



March 2018

## In the Pipeline

### A Guide to Future Employment and Immigration Law

#### Employment

Date	Topic	Practical Impact
Summer 2017 onwards	Employment Status	<ul style="list-style-type: none"><li>• 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.</li><li>• 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 different closing dates for the various consultations are between 9 May and 1 June 2018.</li><li>• Separately, the Government has carried out its own inquiry into the future world of work and workers' rights. The Government reported on this inquiry in November 2017, and proposed various measures some of which are addressed in the above consultations.</li></ul>
5 April 2017 to 4 April 2018 onwards	Gender Pay Gap Reporting	<ul style="list-style-type: none"><li>• Employers with 250 or more employees are required to publish information on the gender pay gap in their organisation as at 5 April each year. The regulations require employers to publish, on their website annually, the mean (average) and median (mid-point in the data) difference between male and female pay, as well as the mean and median difference between bonuses, and the proportions of male and female employees in different pay bands.</li><li>• Employers will be required to report by 4 April the following year so the first reports will have to be published by 4 April 2018.</li><li>• The Equality and Human Rights Commission will take enforcement action against employers who fail to comply, which could include fines for persistent non-compliance.</li></ul>
April 2017 to April 2018 onwards	Childcare Scheme	<ul style="list-style-type: none"><li>• 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.</li><li>• 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</li></ul>

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		<p>and each earns at least £120 per week but no more than £100,000 a year.</p> <ul style="list-style-type: none"> <li>Existing childcare voucher schemes will be closed to new joiners in 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.</li> </ul>
<b>1 April 2018</b>	<b>National Minimum Wage and National Living Wage</b>	<ul style="list-style-type: none"> <li>The hourly rate of the national living wage (which applies to workers aged 25 or over) will increase from £7.50 to £7.83.</li> <li>The hourly rates of the national minimum wage will increase as follows: <ul style="list-style-type: none"> <li>from £7.05 to £7.38 (for workers aged 21 to 24)</li> <li>from £5.60 to £5.90 (for workers aged 18 to 20)</li> <li>from £4.05 to £4.20 (for workers aged under 18)</li> <li>from £3.50 to £3.70 (for apprentices)</li> </ul> </li> </ul>
<b>1 April 2018</b>	<b>Statutory Maternity/ Paternity/Adoption/ Shared Parental Pay</b>	<ul style="list-style-type: none"> <li>The weekly rate of statutory/maternity/paternity/adoption/shared parental pay will increase from £140.98 to £145.18.</li> </ul>
<b>6 April 2018</b>	<b>Statutory Sick Pay</b>	<ul style="list-style-type: none"> <li>The weekly rate of statutory sick pay will increase from £89.35 to £92.05.</li> </ul>
<b>6 April 2018</b>	<b>Tax on Termination Payments</b>	<ul style="list-style-type: none"> <li>Currently, notice payments can be paid free of tax (up to £30,000) and National Insurance contributions (NICs) where there is no payment in lieu of notice (PILON) clause in the contract.</li> <li>From 6 April 2018, all notice payments will be subject to income tax and NICs regardless of whether the contract contains a PILON clause. The £30,000 tax exemption will remain available for any termination payment over and above notice pay. Our note <a href="#">Tax Treatment on Termination Payments</a> contains more detail.</li> </ul>
<b>6 April 2018</b>	<b>Unfair Dismissal and Statutory Redundancy Pay</b>	<ul style="list-style-type: none"> <li>For dismissals occurring on or after 6 April 2018, the maximum compensatory award for unfair dismissal will increase to the lower of £83,682 and a year's pay (currently the maximum award is the lower of £80,541 and year's pay).</li> <li>The maximum amount of a week's pay for calculating the unfair dismissal basic award and statutory redundancy pay will increase from £489 to £508.</li> </ul>
<b>April 2018 and April 2019</b>	<b>Pensions</b>	<ul style="list-style-type: none"> <li>All employers are required to enrol their UK workers automatically into an occupational or personal pension scheme and make minimum contributions.</li> <li>On 6 April 2018 (and again on 6 April 2019), 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 increase. 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 <a href="#">"Automatic enrolment: minimum DC contribution rates"</a> contains more detail.</li> <li>In addition to the ongoing automatic enrolment duties (see our briefing note <a href="#">"Pensions: Automatic enrolment"</a>), 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 <a href="#">"Automatic re-enrolment"</a> contains more detail.</li> </ul>
<b>25 May 2018</b>	<b>Data Protection</b>	<ul style="list-style-type: none"> <li>The EU General Data Protection Regulation (GDPR) will make major changes to data protection law. The key changes will include: <ul style="list-style-type: none"> <li>an increase in the maximum fine for breach of data protection law from the current £500,000 to up to £20million</li> </ul> </li> </ul>

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		<ul style="list-style-type: none"> <li>- consent to the processing of personal data will be more difficult to obtain in the employment context so employers will need to rely on other grounds for processing</li> <li>- employers will be required to give employees more detailed information about the personal data they hold and how it is processed.</li> <li>• When the UK leaves the EU the GDPR will not apply, but before then the Government intends to incorporate it into UK law.</li> </ul>
<b>June 2018</b>	<b>Corporate Governance/pay</b>	<ul style="list-style-type: none"> <li>• The Government published a Green Paper on corporate governance reform in November 2016, and published its response on 29 August 2017. The Government identified a number of proposals for reform including: <ul style="list-style-type: none"> <li>- requiring quoted companies to publish annually the pay ratio between the CEO and average worker</li> <li>- requiring premium listed companies to give employees a stronger voice at board level (e.g. by having a non-executive director designated to represent the workforce)</li> <li>- "naming and shaming" listed companies where at least 20% of shareholders have objected to executive pay</li> </ul> </li> <li>• The changes are intended to come into force by June 2018.</li> </ul>
<b>Late 2018 to 2019</b>	<b>Financial Services and Insurance Regulation</b>	<ul style="list-style-type: none"> <li>• In March 2016, the Senior Manager's 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.</li> <li>• In 2019 (December 2018 for insurers) the SMCR will be extended to all FCA regulated firms.</li> </ul>
<b>6 April 2019</b>	<b>National Insurance Contributions and Termination Payments</b>	<ul style="list-style-type: none"> <li>• 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).</li> <li>• 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.</li> </ul>
<b>2020</b>	<b>Parental Bereavement Leave</b>	<ul style="list-style-type: none"> <li>• A private members' bill to grant two weeks' statutory paid leave to parents who have lost a child is progressing through Parliament. It is expected to become law in 2020.</li> </ul>
<b>No date</b>	<b>Board Diversity</b>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The Financial Reporting Council is consulting on proposed changes to the Corporate Governance Code (which applies to listed companies) to require companies to take gender, ethnic and social diversity into account when making board appointments.</li> </ul>
<b>No date</b>	<b>Grandparental Leave</b>	<ul style="list-style-type: none"> <li>• 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.</li> </ul>

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## Immigration

Date	Topic	Practical Impact
October 2018	Brexit – EU nationals	<ul style="list-style-type: none"><li>All EU nationals living in the UK as at the date that Brexit takes effect will be required to apply for new residence documentation under UK law. EU nationals who have at least five years of residence in the UK will be able to apply for a new "Settled status" and individuals with less than five years will apply for "Temporary status" until they can complete five years of residence and qualify for Settled status.</li><li>The application process for Settled status is expected to open from October 2018. The UK Government has indicated that there will be a streamlined online application process, potentially via an "app". EU nationals who already hold EU Permanent Residence Documentation should be exempt from application fees.</li></ul>
Autumn 2018	Brexit – EU nationals	<ul style="list-style-type: none"><li>The Government plans to publish a White Paper setting out its proposals for a post-Brexit immigration system for EU nationals. The paper was originally scheduled for publication in 2017 but has been delayed several times and is now expected to be published in Autumn 2018.</li></ul>
No date	Electronic visas for non-EU nationals	<ul style="list-style-type: none"><li>Currently UK visa applicants must submit their physical passports for endorsement as part of their visa applications process. In the future, it will be possible for visas to be issued electronically, potentially by email. New processes allowing applicants to potentially scan and upload supporting documents with applications are also expected to be introduced in the future.</li></ul>
No date	Health Surcharge for non-EU nationals	<ul style="list-style-type: none"><li>Since 6 April 2015 most UK visa applicants have been required to pay an Immigration Health Surcharge (IHS) fee of £200 for each year of the visa applied for. The IHS is effectively a fee for being able to use the NHS and must be paid online at the time the visa application is submitted. The Government has announced an intention to double the fee to £400 for each year of the visa sought but no date has been set yet.</li></ul>

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

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