

# What to expect in employment law in 2019 and beyond

## 29 March 2019 is 'Exit Day'

On the Brexit cut-off date, which is currently expected to be 29 March 2019, the UK leaves the EU. Assuming the Withdrawal Agreement is enacted by the UK Parliament, the UK will then enter a transition period which lasts until the end of December 2020. Freedom of movement will continue during the transition period. EU citizens who are already resident up until the end of the transition period will be eligible for permanent settled status in the UK once they have been resident in the UK for five years.

The Government has published technical guidance on worker status to apply in the event of a 'no deal' Brexit. The notice advises that, with some minor exceptions, any changes to employment legislation in the event of a no-deal Brexit will be solely linguistic to reflect the fact that the UK is leaving the EU and that there will be no change to substantive employment rights.



## Payslips

As part of the Government's recommendations in its response to the Taylor Review, two important changes will be introduced from 6 April next year, which affects pay slip information, from that date:

- Employers must include the total number of hours worked where the pay varies according to the hours worked, for example under variable hours or zero hours contracts.
- Payslips must be given to 'workers' and not just employees.



## The Parental Bereavement (Leave and Pay) Act

This Act received Royal Assent on 13 September 2018. Under the Act, there will be a right to two weeks' bereavement leave and pay for employees whose child dies below the age of 18, or whose child is stillborn. The new right is expected to take effect in 2020.



## Wage increases

The hourly National Living Wage rate increases from £7.83 to £8.21 from 1st April 2019. **The National Minimum Wage** rates also increase on this date.



## The gig economy and the Taylor Review

We expect to see more legal challenges on employment status from individuals working in the so-called 'gig economy', who are categorised as self-employed contractors but claim, in fact, they are workers or employees in reality. The trend has been for more and more individuals working in the gig economy to be recognised by the tribunals as workers.

In 2016, the Government commissioned an independent report on modern working practices and the employment status of contractors working within the 'gig' economy. This report is known as the Taylor Review. The Government finished consulting with businesses and other interested parties on this report in June 2018. We are still awaiting the Government's response to the consultations, which we expect to receive some time in 2019. Some of the changes the Government has proposed introducing includes a new free online tool for determining employment status, similar to HMRC's employment status indicator used for tax purposes and the introduction of a right for all workers, including zero hour workers and agency workers to request guaranteed hours after a certain period of working.



## Tribunal fees

On 6 October 2018, the Ministry of Justice (MoJ) indicated that plans for the reintroduction of employment tribunal fees were in development. The Supreme Court abolished Tribunal fees in July 2017 but did not rule out the possibility of the Government reintroducing tribunal fees in the future. This was provided that the reintroduced fees are set at a lower level, including a fee exemption for those that cannot afford to pay a fee. The fee scheme requires the MOJ to find the correct balance between funding the tribunal scheme whilst ensuring access to justice.



## Grandparental Leave

The proposal to extend Shared Parental Leave to employees who are grandparents, to take time off to look after their grandchildren, has been put on hold while the Government carries out an evaluation of the existing Shared Parental Leave entitlement.



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