

WHAT'S NEW

This Week in Employment Law

28-06-2021

Brexit implications on employment law

As the EU Settlement Scheme approaches its initial deadline for applications, new rules on right to work checks come into effect from 1 July 2021. We explore what employers should know below:

- The deadline for applications to the EU Settlement Scheme, introduced to allow existing EU nationals residing in the UK to apply for settled status post-Brexit, was initially set for 30 June 2021.
- However, it has been confirmed that EU workers who don't apply before this date will have a further 28 days to do so.
- Employers can use the steps set out within government guidance to help interested and eligible EU citizens apply for settled status after the deadline. This process can be used until 31 December 2021.
- When hiring workers, both within and outside the UK, employers have a responsibility to prevent illegal working by conducting right to work checks.
- From 1 July 2021, employers will no longer be able to accept passports and national identity cards from EU, EEA, or Swiss citizens to prove their right to work.
- There are two types of right to work checks – a manual document-based check and an online check. Either method can be used from 1 July 2021. Employers cannot mandate online checks but may choose to encourage it.
- Two lists have been released detailing the documents employers may accept when checking right to work – List A and B.

Private Member's Bill on modern slavery

A Private Member's Bill (PMB) seeking to amend the Modern Slavery Act 2015 has been introduced in the House of Lords. The Bill sets out that there should be a minimum standard of transparency followed by organisations and that not meeting these standards, as well as providing misleading information in statements published under section 54 of the 2015 Act, should be an offence.

Did you know?

If this Bill is passed, employers will be held to tighter modern slavery enforcement rules. However, PMBs are not government-backed and such Bills do not tend to be implemented unless the Government gives its support.

HMRC investigates thousands on grounds of furlough fraud

Figures by law firm BLM have shown that over 7,000 investigations, referred to as "compliance interventions", have been launched into possible abuse of the Job Retention Scheme, as well as 5 arrests made. The aim is to recover lost furlough funds, tax evasion or avoidance, and protect against non-compliance. Furlough fraud can occur if employers receive funds they were not, or are no longer, entitled to.

Did you know?

This investigation shows how serious the Government is about clamping down on furlough fraud. Employers may be able to avoid penalties by notifying HMRC of overclaimed amount within a set period, e.g. 90 days after funds are received.

Nurse discriminated against over shift pattern dispute

An employment appeal tribunal (EAT) has upheld a claim for unfair dismissal and indirect sex discrimination after an employer attempted to make a nurse's working pattern more flexible despite her childcaring responsibilities. The EAT noted that discrimination had occurred because the nurse was put in a difficult childcaring position and it is appropriate to widen the pool for comparison to include statistical evidence that women are more likely to have childcare issues.

Did you know?

Indirect sex discrimination occurs when a provision, criterion or practice, when applied universally, disadvantages a particular sex.

Employers can take steps to help their EU workers secure settled status, if this is something they are interested in, beyond the deadline of 30 June 2021, one of which includes telling them about the 28-day grace period. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.