



Urgent new employment laws landing in 2021



with:

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Today we will cover...

- The Job Retention Scheme continues
- Self-isolation and SSP
- Shielding
- Annual leave
- Modern slavery statements
- Gender pay gap reports
- New IR35 rules
- Kickstart scheme
- Post-Brexit immigration
- Increases to statutory rates
- Future Good Work Plan developments

The Job Retention Scheme continues

- Employers can still make use of the Job Retention (furlough) Scheme to help them retain staff through coronavirus restrictions.
- As a reminder, this involves placing staff on 'furlough', during which time they do no work for the company. The government then pays 80% of their wages.
- Staff can be flexibly furloughed, meaning they only work some of their hours and the government pays part of their wages for the rest of the time.
- The scheme is currently expected to last until the end of April 2021. However, it may be extended again.

Self-isolation and Statutory Sick Pay (SSP)

- SSP is payable from day one of absence where the absence is because of coronavirus, but a 4-day period of incapacity for work (PIW) must still be formed.
- SSP is **not** payable when an employee needs to quarantine on return from overseas.
- Self-isolation types:
 - 10 days when employee has positive test or symptoms
 - 10 days when employee lives with, or is in a bubble with, someone who has a positive test or symptoms
 - 10 days when employee has received notification from tracing service that they have had close contact with someone with a positive test
 - Up to 10 days when employee notified by NHS to self-isolate before surgery

Shielding

- Due to the implementation of lockdowns across the UK, shielding has now returned in England, Scotland and Wales.
- This means that those who are considered extremely clinically vulnerable from the coronavirus will be advised to not attend work, even if they cannot work from home.
- They are also entitled to receive SSP for this time.
- Employers can also agree other ways to cover the absence, such as providing contractual sick pay or agreeing with staff that they should take annual leave.
- Remember that companies with less than 250 members of staff can still claim up to two weeks of SSP through the SSP Rebate Scheme.

Carrying over annual leave from 2020

- Usually, 4 weeks of annual leave is exclusive to the leave year in which it is accrued i.e. cannot be carried over subject to limited exceptions.
- In 2020, the law was relaxed in response to coronavirus and the 4 weeks can be carried forward to the next two years where it was not reasonably practicable to take it in the leave year.
- As usual, the remaining 1.6 weeks of leave can be carried over to the next leave year subject to the employer's agreement.
- An employer's usual rules will apply to any enhanced contractual element above 5.6 weeks.

Modern slavery statements

- Following a consultation held in July 2019, the government has confirmed an expansion to the current laws on modern slavery, which will require more organisations to produce reports.
- Public sector organisations with a budget of at least £36 million will now also be required to publish a statement.
- Statements will be required to cover specific topics and outline what has been done in these areas, such as providing additional training to spot modern slavery and conducting due diligence on organisations before using them in a supply chain.
- A shared reporting period is to be introduced, running from 1 April to 31 March in all years.
- Statements will need to be published on the new government registry.

Gender pay gap reports

- Usually, employers with 250+ employees have to submit a gender pay gap report every April.
- Due to the coronavirus outbreak, the government suspended the production of 2020 reports, meaning reporting was delayed until 2021.
- 2021 reports will need to focus on a snapshot date of 5 April 2020 for private companies – if staff were furloughed during this time, they will not need to be included in the report, if their pay was not topped up. However, they should be included in relation to bonus pay, if any of them did receive bonuses in this time.
- Remember that you will need to assess how many employees were in your company on 5 April 2020. This means that you will still need to produce a report even if you have since diminished your workforce below 250 members of staff.

New IR35 rules

- New IR35 rules, which were due to come into place in April 2020, have now been delayed until 6 April 2021.
- Currently, those working in the private sector are solely responsible for determining employment status of contractors they use. This has previously provided companies the opportunity and incentive to pay the wrong amount of tax.
- From April 2021, eligible large and medium sized organisations engaging contractors through intermediary companies will also be responsible for assessing the employment status of those contractors.
- Organisations will need to meet at least two of the below to have to do this:
 - have over 50 employees
 - have a net turnover in excess of £10.2m
 - have over £5.1m on their balance sheet.

Kickstart Scheme

- Aimed at creating new high-quality jobs to help 16-24 year-old unemployed people on Universal Credit who are at risk of long-term unemployment.
- Employers can apply for funding to cover 25 hours work per week, paid at the National Minimum Wage (NMW), and a grant for ancillary costs.
- Employers can advertise roles as Kickstart roles with minimum 25 hours per week for a minimum 6 month placement, but must commit to providing training on employability skills e.g. team work, attendance and punctuality, CV and interview skills.
- Minimum 30 roles must be created in order to be eligible for funding, or employer can team up with other employers to reach minimum number threshold.

Post-Brexit immigration

- EU citizens in the UK by 31 December 2020 can apply to the EU Settlement Scheme to obtain permission to stay after 30 June 2021.
- Right to work checks on EU citizens will not change until after 30 June 2021. Employers should still ask for passport, national identity card etc.
- You cannot insist on production of Settlement Scheme status before 30 June 2021.
- Those arriving in the UK from 1 January 2021 will need a visa which should be checked alongside their passport etc.
- Entry to the UK to work will be authorised in accordance with a points-based system under the 'Skilled Worker Route'. Employers must become a sponsor.

Increases to statutory rates

- National minimum wage increases for April 2021:
 - £8.91 per hour for workers aged 23 and over
 - £8.36 per hour for workers aged 21-22
 - £6.56 per hour for workers aged 18-20
 - £4.62 per hour for workers aged 16-17
 - £4.30 per hour apprentice rate
- Other proposed rate increases from April 2021:
 - Family leave pay, including maternity pay: from £151.20 to £151.97 per week.
 - Statutory sick pay: from £95.85 to £96.35 per week.
 - The lower earnings limit: currently £120 per month, but likely to increase.

Further Good Work Plan changes expected

- Workers to be given right to request a more stable contract after 26 weeks of service.
- New legislation to carry out employment status tests.
- New law preventing tip deductions.
- New law offering increased redundancy protection to mothers returning from maternity leave.

Summary

- There are a number of employment law changes expected in 2021, including several for which the dates are yet to be confirmed.
- For now, key developments centre around the ongoing Covid-19 pandemic and the ongoing implications of Brexit.
- Employers must keep up to date with all developments in order to implement all necessary changes.



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