

Employment Law Webinar

The April 2020 Changes



CharlesRussell
Speechlys

CITY HR ASSOCIATION: WEBINAR

The April 2020 Changes

3 March 2020, 12-1pm

Nick Hurley – Partner
Jessie Basra – Associate

charlesrussellspeechlys.com



The April 2020 Changes

Your presenters



Nick Hurley
Partner, Employment



Jessie Basra
Associate, Employment

April 2020 Changes

Good Work Plan

Aspects of the **Matthew Taylor** recommendations (primarily benefiting casual/temporary employees and workers) will come into force on 6 April 2020.

- a) Right to a written statement of terms for employees and workers on or before day 1.
 - Similar to existing S.1 ERA information but also includes:
 - Probation periods
 - The days of the week the worker is required to work
 - Eligibility for any leave (not holiday or sick leave, which is already required)
 - Requirement for a single document to be given for majority of terms but some terms can be given in instalments
 - Consequence of a failure to comply – maximum 2-4 week compensation (at capped rates) but only if piggy-backing on another claim. Lack of teeth??

April 2020 Changes

Good Work Plan (continued)

b) Holiday reference period

- Will change on 6 April from 12 – 52 weeks for determining holiday pay (based on an average week's pay).
- Ensures that casual workers are not prejudiced if they decide to take holiday out of season when their pay will be lower.

c) Abolishing the “Swedish derogation”

- The Swedish derogation is a legal device whereby agency workers are paid between assignments, which avoids pay parity between comparable direct employees after 12 weeks.
- By no later than 30 April 2020 Agencies must write to agency workers confirming that the Swedish derogation will no longer apply.

April 2020 Changes

Good Work Plan (continued)

d) Key facts for agency workers due on 6 April 2020

- Employment businesses must provide work-seekers with a Key Information Document that includes:
 - Type of contract
 - Minimum expected rate of pay and by whom
 - Any deductions to apply
 - Any non-monetary benefits
 - Entitlement to annual leave & pay
 - An illustration of take home pay

April 2020 Changes

Good Work Plan (continued)

e) Information and Consultation thresholds

- The threshold required for a request to set up Information and Consultation arrangements drops from 10% to 2% of employees (subject to a minimum of 15 employees) on 6 April
- Matthew Taylor (curiously) identified this change as his single greatest achievement as he sees this as improving employee engagement, which will benefit productivity, performance and lead to more fulfilling work....

April 2020 Changes

Other Changes

- Taxation of Termination Payments
 - From 6 April 2020 all termination payments above £30,000 will be subject to employers' NICs (in addition to PAYE)
 - Parental Bereavement Leave and Pay also from 6 April 2020 - all employees who tragically lose a child under 18 or who suffer a stillbirth after 24 weeks of pregnancy are entitled to:
 - a) 2 weeks of compassionate leave; and
 - b) pay (at statutory paternity rates)

April 2020 Changes

Off Payroll Working Rules (changes to IR35)

- In the private sector, the proposed changes will come into force on 6 April 2020 (recently confirmed).
- Fundamentally moves the needle on the current arrangements and shifts the burden and risk onto the end client or fee-payer
- Who is caught?
 - Medium to large companies
 - Smaller employers exempted (i.e. those with 2 out of the following 3 criteria):
 - Annual turnover not exceeding £10.2m
 - A balance sheet not exceeding £5.1m
 - Average over a year of not more than 50 employees

April 2020 Changes

Changes to IR35 (continued)

- Obligation on end client to treat monies paid to workers as employment income and deduct income tax and NICs, unless....
- A status determination is made and a Status Determination Statement (SDS) is given to the worker and PSC which shows:
 - i. whether the employment status limb of IR35 is met (i.e. whether the individual would be regarded as employed for tax purposes if they provided services directly to the client);
 - ii. the reasons for that conclusion which must be conducted with reasonable care.
- End clients must therefore avoid “blanket” IR35 status determinations and carry out a proper analysis to meet the new rules.

April 2020 Changes

Changes to IR35 (continued)

- If the end client does not take reasonable care it remains liable under PAYE
- HMRC are promoting their Check Employment Status for Tax (CEST) service (a basic test but HMRC say they will stand behind the results if the test information is accurate) to help make the determination
- Various commentators have complained about the adequacy of CEST

April 2020 Changes & Beyond....

Other legislative developments to watch

- Use of Non Disclosure Agreements (NDAs) (recent EHRC guidance and ACAS guidance)
- Changes to Sexual Harassment law (EHRC guidance)
- Ethnicity Pay reporting



charlesrussellspeechlys.com

This information has been prepared by Charles Russell Speechlys LLP as a general guide only and does not constitute advice on any specific matter. We recommend that you seek professional advice before taking action. No liability can be accepted by us for any action taken or not taken as a result of this information. Charles Russell Speechlys LLP is a limited liability partnership registered in England and Wales, registered number OC311850, and is authorised and regulated by the Solicitors Regulation Authority. Charles Russell Speechlys LLP is also licensed by the Qatar Financial Centre Authority in respect of its branch office in Doha and registered in the Dubai International Financial Centre under number CL2511 and regulated by the Government of Dubai Legal Affairs Department in respect of its branch office in the DIFC. Charles Russell Speechlys LLP's branch office in Hong Kong is registered as a foreign firm by The Law Society of Hong Kong. In France, Luxembourg and Switzerland Charles Russell Speechlys provides legal services through locally regulated and managed partnerships or corporate entities. Any reference to a partner in relation to Charles Russell Speechlys LLP is to a member of Charles Russell Speechlys LLP or an employee with equivalent standing and qualifications. A list of members and of non-members who are described as partners, is available for inspection at the registered office, 5 Fleet Place, London. EC4M 7RD

Andrea Eccles,
Chief Executive,
City HR Association
andreaeccles@cityhr.co.uk

Cindy Mahoney,
City HR Association
cindymahoney@cityhr.co.uk

Sam Bailey,
Operations Manager,
City HR Association
sambailey@cityhr.co.uk

W cityhr.co.uk
Association



@CityHRAssoc



City HR