



September 2018

In the Pipeline

A Guide to Future Employment and Immigration Law

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Employment

Date	Topic	Practical Impact
Summer 2017 onwards	Employment Status	<ul style="list-style-type: none">• The Government commissioned the Independent Review of Employment Practices in the Modern Economy (known as the Taylor Review) in 2016. The report was published in July 2017 and made various recommendations in relation to worker rights.• The Government published its response in February 2018, along with four separate consultation papers on: the test for employment status; improving protection for agency workers; enforcement of tribunal awards; and enforcing employment rights. The consultations closed in summer 2018, and the Government's report is awaited.
April 2017 to October 2018 onwards	Childcare Scheme	<ul style="list-style-type: none">• In April 2017, the Government introduced a new tax free childcare scheme to replace the current employer supported childcare voucher scheme. The new scheme allows working families to claim 20% of childcare costs for children under 12 up to a maximum of £2,000 per child each year.• Unlike the current childcare voucher scheme, the new scheme does not depend on participation by employers, as it is open to all eligible working couples, where both parents are employed or self-employed and each earns at least £120 per week but no more than £100,000 a year.• Existing childcare voucher schemes will be closed to new joiners on 4 October 2018. Any employee who is already a member of a childcare voucher scheme can choose whether to stay within that scheme or join the new tax free childcare scheme instead.
April 2018 and April 2019	Pensions	<ul style="list-style-type: none">• All employers are required to enrol their UK workers automatically into an occupational or personal pension scheme and make minimum contributions.• The minimum contributions required to be paid to a defined contribution pension scheme used for automatic enrolment (or for contractual enrolment as an alternative to automatic enrolment) will

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		<p>increase again in April 2019. This applies to all employers but it is most likely to require action by those employers who pay only the minimum required contributions or have a contribution structure with low contribution rates for some workers (e.g. matched or age-related contributions). Our briefing note "Automatic enrolment: minimum DC contribution rates" contains more detail.</p> <ul style="list-style-type: none"> • In addition to the ongoing automatic enrolment duties (see our briefing note "Pensions: Automatic enrolment"), all employers of UK workers are required every three years to re-enrol workers who have opted out of their automatic enrolment pension scheme. This is to be done on a date selected by the employer that falls within a six month window period set out in the legislation. An employer's first window period begins three months before the third anniversary of the employer's original automatic enrolment "staging date" and ends three months after the third anniversary. Our briefing note "Automatic re-enrolment" contains more detail.
January 2019	Corporate Governance/Pay	<ul style="list-style-type: none"> • A number of measures to reform corporate governance and pay will take effect in 2019. The changes apply to financial years beginning on or after 1 January 2019, so the first reports will be published in 2020. • Quoted companies with more than 250 UK employees will be required to report pay ratio information in their annual directors' remuneration reports. The pay ratio information will need to compare the total remuneration of the company's CEO with the remuneration of employees at the 25th, 50th and 75th percentiles of the workforce, and provide an explanation of the ratios. • Large private companies will be required to include a statement about their approach to corporate governance in their directors' reports, including which corporate governance code the company has applied (if any), how it did so and the reasons for any departure from that code. The Financial Reporting Council has consulted on new corporate governance principles for large private companies which can be used for this purpose, with a report expected in December 2018. The requirement will apply to companies that have either more than 2,000 employees or a turnover of more than £200 million and a balance sheet of more than £2 billion. • All companies with at least 250 UK employees will be required to report on employee engagement as part of their annual directors' reports. The report will need to describe what measures were taken during the financial year to introduce or develop arrangements for providing information to employees and consulting with them about decisions likely to affect them. Directors will also need to explain how they engaged with employees and had regard to their interests, and how this has impacted on key decisions of the company. • The Corporate Governance Code for premium listed companies has been revised and changes include: <ul style="list-style-type: none"> - new measures for employee engagement at board level - a specific requirement for effective whistleblowing procedures and reports to the board - additional measures to promote diversity in board succession planning.
Late 2018 to 2019	Financial Services and Insurance Regulation	<ul style="list-style-type: none"> • In March 2016, the Senior Managers and Certification Regime (SMCR) replaced the approved persons regime for employees in banks, building societies and other financial services organisations jointly regulated by the FCA and PCA. An equivalent regime was brought in for large insurers. • In December 2019 (December 2018 for insurers) the SMCR will be extended to all FCA regulated firms.
6 April 2019	National Insurance Contributions and Termination Payments	<ul style="list-style-type: none"> • Where an ex gratia termination payment is made (on top of notice pay) the first £30,000 can be paid free of income tax and any amount above this is taxable. However, the entire ex gratia payment is exempt from National Insurance Contributions (NICs).

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		<ul style="list-style-type: none"> From 6 April 2019, the first £30,000 of any ex gratia termination payment will still be payable free of income tax and NICs, but any amount above this will be subject not just to income tax but to NICs as well. Our note Tax Treatment on Termination Payments contains more detail.
April 2019	Tax and Contractors	<ul style="list-style-type: none"> The Government has published a consultation paper on extending rules on taxing contractors. These rules already apply in the public sector and the extension would apply them to the private sector. The so-called "off-payroll working rules" were introduced in the public sector in April 2017. Under the rules, where an individual contractor or consultant supplies their services to a public sector client via a personal services company, the client must decide whether the "IR35 legislation" applies. This broadly involves the client asking whether, without the personal services company, the individual would be regarded as an employee of the client for tax purposes. If so, the client (or the body responsible for paying the contractor's company) must deduct income tax and national insurance contributions from payments to the contractor's company. The rules are designed to ensure that those who work through a personal services company, who would be employees if they were engaged directly, pay broadly the same tax as employees. No date has been given for the extension to the private sector but this is likely to happen in April 2019 or April 2020.
2020	Parental Bereavement Leave	<ul style="list-style-type: none"> Parents who lose a child under the age of 18 will be entitled to two weeks' statutory leave (paid if the employee has 26 weeks' service). This new law is expected to come into force in 2020.
No date	Board Diversity	<ul style="list-style-type: none"> At the end of 2016, the Government commissioned Hampton-Alexander review published a report on improving the gender balance in FTSE companies, recommending an increase in the number of women on boards and executive committees in FTSE 350 companies.
No date	Grandparental Leave	<ul style="list-style-type: none"> In 2016 the Government announced proposals to extend shared parental leave and pay to working grandparents by 2018. The Government intends to consult on the details of this proposed leave before it is introduced, but has not indicated when this consultation might be published.
No date	Sexual Harassment	<ul style="list-style-type: none"> In spring 2018, the Equality and Human Rights Commission (EHRC) published a report, <i>Turning the tables: ending sexual harassment at work</i>, which made a number of recommendations to strengthen the protection for victims of sexual harassment. The report calls for a mandatory legal duty on employers to take reasonable steps to prevent workplace sexual harassment, which would be enforceable by the EHRC. Other recommendations would see confidentiality provisions in settlement agreements used only where these have been requested by the victim, and banned altogether where they seek to prevent disclosure of future (as opposed to past) sexual harassment. The EHRC would also like to see the limitation period for sexual harassment claims extended from three to six months to give victims more time in what are already traumatic circumstances. The Government's response to the EHRC report is awaited.
No date	Diversity Reporting	<ul style="list-style-type: none"> In August 2018, the Equality and Human Rights Commission (EHRC) published a report on disability and ethnic pay gaps and progression. The EHRC plans to produce guidance for employers on collecting, using and reporting data on employee ethnicity and disability. The EHRC also recommends that, by April 2020, employers (with over 250 employees) should have a legal obligation to report on ethnicity and disability in pay, recruitment, retention and progression.

Immigration

Date	Topic	Practical Impact
October 2018	New submission service for UK visa applicants	<ul style="list-style-type: none"> A new visa application submission service managed by third party contractor Sopra Steria, is expected to be rolled out in October 2018. Applicants in the UK can currently attend in-person appointments at one of eight UKVI Premium Service Centres to submit their applications. The new service will allow applications to be submitted at one of over 60 additional locations including local libraries. Applicants should also be able to scan supporting documents to the UKVI, removing the need to submit original documents.
Late 2018	Health Surcharge for non-EU nationals	<ul style="list-style-type: none"> Since 6 April 2015 UK visa applicants have been required to pay an Immigration Health Surcharge (IHS) fee for being able to use the NHS. The fee is paid online at the time the visa application is submitted. The Government has announced an intention to double the IHS fee from £200 to £400 for each year of the visa sought for individuals coming to work or join family members in the UK. The discounted rate for students and those on the Youth Mobility Scheme will increase from £150 to £300. The increased charges are expected to take effect sometime in late 2018, although a date has not yet been announced.
Late 2018 to 30 March 2019	Brexit – EU Settlement Scheme	<ul style="list-style-type: none"> The UK has introduced a new EU Settlement Scheme for EU nationals living in the UK. Under the Scheme, EU nationals (and their family members) who have been resident in the UK for at least five years will be granted "Settled status" (indefinite leave) and EU nationals (and their family members) who have been resident in the UK for less than five years will be granted "Pre-settled status" (limited leave). The Scheme opened on 28 August 2018 on a trial basis, limited to specified NHS Trusts and selected universities in Liverpool. It is then expected to be opened in a phased way, before opening up fully by 30 March 2019.
Late 2018	Post-Brexit immigration policy for EU nationals	<ul style="list-style-type: none"> The Government is expected to publish a White Paper in late 2018, on its proposals for the post-Brexit immigration arrangements for EU nationals.
No date	Electronic visas for non-EU nationals	<ul style="list-style-type: none"> UK visa applicants currently submit their physical passports for endorsement as part of their visa application process. In the future, it will be possible for visas to be issued electronically, and potentially sent to applicants by email or other electronic format. New processes allowing applicants to scan and upload supporting documents with applications are also expected to be introduced as part of an ongoing digitisation programme for UK visa applications.

If you have any queries on this edition of **In the Pipeline**, please contact any member of the **Employment Department**

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