates
<b>Changes to post-employment notice pay (PENP) calculation</b>	Legislation amending the current formula for post-employment notice pay (PENP) to avoid unfair outcomes if an employee's pay period is defined in months, but the contractual notice period is expressed in weeks.	The new PENP formula applies from 6 April 2021 for those individuals who have their employment terminated, and where the termination payment is received on or after 6 April 2021
<b>National Minimum wage/National Living Wage</b>	<p>The National Living Wage, which currently applies only to workers aged 25 or over will be extended to 23 and 24-year-olds for the first time from 1 April 2021.</p> <p>The apprentice NMW rate will increase by 3.6% with the view to aligning it with the rate for 16 to 17-year-olds by 2022.</p> <p>The new NMW rates, from 6 April 2021, will be:</p> <p>Age 23 or over (NLW rate): £8.91 (up 2.2% from £8.72).</p> <p>Age 21 to 22: £8.36 (up 2% from £8.20).</p> <p>Age 18 to 20: £6.56 (up 1.7% from £6.45).</p> <p>Age 16 to 17: £4.62 (up 1.5% from £4.55).</p> <p>Apprentice rate: £4.30 (up 3.6% from £4.15).</p> <p>Accommodation offset £8.36 per week (up 2% from £8.20).</p>	1 April 2021
<b>Off-payroll working in the private sector – IR35 reforms</b>	The rules on off-payroll working in the private sector will come into effect from 6 April 2021 (having been deferred from last April due to the COVID 19 pandemic). They shift the compliance burden from the worker's personal service company to the medium and large "client" organisations that they work for, by treating the client organisation as an employer for income tax and NICs purposes.	6 April 2021
<b>Furlough scheme</b>	The government's furlough scheme is currently scheduled to end on 30 September 2021.	30 September 2021
<b>Temporary gender pay gap reporting deadline</b>	<p>The usual deadline for gender pay gap reporting is 4 April each year for private sector employers. Employers have an additional six month grace period this year to report their gender pay information. Provided that it is reported by the new date, no enforcement action will be taken.</p> <p>Enforcement action was suspended entirely for the 2019/20 reporting year – and employers are not required to report retrospectively for that year.</p>	5 October 2021
<b>The Employment Bill</b>	The Queen's Speech in December 2019 announced that the government was planning a new Employment Bill, which would cover:	As yet, there are no timescales for when any preparatory work, including consultations on the

	<ul style="list-style-type: none"> <li>- A single labour market enforcement agency (to help ensure that vulnerable workers are aware of and can exercise their employment rights).</li> <li>- A requirement for employers to pass on all tips and service charges to workers (to be supported by a statutory Code of Practice).</li> <li>- A right to request a more predictable and stable employment contract after 26 weeks' service.</li> <li>- An extension of the period of redundancy protection from the point an employee notifies their employer of their pregnancy (whether orally or in writing) until six months after the end of their maternity leave.</li> <li>- A new right to neonatal leave and pay, to support parents of premature or sick babies.</li> <li>- A week's leave for unpaid carers.</li> <li>- Making flexible working the default position unless an employer has a good reason.</li> </ul>	<p>proposals, will be undertaken or when the Employment Bill may be expected</p>
<p><b>Proposed extension of time limit for pregnant women and new parents to bring employment claims from 3 to 6 months</b></p>	<p>On 6 July 2020, the House of Commons Petitions Committee published a report making various recommendations to amend family-friendly leave and rights in light of the COVID-19 pandemic. Amongst the recommendations was the proposed extension of the time limit for pregnant women and new parents to bring claims from three to six months after dismissal, either on a temporary or permanent basis. The government has stated that the current three-month time limit for bringing pregnancy and maternity discrimination claims is being considered by the Government Equalities Office, with a response to be published in due course.</p>	<p>Government response to be published in due course</p>
<p><b>Ethnicity pay gap reporting</b></p>	<p>Back in October 2018, the government launched a consultation on mandatory ethnicity pay gap reporting. The issue is now back on the agenda and the government is set to debate a petition signed in 2020 that reached over 100,000 signatures. On 28 January 2020, the Equal Pay Bill 2019-20 was introduced as a private members' bill in the House of Lords, following a campaign by the Fawcett Society. The Bill would widen the scope of pay gap reporting beyond gender, to include the pay gap between employees of different ethnic groups and would require the government to develop regulations setting out further detail of the scheme on the issue. In addition to this, the CBI and Legal &amp; General Investment Management (the UK's biggest fund manager) have been vocal on the issue and are pressing for reform.</p>	<p>Awaiting debate and response from government</p>
<p><b>Gender equality</b></p>	<p>On 3 July 2019, the Government Equalities Office published "<i>Gender equality at every stage: a roadmap for change</i>". The proposals include consulting on strengthening measures to tackle sexual harassment, developing new guidance on sexual harassment, publishing a new Gender Equality Monitor, consulting on a new right to carers' leave and shared parental leave, reviewing</p>	<p>Awaiting further response from government</p>

	the enforcement of equal pay legislation, assessing the effectiveness of gender pay gap reporting and consulting on any changes.	
<b>Sexual harassment in the workplace</b>	Following various reports and inquiries into sexual harassment in the workplace, the government announced plans for a new statutory code of practice on sexual harassment. During 2019, the government consulted on a mandatory duty to protect workers from sexual harassment, how best to tackle third-party harassment; protection of interns and volunteers; the possible extension of time limits in sexual harassment claims and the better regulation of non-disclosure agreements.	The response to consultation was expected in Spring 2020 but, due to the pandemic, nothing has been published yet  Draft legislation to introduce the government's commitments in its response to the consultation on NDAs is awaited.  The EHRC's technical guidance on Sexual harassment and harassment in the workplace is expected to become statutory guidance in due course
<b>Non-disclosure agreements (NDAs)</b>	The government response to the consultation on NDAs was published in October 2019. The government plans to introduce legislation curbing the use of NDA provisions in employment contracts and settlement agreements alongside a requirement for independent legal advice to be provided to individuals asked to sign an NDA. New enforcement measures will be introduced for NDAs in employment contracts and settlement agreements that do not comply with legal requirements.	To be announced in due course
<b>Proposed ban on exclusivity clauses for those earning under the lower earnings limit</b>	The government's consultation on measures to extend the ban on exclusivity clauses in employment contracts to cover those earning under the Lower Earnings Limit closed on 26 February 2021.	Awaiting government response
<b>Consultation on measures to reform post-termination non-compete clauses</b>	The government's consultation on measures to reform post-termination non-compete clauses in employment contracts (including potentially banning them) closed on 26 February 2021.	Awaiting government response

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