

Newsletter

It has been quite some time (i.e. since 2018), that we last issued a Newsletter, this is mainly due to the fact that most of the work the government have been focussed on, in both Parliament and Europe, has been Brexit related with only a relatively minor developments in employment law being introduced.

This has led to little attention been devoted to employment related legislation. Now that the outcome of Brexit has been determined, one of the Governments tasks is to establish independent employment laws, in addition to other matters related to Brexit. A number of changes to our employment laws become effective from early April 2020, but there are others currently being considered and debated now that we are no longer part of the EU.

This edition of the Newsletter is intended to provide summary information about some imminent legislation that will be introduced, together with changes to statutory payments that are also very shortly due to come into effect.

Current retained clients of Davies Associates, where necessary, will be contacted directly (if they subscribe to a fully retained HR support service) should they require changes to either their Statement of Written Particulars or Employment Policies and Procedures. All changes outlined within will take effect from April 2020.

Changes to statutory payments

1. Statutory Family Payment Rate Changes

The standard rate of Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP) and Statutory Adoption Pay (SAP) will increase from £148.68 to £151.20 per week. These allowances are however only payable, if the employee has the appropriate service qualification and their weekly wage exceeds the National Insurance threshold.

2. Statutory Sick Pay Increases

The standard rate of statutory sick pay increase from £94.25 to £95.85.

Again, it is only payable if the employees wage exceeds the NI lower threshold.

3. National Living Wage and National Minimum Wage Rates.

The following are the current minimum hourly rates of pay and the rates which will apply from 1st April 2020:

Age	Current rate	Rates from April 2020
25 and over	£8.21	£8.72
21 to 24	£7.70	£8.20
18 to 20	£6.15	£6.45
Under 18	£4.35	£4.55
Apprentices	£3.90	£4.15

4. Statements of Written Particulars (i.e. Contracts of Employment)

Until now, employers have been required to issue a Contract of Employment within 56 days of a new starter commencing employment. With effect from April, there will be a requirement to issue a contract prior to, or at the latest, on the first day that the employment relationship commences.

For those organisations that currently don't have contracts of employment in place, or would like to have a review of their current contracts, or indeed their HR Policies & Procedures, then Davies Associates will be happy to assist.

5. Holiday Pay

The rate of holiday pay for casual workers (those working irregular hours etc) will now need to be calculated in a different way. Currently the rate of pay to be applied when holidays are taken, is determined by the average of the twelve weeks pay prior to the date the holiday commenced. The new law being introduced requires that the rate should be determined from the average pay over the previous twelve months. This is likely to be an administrative burden on companies. You are therefore strongly advised to notify your payroll provider of this to ensure that the correct amount of holiday pay is paid. This will avoid unnecessary tribunal claims being brought against you.

The way in which holiday hours can be calculated can still be determined by applying a factor of 12.07% to each hour worked during any holiday year e.g. 12.07 hours holiday pay for 100 hours worked.

6. Introduction of Parental Bereavement Leave (Effective from April 2020).

This new law will give the right to parents on the death of a child under the age of 18, or for still births from 24 weeks of pregnancy, up to two weeks Parental Bereavement Leave. This will be paid at the same rate as SMP & SPP i.e. £151.20 per week to those with over six months service. The following conditions will apply to leave and/or pay:

- The leave can be taken in two separate weeks or one two-week period not odd days.
- The leave must be taken within 56 weeks of the death of the child.
- The payment of bereavement pay, will only apply to employees with over 26 weeks service but those with less service will be entitled to the same time off provisions irrespective of service.

The amount of leave and pay (outlined above under the new legislation), are the minimum a company must pay for such leave, companies can however establish their own, more favourable policies, in dealing with requests for such leave from their employees.

Whereas some employers may already have their own policies in place to cater for such eventualities i.e. more favourable policies you are advised to seek advice if you feel that your current policies conflict with this new law.

7. IR 35

Another main focus of the government relates to sub-contractors providing their services to the private sector. The Government have made it clear that the responsibility of determining employment status, lies firmly with Company management i.e. to determine whether employee or worker status exists.

There are a number of factors to determine whether an individual is regarded as an employee or a subcontractor. HMRC will no doubt be very active over the next couple of years trying to identify organisations that breach IR35 rules, so we would advise all Companies to be proactive in determining employment status or seek guidance should they have any doubt.

There is a tool that can be used on the Government website that a company can use which will assist in determining employment status, which can be found via the following link:

<https://www.gov.uk/guidance/check-employment-status-for-tax>

What Next?

Davies Associates will be monitoring further developments in employment law as the year progresses and when more information becomes available, we will naturally up-date all our readers.

General Advice

Companies are advised to review their existing contractual arrangements with their staff to establish whether any contractual amendments or changes to Policies and Procedures or other action is necessary on their part resulting from any of the changes identified in this Newsletter.

We hope that you have found the information contained within this Newsletter useful but if you require any additional information or clarification on any of the content, we will be pleased to assist you. We would also welcome any feedback from readers with suggestions on what you would like to see in future editions of the Newsletter.

Disclaimer

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