

## Employment Law and Other Important Changes

### Since April 2018

- ✓ **Statutory pay rates increase**
- ✓ **Increases to income tax allowances and thresholds**
- ✓ **Lower earnings limit for national insurance contributions increases**
- ✓ **Employer contribution into a pensions auto-enrolment scheme increases**
- ✓ **Pensions auto-enrolment earnings thresholds rise**
- ✓ **Change to tax treatment of payments made in lieu of notice introduced**
- ✓ **Employment tribunal award limits increase**

### May – October 2018

- ✓ **New structure for data protection charges introduced – 25 May 2018**  
Draft Data Protection (Charges and Information) Regulations 2018

The Regulations introduce a new charging structure for the fees that data controllers must pay to the Information Commissioner (ICO). The new charging structure is being introduced to coincide with the General Data Protection Regulation (GDPR), which comes into effect on the same date. Data controllers that are not exempt have to pay an annual fee to the ICO and provide certain prescribed information for the fee to be determined. There are three tiers based on employee numbers and annual turnover: £40, £60 and £2,900.

The Regulations provide for exceptions for public authorities, charities and small occupational pension schemes, and an exemption from the charge exists in certain circumstances.

The ICO has published a Guide to the data protection fee.

- ✓ **General Data Protection Regulation comes into force – 25 May 2018**  
The General Data Protection Regulation (2016/679 EU) (GDPR) replaces the Data Protection Directive (95/46/EC).

The Regulation harmonises data protection law across the EU and extends it to include all foreign companies processing the data of EU residents. The Regulation:

- provides for the creation of a single data protection authority instead of a supervisory authority for each member state, and the creation of data protection officers for all public authorities and companies processing high volumes of data;
- provides for the imposition of a fine of €20 million or 4% of global turnover, whichever is greater;
- requires the positive consent of individuals to have their data processed;

- provides for the notification of breaches to the data protection authority; and
- extends the special categories of information, such as trade union membership and religious belief or political opinion, to include information relating to health.

On 7 August 2017, the Government issued a Statement of intent: A new Data Protection Bill - our planned reforms, which set out its proposals for updating the law on data protection. On 13 September 2017, the Government introduced the Data Protection Bill in Parliament. The Bill will repeal the Data Protection Act 1998 and bring data protection rules in the UK into line with the requirements of the GDPR. In particular, the Bill provides for enhanced rights of individuals over their data, for example in relation to consent and erasure of personal data. It creates the requirement for mandatory data protection officers, whose role is to monitor compliance, and applies greater sanctions for data breach. The Bill utilises the derogations contained within the GDPR, including the derogations that permit the Government to legislate on the processing of criminal conviction data.

The Information Commissioner's Office has published *Preparing for the General Data Protection Regulation (GDPR): 12 steps to take now and Guidance: what to expect and when*, providing guidance on steps that employers can take in preparation for the new law

✓ **Trade Secrets Directive implemented – 9 June 2018**

The Trade Secrets Directive (2016/943/EU)

The Directive introduces an EU-wide definition of "trade secret" as information that is secret, has commercial value because it is secret, and has been subject to reasonable steps by the holder of the information to keep it secret. The Directive provides protection against the unlawful acquisition, use or disclosure of a trade secret or other conduct contrary to "honest commercial practices". Whistleblowers are excluded from liability where disclosure of a trade secret serves the public interest.

The Directive was adopted on 8 June 2016, and member states have two years from this date to implement it, ie 9 June 2018.

✓ **Right to time off work for certain volunteers who carry out duties in the criminal justice system takes effect – 1 October 2018**

The Time Off for Public Duties Order 2018 (SI 2018/665) amends the Employment Rights Act 1996 to extend the right to a reasonable amount of unpaid time off work to perform their public duties to certain groups of volunteers who monitor conditions in custody. It extends the right to include: lay observers, who monitor conditions in court custody and under escort; independent prison monitors, who monitor conditions in Scottish prisons; members of immigration visiting committees; and members of the short-term holding facilities visiting committees.

✓ **Employer Childcare voucher schemes close to new entrants – 4 October 2018**

The Income Tax (Limited Exemptions for Qualifying Childcare Vouchers and other Childcare) (Relevant Day) Regulations 2018 (SI 2018/462) provide that employer childcare voucher schemes close to new entrants on 4 October 2018. Employees already in an existing childcare voucher scheme before this date will be able to continue to benefit from it, provided that they remain employees of the employer, and the employer continues to offer the scheme.

## Changes to look out for in the coming months

### ✓ **New check-off arrangements take effect – Expected 2018**

The draft Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2017 implement new arrangements for check-off for public-sector employers. Where a contract of employment or collective agreement contains arrangements for check-off, the arrangement can continue only where the trade union meets the administrative cost in respect of making the deductions and workers have the option to pay their trade union subscriptions by other means.

The finalised Regulations, which were due to come into effect on 10 March 2018, are yet to be published.

### ✓ **Regulations on executive pay ratio reporting introduced – 1 January 2019**

The Companies (Miscellaneous Reporting) Regulations 2018 (SI 2018/860) introduce new reporting requirements on certain companies:

- Quoted companies with more than 250 UK employees are required to include certain pay ratios for the relevant financial year in the directors' remuneration report. The pay ratios compare the total annual remuneration of the CEO to UK employees whose pay and benefits are on the 25th, 50th and 75th percentiles.
- Quoted companies are required to include in the directors' remuneration report how share price changes impact on shares receivable by directors under long-term incentive schemes during the relevant financial year.
- Large companies are required to provide a statement as part of their directors' report, and on their website, as to which corporate governance code or the corporate governance arrangements they applied in the financial year.
- Companies with more than 250 UK employees are required to include a statement as part of the directors' report on how the directors have engaged with employees and had regard to their interests when making business decisions.
- Large companies are required to include a statement as part of their strategic report setting out how directors have had regard to the duty to promote the success of the business. The statement must be made available on their website. Large companies are also required to include a statement as part of their directors' report on how they have had regard to the duty to promote the success of the company in their business relationships with customers, suppliers and others.

The reporting requirements under the Regulations apply in respect of financial years beginning on or after 1 January 2019. Therefore, the first reporting starts in 2020.

### ✓ **Change to tax treatment of termination payments above £30,000 introduced – 6 April 2019**

Employers will be liable to pay Class 1A national insurance contributions on termination payments above £30,000 that are subject to income tax by the employee. The new measure will be introduced in the National Insurance Contributions Bill.

✓ **Requirement for payslips to state hours worked where pay varies – 6 April 2019**

The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 (SI 2018/147) provides that, where an employee's pay varies by reference to time worked, employers must include the number of hours for which the employee is being paid on his or her itemised pay statement. The change is designed to make it easier for hourly paid staff to ensure that they are paid correctly and to address underpayments.

The Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No.2) Order 2018 (SI 2018/529) extends the right to an itemised pay statement to workers, which will result in a corresponding right to receive information on the number of hours being paid for in their payslips where pay varies by reference to time worked.

✓ **Parental bereavement leave rights take effect – Expected 2020**

The Parental Bereavement (Leave and Pay) Act 2018 provides for at least two weeks' leave for employees following the loss of a child under the age of 18 or a stillbirth after 24 weeks of pregnancy. Employees with 26 weeks' continuous service will be entitled to paid leave at the statutory rate and other employees will be entitled to unpaid leave.

Source: XpertHR