



# IMPORTANT EMPLOYMENT LAW CHANGES IN 2019

*Employment Law Advisory Services  
White Paper 2019*

Part of the **ELAS** group of companies





## Introduction

Every year, April brings with it a few certainties. St George's Day, April Fool's Day, Easter, Good Friday, National Stress Awareness Day and more importantly for employers, the first of the year's employment law changes. 2019 sees a few important changes that are going to impact everyone from CEO's to gig workers, so it's essential that you're aware of these before we hit April.

In this whitepaper, we're going to discuss the biggest changes that are impacting your workplace in April 2019, who these changes are going to impact, and what the repercussions of these changes might be.

***WHAT DO YOU NEED TO KNOW ABOUT THE NEW MINIMUM WAGE?***

***WHAT'S GOING TO HAPPEN WITH YOUR EMPLOYEE PAYSLEIPS?***

***WHO DO YOU NEED TO GIVE HOLIDAY PAY TO?***

# APRIL CHANGES

## Increased Financial Penalties

With effect from 6 April 2019, the maximum penalty for an aggravated breach of employment law in discrimination cases will increase from £5,000 to £20,000.

Employers should be mindful to avoid conduct that could be deliberately antagonistic and consider providing training for those in managerial positions on how to deal with difficult circumstances and avoid aggravating a potential claimant's injury to feelings.

## Pension Contributions

April sees the minimum contributions for auto-enrolment pension schemes increase for both employers and employees.

Currently, automatic enrolment requirements mean employers must contribute a minimum of 2% of an eligible worker's pre-tax salary to their pension pot, with the individual contributing 3% themselves. However, under the new requirements, employers and employees will now have to contribute a minimum of 3% and 5% respectively.

Employers are reminded to allow appropriate time to consult with staff before making any changes to their pension contribution scheme.



## Reporting the Gender Pay Gap

All companies in Great Britain (but not Northern Ireland) with more than 250 employees are again reporting their gender pay gap to the Government Equalities Office (GEO).

Companies will also publish details of the proportion of men and women in the company who receive bonuses and the breakdown of men and women in different pay quartiles. This year's figures are expected to come under scrutiny to compare them to the previous year's numbers, highlighting whether any major improvements have been implemented.

## NMW and NLW increase

More than two million workers will see their pay rise next April as the National Living Wage jumps to £8.21 an hour. This is the hourly rate for those aged 25 or over and working in Britain. It's part of a long-standing Tory pledge to deliver a rate of £9 an hour for over 25s by 2025.

In the budget announcement this year, it was also announced that the minimum wage for other age groups will increase:

Age	April 2018	April 2019
21-24	£7.38	£7.70
18-20	£5.90	£6.15
Under 18	£4.20	£4.35
Apprentice	£3.70	£3.90

The increase in wages may have been pushed through by the government due to the Low Pay Commission's recommendations for hourly rate increases. Contracts for payments below the minimum wage are not legally binding. The worker is still entitled to the National Minimum Wage or National Living Wage.

## Payslip Changes for Employees

By April, employers must review their business and payroll data processes. Moving forward, all workers, including casual and zero hours workers, must be issued with written, printed or electronic payslips. On these payslips it must provide detail of how the payment was calculated in cases where the rate of pay and hours are variable.

These government initiatives better enable employees to identify what they are being paid and equate that with worked time. It will also help employees better identify if their employer is meeting their minimum pay obligations.

Furthermore, where a member of staff's pay varies according to time worked, the employer will have to include on the itemised pay statement the total number of hours worked for which variable pay is received. This can be done either as an aggregate figure or as separate figures for different types of work or different rates of pay.

**“ ALL WORKERS, INCLUDING CASUAL AND ZERO HOURS WORKERS, MUST BE ISSUED WITH WRITTEN, PRINTED OR ELECTRONIC PAYSLIPS ”**



# THINGS TO KEEP AN EYE ON THIS YEAR

## NMW Entitlement for Sleep-In Shifts

Although the Court of Appeal ruled that individuals working on sleep-in shifts would not be entitled to the National Minimum Wage (Mencap v Tomlinson Blake) in 2018, we may see that change this year.

A request to appeal this decision has been lodged by Unison and we could well see this decision overturned upon appeal. If overturned, this would mean that sleep-in workers would now be entitled to National Minimum Wage and would be paid for the time they're 'available for work' and not just the time spent working. Any ruling on this decision will potentially have massive ramifications across the health care industry, so keep an eye on this one.

## Harassment in the Workplace

Employees in Google's Dublin office joined their colleagues around the world by participating in a walkout to protest against how allegations of harassment have been dealt with by the tech giant.

The walkout by Google employees reflects how movements such as #MeToo and #TimesUp, together with a greater awareness of the gender pay gap, are combining to put pressure on employers to adhere to their stated values. This trend may represent an opportunity for employers with a strong commitment to social and environmental values to differentiate themselves in an increasingly complicated employment market.



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## Gig Economy

A government review is calling upon a change to the law to enable more rights to 'self-employed' workers. Although this seems a response to the rise in the gig economy, the review has also looked at 'piece' workers – i.e. those that are paid according to the amount produced. The review will almost certainly consider companies such as Deliveroo and Uber who engage their drivers/bikers as self-employed, which means they have no employment rights, no sick pay and no holiday.

This review suggests a new category of employment status – the 'dependent contractor', which would allow them to obtain sick pay, holiday leave and guarantee the minimum wage. If the government implemented the suggested changes we would have a new category of worker in response to the gig economy.

Employment status has long been a grey area and this review seeks to clear the muddy waters particularly following a spate of cases on this very topic. Last year an employment tribunal ruled that Uber drivers were really workers and should receive basic rights such as sick pay and holiday pay, which did appear to shed light on the argument. Although Uber have appealed, the binding, EAT (the Employment Appeal Tribunal) ruling will hopefully provide further clarity and perhaps this government review will go even further in doing so.

## CEO Pay Gap Reporting

New legislation will also come into force in 2019 that requires companies with more than 250 employees to publish their executive pay gap. Although the first reports are not expected until 2020, businesses should be calculating the necessary figures throughout 2019 to show the gap between the total amount paid to their CEO and the average pay for an employee.



**“ THIS REVIEW SUGGESTS  
A NEW CATEGORY OF  
EMPLOYMENT STATUS – THE  
'DEPENDENT CONTRACTOR' ”**



# SUMMARY

With a wide variety of changes coming into effect in 2019, which changes are going to directly impact you, your workforce and your company?

From offices to retail shops and from restaurants to taxi services, the legality of these legislations are black and white. Once they're implemented, you'll need to make sure you're up to scratch, or face a big bill for potential tribunals.

**ELAS ARE HERE TO HELP.**

If you need to discuss the employment law changes with a fully qualified legal team, give us a call on **08450 50 40 60**.





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