

What's on the horizon for HR in 2020?

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Employment Law News

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What's on the horizon for HR in 2020?

Brexit aside, 2020 promises to be yet another busy year for HR professionals, with a raft of reforms coming into force on 6 April 2020. On top of this, the Queen's Speech delivered at the end of 2019 outlined plans to introduce a new Employment Bill, which will contain further measures aimed at enhancing workers' rights. Here, we round up the top 10 reforms for HR

professionals to focus on over the coming year. To complete the picture, next month we will round up the top 10 employment law cases in 2020 for HR to track.

	AREA AND ACTION POINT	BY WHEN?
1.	<p>Workforce: changes to the IR35 rules in the private sector Devise processes for: (i) making tax status determinations for relevant contractors; and (ii) responding to challenges to your decision. Make sure contracts with intermediaries allow you to deduct income tax and NICs. Updates to contracts with agencies may also be needed.</p> <p>Large and medium-sized businesses in the private sector that engage independent contractors via an intermediary (usually a personal service company) will become responsible for assessing whether the off payroll working rules (known as IR35) apply. Once the client has made its assessment it must notify certain parties of its decision and provide them with the opportunity to challenge the assessment. Where the client contracts with intermediary, it will also become responsible for deducting income tax and NICs and paying employer NICs. You can read our detailed guide to the IR35 reforms here.</p>	6 April 2020
2.	<p>Workforce: improved rights for agency workers Check whether you engage any agency workers on “Swedish derogation” contracts and calculate the additional cost to the business of paying them in line with comparable permanent staff. Updates to contracts with agencies may also be needed.</p> <p>The provision which exempts agency workers from the right to pay parity with permanent employees once they have 12 weeks’ service (known as the “Swedish derogation”) is to be repealed. Agencies must: (i) notify agency workers of their right to have the same conditions as permanent employees of the client (including pay) and (ii) provide them with a “Key Facts” statement before starting a placement, setting out core information relating to the proposed placement.</p>	6 April 2020
3.	<p>Contracts: changes to minimum requirements for employment contracts Update template employment contracts to capture the new requirements and identify any workers who will need a statement of particulars</p> <p>In future, the initial statement of particulars must deal with the existing principal particulars plus some of the existing supplementary particulars. In addition, new particulars relating to working time, paid leave, benefits and probationary periods must also be incorporated into the initial statement. Only a limited amount of information may be given separately within two months of starting work, including a new requirement to provide particulars of training entitlements. The right will also be extended to workers and must be given on or before the first day of work.</p>	6 April 2020

4.	<p>Holidays: check that you are calculating holiday pay correctly Ensure that internal policies and payroll reflects the change in reference period and the latest case law guidance</p> <p>The reference period used to calculate holiday pay for certain types of workers will change. Where a worker has variable pay because they have either: (i) no normal working hours; or (ii) normal working hours but pay that varies with the amount of work done or the time the work is done, then the reference period will increase from 12 weeks to 52 weeks (or the number of complete weeks for which they have been engaged if fewer than 52 weeks). When reviewing your holiday pay arrangements, it would be a good time to check that the way you calculate holiday pay also reflects the latest guidance from the Tribunals concerning: (i) term-time workers; and (ii) voluntary overtime payments.</p>	6 April 2020
5.	<p>Family-friendly: new right to parental bereavement leave and pay Prepare a parental bereavement leave policy, outlining the new right and any enhancements that you will offer</p> <p>A new right to take two weeks' parental bereavement leave will be available to employees who suffer the loss of a child below the age of 18 or a stillbirth after 24 weeks of pregnancy. Employees with 26 weeks' service will also be entitled to receive statutory pay.</p>	6 April 2020 (date tbc)
6.	<p>Family-friendly: new right to parental neonatal care leave and pay Monitor the Employment Bill and prepare a parental neonatal leave policy, outlining the right and any enhancements that you will offer</p> <p>The Employment Bill will include a new right for parents to take one week's leave for each week that their baby is in neonatal care. This leave would supplement other leave entitlements such as maternity leave, paternity leave or shared parental leave. Certain employees will also be entitled to receive statutory pay. The Government has consulted on whether to cap the number of weeks of leave and pay that will be available and their response is awaited.</p>	Date tbc
7.	<p>Family-friendly: new right to carer's leave Monitor the Employment Bill and prepare a carer's leave policy, outlining the right and any enhancements that you will offer</p> <p>The new Employment Bill will also introduce a new right to take one week's leave for workers with caring responsibilities. It is not clear whether this leave is intended to be paid or unpaid. This new leave would supplement other forms of leave such as unpaid parental leave or unpaid time off for dependant emergencies.</p>	Date tbc

8.	<p>Flexible working: employers to be required to offer flexible working for all job roles as the default position</p> <p>Monitor the Employment Bill and the proposed consultation on this proposal. Consider responding to the consultation with your views. In due course, you may need to update your flexible working policy and ensure that job advertisements and role profiles state whether the role is open to flexible working.</p> <p>The new Employment Bill will also make flexible working available for all job roles as the default position, save where the employer has a “good reason” not to allow this. The Government has committed to consult on this proposal before it is introduced. The consultation has not yet been published. Separately, it is worth noting that the Employment Bill will also introduce a new right for all workers to request “a more predictable contract”. This reform is intended to assist zero hours workers (but the right will apply to all).</p>	Date tbc
9.	<p>Pregnancy and maternity: special redundancy protection for pregnant workers and those returning from maternity leave</p> <p>Monitor the Employment Bill and update your redundancy procedure. Ensure that managers involved in redundancy processes receive training on the employer’s obligations.</p> <p>The new Employment Bill will also extend the special redundancy protection currently afforded to women on maternity leave to: (i) pregnant workers from the point that they notify their employer of the pregnancy; and (ii) women returning from maternity leave for a period of 6 months after their return. In a nutshell, this means that these women will have preferential treatment in relation to any suitable alternative employment that is available for up to 27 months (in practice, it will often be less than this as most women will not notify their employer of their pregnancy until 3 months has passed). The Government has already consulted on this proposal. In its response to the consultation, the Government indicated that the return to work protection would also apply to those returning from adoption leave and shared parental leave (although the protected period for shared parental leave may be different).</p>	Date tbc
10.	<p>Termination: changes to taxation of termination payments</p> <p>Remember to factor in this extra cost when negotiating settlements with departing employees and ensure that the employer NICs payments are made from 6 April 2020 onwards.</p> <p>Employer class 1A NICs will become payable on termination payments above £30,000 (which are currently only subject to income tax). Termination payments will remain completely exempt from employee NICs.</p>	6 April 2020

If you need help or would like to discuss the issues raised in this news article, please contact [Amanda Steadman](#) or your usual [BDBF contact](#)

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