

Employment Law Changes April 2016

An Eight-Point Checklist



Every April, new legislation affecting employment rights and responsibilities is introduced and this year is no different. Whilst it's the introduction of the national living wage that's grabbing the headlines, there are other important changes that you should be aware of.

1. The National Living Wage

The national living wage is introduced and workers aged 25 and over will be entitled to the national living wage rate of £7.20 per hour from the first pay reference period beginning on or after 1 April 2016. The national living wage is a new top rate of the national minimum wage. Employers should check, in particular, that employees' pay is not brought below the new rate by salary-sacrifice arrangements.

Question: If 1st April falls part way through a payroll period, from what date should the employer start paying the national living wage?

Answer: The national living wage is the new statutory minimum wage rate of £7.20 that must be paid to workers aged 25 and over. The national living wage applies to pay reference periods beginning on or after 1 April 2016. For example - if an employer's monthly payroll period begins on 10 April 2016, the

national living wage rate will apply from that date, because this is the first pay reference period that begins on or after 1 April 2016. The employer does not have to pay workers the national living wage for the period of 1 April to 9 April 2016.

2. Penalties

Penalties for non-payment of the national minimum wage doubles from 1 April 2016. The enforcement regime is the same for non-payment of the national living wage.

Question: What are the consequences if an employer pays workers less than the national minimum wage?

Answer: Where an underpayment of the national minimum wage is identified in an investigation by HM Revenue and Customs (HMRC) (including an underpayment of the national living wage from 1 April 2016), the compliance officer may issue a notice of underpayment requiring the employer to pay the arrears to the worker(s) and pay a financial penalty to the Secretary of State.

The penalty is set at 100% of the total underpayment. This will increase to 200% for pay reference periods starting on or after 1 April 2016. There is a minimum payment of £100 and a maximum payment of £20,000. The maximum payment applies for each worker who has been underpaid, not to the total payment for all workers.

The most serious cases of non-compliance with the national minimum wage legislation, for example producing false records or refusing to answer questions from a compliance officer, may be criminally prosecuted by the Revenue and Customs Prosecutions Office. The potential penalty on conviction is an unlimited fine.

The Government operates a scheme to publicly name employers that do not comply with the law on the national minimum wage. The Department for Business, Innovation and Skills periodically issues a press notice naming employers that have been issued with a notice of underpayment.

An employer that pays less than the national minimum wage may face individual claims from employees for unlawful deductions from wages or

breach of contract. If an employee brings his or her own claim, HMRC cannot also enforce a complaint on the employee's behalf.

3. New State Pension Scheme

A new state pension scheme is introduced, ending contracting-out

A single-tier state pension is introduced from 6 April 2016, replacing the previous basic state pension and additional state pension.

Employer-provided pension schemes will no longer be able to contract out of the state pension and receive a national insurance rebate.

This means that, where an employer provides a previously contracted-out scheme, its employer and employee national insurance contribution liability will increase.

Employers should ensure that employees are aware that there may be an impact on their pay packet and that they understand the reasons for this.

The Guides can be found here

<https://www.gov.uk/government/publications/new-state-pension-resources-for-stakeholders-and-employers?>

4. Employer NICs are abolished for apprentices under age 25

As part of the Government's drive to encourage employers to create more apprenticeships for young people, from 6 April 2016, employers will not pay employer national insurance contributions for apprentices aged under 25.

5. Public-sector employees can be required to repay exit payments

Regulations requiring higher earning public-sector employees to repay exit payments if they re-join the public sector within a year are expected to come into force in April 2016 or soon after.

The duty to repay will include redundancy payments, voluntary exit payments

and payments made to reduce an actuarial reduction to a pension on early retirement.

6. Financial penalties can be imposed for non-payment of tribunal awards

Legislation allowing tribunal enforcement officers to impose a financial penalty on an employer that fails to pay a tribunal award or ACAS settlement sum is expected to come into force in April 2016.

Research carried out in 2013 showed that less than half of tribunal claimants who had been awarded compensation received the full award from the employer.

The penalty will be 50% of the unpaid award, subject to minimum and maximum amounts and a reduction for prompt payment.

7. A salary requirement is introduced for tier 2 workers

Employers can sponsor skilled foreign workers to come to the UK to work for them under tier 2 of the immigration points system. A new requirement for a minimum salary of £35,000 will apply from 6 April 2016.

8. Statutory family-related pay and sick pay rates are frozen

The final change for April isn't actually a change at all, but many employers might be expecting one around statutory rates of pay. Unlike in previous years, there will be no increase to statutory adoption, maternity, paternity or shared parental pay rates in April 2016. Statutory sick pay will also remain at the same rate that has applied since April 2015.