



Legal update — December 2018

Employment

Future of work - Government publishes good work plan

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The Government has published its Good Work Plan today. The Plan sets out the Government's vision for the future of the UK labour market, as well as how it intends to implement the recommendations arising from the Taylor Review of Modern Working Practices.

The Taylor Review

On 1 October 2016 the Prime Minister commissioned the Independent Review of Employment Practices in the Modern Economy. Under the leadership of Matthew Taylor, the Chief Executive of the Royal Society of Arts, the Review considered how employment practices need to change. Amongst other things, the review was asked to look into whether the current definitions of employment status needed to be updated to reflect new forms on working created by emerging business models, such as on-demand platforms.

Following the publication of the Review, and the recommendations made by Mr Taylor, the Government announced that it was taking on board a number of these recommendations and launched four separate consultations on:

- Enforcement of employment rights recommendations;
- Protecting agency workers;
- Measures to increase transparency in the UK labour market; and
- Employment status

The Good Work Plan draws on feedback from these consultations.

What the future has in store

The Government's stated vision is "A labour market that rewards people for hard work, that celebrates good employers and that is ambitious about boosting productivity and earnings potential in the UK".

The Good Work Plan sets out a number of legislative changes which are designed to improve protection for agency workers, zero-hour workers and others with atypical working arrangements. These include:

- Repealing the "Swedish derogation" in the Agency Workers Regulations 2010. This excludes agency workers from the right to the same pay as directly-recruited workers if they have a contract of employment with the agency.
- Increasing the period required to break continuity of employment for the purposes of accruing employment rights from one week to four weeks.
- All workers will have a "day one" right to a written statement of rights.
- Legislating to prevent employers making deductions from staff tips.

As far as the enforcement of worker rights is concerned, the Government has committed to the following:

- Quadrupling the maximum employment tribunal fine for employers who are demonstrated to have shown malice, spite or gross oversight in breaching employment rights from £5,000 to £20,000.
- Bringing forward proposals in early 2019 for a single enforcement body to ensure vulnerable workers are better protected.
- Creating new powers to impose penalties on employers who breach agency legislation like non-payment of wages.
- Bringing forward legislation to enforce holiday pay for vulnerable workers.

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The vexed question of employment status

The Good Work Plan confirms that the Government intends to legislate to clarify the test of employment status on which eligibility for worker rights depends. The Government agrees with the recommendations of the Taylor Review that differences between the employment status tests that govern entitlement to employment rights and tax liability should be reduced to an absolute minimum, and states that "renewed effort" will be made to align the tests.

Will there be a shake-up of employment status? The Taylor Review recommended that the Government take a fresh look at existing legislation governing employment status with the aim of making it simpler and clearer. As a result the Good Work Plan promises that the Government will legislate to "improve the clarity of the employment status tests, reflecting the reality of modern working relationships".

As to when all these things will happen, it remains unclear, but at least we have some clarity as to the action points on the Government's agenda!

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