



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

January 2019



WELCOME TO THE FIRST NEWSLETTER FOR 2019

Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We will offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support.

Firstly we look at the changes in statutory payments which will affect your business during 2019 followed by a brief look at the legislation planned for 2019/20.

This month we have given you some information given Brexit is now so close on employing and continuing to employ Foreign Workers.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field

of Human Resources. Alternatively have a look at our website **www.workmattershr.co.uk** and email us from there or on **carolinebrode@gmail.com**

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list – thank you.

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CHANGES TO STATUTORY PAYMENTS IN 2019

April 2019

National Minimum Wage Rates

In line with the intention for the national living wage to increase to £9 per hour from 2020, it will increase from £7.83 to £8.21. In practical terms, this will mean a pay rise of nearly £800 per year for a full time worker.

The other rates will increase as follows:

- Workers aged 21-24: from £7.38 to £7.70 an hour
- Workers aged 18-20: from £5.90 to £6.15 an hour
- Workers aged 16-17: from £4.20 to £4.35 an hour
- Apprentice rate: from £3.70 to £3.90 per hour

Voluntary Living Wage

Payment from	London	UK
2016/17	£9.75 an hour	£8.45 an hour
2018/18	£10.20 an hour	£8.75 an hour
2018/19	£10.55 an hour	£9.00 an hour

April 2019

SSP

Payment from	6 April 2017	6 April 2018	April 2019
Statutory sick pay	£89.35	£92.05	£94.25
Lower earnings limit (per week)	£ 113	£ 116	£ 118

April 2019

Family Friendly Payments

Payments from	2 April 2018	April 2019
Statutory shared parental pay (ShPP)	£145.18	£148.68

Statutory rate or 90% of employee's weekly earnings if this is lower.

Statutory maternity pay (SMP)	£145.18	£148.68
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First six weeks – 90% of employee's average weekly earnings. Remaining weeks at the statutory rate or 90% of employee's weekly earnings if this is lower.

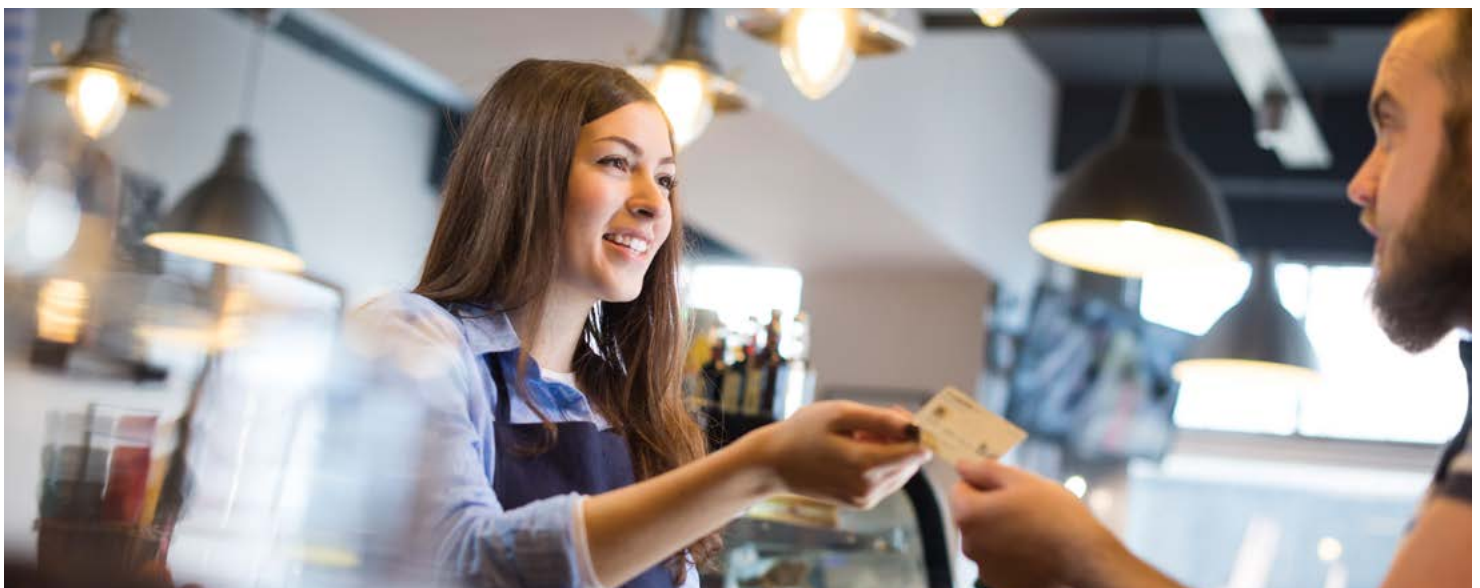
Statutory adoption pay (SAP)	£145.18	£148.68
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First six weeks – 90% of employee's average weekly earnings. Remaining weeks at the statutory rate or 90% of employee's weekly earnings if this is lower.

Statutory paternity pay (SPP)	£145.18	£148.68
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Statutory rate or 90% of employee's weekly earnings if this is lower.

Lower earnings limit (per week)	£116	£118
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CHANGES TO STATUTORY PAYMENTS IN 2019 continued...

2019 Forthcoming Changes

This table shows forthcoming changes.

1 January 2019	Requirement to annually report the pay ratio between CEOs and average employees introduced for listed organisations with more than 250 employees
29 March 2019	UK to leave the EU
April 2019	Auto-enrolment minimum contributions increase; employees contributing 5%, employers contributing 3%
	Increase to national living/minimum wage rates
6 April 2019	Increase to Statutory Sick Pay takes effect
	Requirement to include total number of hours worked on payslips comes in to force
	New right for workers to receive a pay slip introduced
	New law increasing maximum penalty for aggravated breach to £20,000 to be introduced
7 April 2019	Increase to Statutory Maternity, Paternity, Adoption and Shared Parental Leave Pay take effect
April 2020	Changes to taxation of termination payments
2020	Paid parental bereavement leave to be introduced
6 April 2020	New law prohibiting use of Swedish derogation agency contracts to be introduced
	New law lowering the threshold required for information and consultation requests to be introduced
	New law making a right to a written statement of main terms and conditions a day-one right for workers and employees to be introduced
	Amendments to mandatory information required within a statement of main terms and conditions to be introduced
	New law extending the holiday pay reference period to 52 weeks to be introduced
Mid-2020s	Reforms to automatic enrolment to be introduced
To be confirmed	New law introducing right for all workers to request a more predictable and stable contract after 26 weeks' service to be introduced
	New law to increase break in continuous employment from one week to four weeks to be introduced
	New law preventing deductions from 'tips' to be introduced
	New law requiring employment businesses to provide all agency workers with a Key Facts Page to be introduced
	New legislation to clarify employment status tests to be introduced
	New law introducing tribunal sanctions where organisations commit repeated breaches to be introduced
	Extension of shared parental leave to grandparents

ON-LINE CHECKS FOR FOREIGN WORKERS – MADE EASIER

The New Process

Organisations have a duty to prevent illegal working and, in order to do so, carry out 'right to work' checks on their prospective employees to gain a statutory excuse against liability under the civil offence. This check is conducted using documentation provided by individuals, with the government's three-step checking process requiring copies to be made of these documents. For certain documents provided, organisation will also be required to carry out a follow-up check as their statutory excuse will be time-limited.

Introduced in April 2018, organisations could use the Home Office's online right to work checking service, alongside receiving the statutory documents, to carry out their right to work check. With effect from 28 January 2019, organisations can rely solely on the online service to carry out right to work checks, without receiving any documents from the individual. The document checks will continue to apply however where the individual's immigration status cannot be checked online.

To gain the statutory excuse using the online service, organisations will have to:

- use the service for each individual and only employ, or continue employing them, where the online check confirms they have the right to carry out the work in question
- be satisfied that the photograph on the online check is consistent with the appearance of the individual
- retain and keep a clear copy of the online check response for the period of the individual's employment and for two years after. This can either be held electronically or in hardcopy.

Where the online checking service is used to employ students, organisations will still require details of academic term dates. Additionally, a follow up online check will have to be carried out in advance of a time-limited statutory excuse expiring.

Where the online right to work check is negative, ie it shows that the individual does not have the right to work in the UK and/or to do the work in question, the organisation will not gain the statutory excuse against civil liability where they employ, or continue to employ, the individual. Where right to work checks cannot be carried out online, such as where there is an outstanding application, appeal, or review with the Home Office, organisations will continue to be required to contact the Employer Checking

Service to receive a Positive Verification Notice, providing a six-month statutory excuse.

Additionally, from 28 January 2019, organisations are no longer required to receive full birth and adoption certificates from UK nationals when carrying out document checks. The List A documents have been updated to allow UK individuals to provide their prospective employer with either full or short-form certificates, alongside an official document containing their National Insurance number, to establish a continuous statutory excuse for the length of their employment. This change is aimed at making documentary checks easier for UK citizens who do not have a passport.



Proof of Documentation Required to Work in the UK

It is a legal requirement for every UK employer to complete a right to work check before employment begins. Employers must see the applicant's original documents and are required to make and keep copies of these and record the date the check was made. Checks should be carried out with the applicant present. It is advisable for checks to be carried out for all individuals regardless of their background to minimise allegations of unlawful discrimination.

Where documents are presented by a student specifying they have a limited right to work in the UK during time term, the employer should check and make a copy of their academic term dates.

The Home Office provides two lists of documents, List A and List B, which employers may accept as a person's proof of right to work in the UK. A document from List A will demonstrate that the holder has a definite right to work in the UK without restriction and should be checked before the start of employment. List B contains documents that demonstrate the holder has a time-limited right to work in the UK and should be checked before the start of employment and at point of expiry.

Lists of Acceptable Documents for Right to Work Checks

List A: Documents which need only be checked before employment starts

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country* or Switzerland.

(*A Croatian national who wishes to work in the UK may also need to obtain sponsorship and an accession worker authorisation document.)
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

ON-LINE CHECKS FOR FOREIGN WORKERS – MADE EASIER continued...

7. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

List B – Group 1: Documents which must be checked before employment starts and at the expiry date

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B - Group 2: Documents which must be checked within the six-month time limit of the Positive Verification Notice

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than six months old together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

Positive Verification Notices

In certain circumstances employers are required to obtain a Positive Verification Notice from the Home Office Employer Checking Service to confirm that the named person is allowed to carry out the type of work in question. This will be required if the employee is only able to produce:

- a Certificate of Application, less than 6 months old, indicating that the holder is permitted to undertake the work in question; or
- an Application Registration Card indicating that the holder is permitted to undertake the work in question; or

- no acceptable documents can be produced because the person has an outstanding application with the Home Office or appeal/administrative review against the Home Office.

Future Developments

Immigration Health Surcharge fees to double

Non-EEA and Swiss nationals who apply for a visa entitling them to live and work in the UK for a period of more than six months are required to pay the Immigration Health Surcharge for themselves, and any dependants.

The current rates of the surcharge are £150 per year for a student or Tier 5 visa and £200 per year for all other applications. From December 2018, these rates will double for all applications.

More information on this issue can be found in our in-depth section on the Immigration Health Surcharge.

Pilot visa scheme for non-EU farm workers

After Britain has left the EU, expected to take place on 29 March 2019, the government will operate a pilot visa scheme for non-EU agricultural workers to avoid the risk that Brexit will lead to an agricultural labour shortage.

Under the pilot scheme, a maximum number of 2,500 non-EU workers will be entitled to a six-month visa each year. The workers will be recruited by two authorised agencies to carry out work on fruit and vegetable farms in the UK. The pilot will operate from spring 2019 until the end of 2020.

The pilot scheme does not affect the right for EU workers to move to the UK during the transition period.



FINALLY THE POSSIBLE IMPLICATIONS RE BREXIT

EU Nationals and the Right to Work in the UK

Following the vote, the government confirmed free movement of people would not be maintained due to this being the principal reason for voters wanting to leave the EU. At the time, politicians suggested that a points-based system could be used to govern EU migrants coming to the UK in the future.

The government released a statement in July 2016 confirming that the referendum results had not changed the rights or status of EU nationals currently in the UK, or for UK nationals located in the EU.

The government formally outlined their immigration plans in the Safeguarding the position of EU citizens living in the UK and UK nationals living in the EU document. This reiterated that EU nationals were free to continue to work, and exercise other rights, in the UK until the date of exit. Organisations would be acting within the law if they continued to employ EU nationals or offered new employment to EU nationals in this period.

In September 2018 it was announced that the government was considering offering no further special treatment to EU migrants post-Brexit. This idea, which if implemented would run from January 2021, would mean that all EU immigrants coming to the UK would be subject to the same treatment as individuals from the rest of the world. Essentially, this would result in a cap on low-skilled migration.

Settled and Pre-settled Status

The plan creates a new 'settled status' for EU nationals dependent on their length of residency. EU nationals who have accrued

five years' continuous residence in the UK by 31 December 2020 can apply for settled status. This creates an indefinite leave to remain within the UK.

EU nationals who arrive in the UK by 31 December 2020 but do not have five years' residency can apply for "pre-settled" status. They will be entitled to remain in the UK and build their residency up to the required five years, where they can then apply for settled status.

Applications for settled or pre-settled status must be made by 30 June 2021 and it will be mandatory to hold either settled or pre-settled status, or have made an application, from that date.

Any EU workers arriving in the UK after the cut-off date will only be entitled to remain in the UK for a temporary period, dependent on future immigration rules put in place by the government. It is anticipated these will be announced in autumn 2018.

Different rules have been released by the government in cases where there is a 'no deal' Brexit

How to Apply

Settled status needs to be applied for and a streamlined digital process to do so is expected to be fully open by 30 March 2019 but there will be no need to apply immediately. Individuals will be able to apply through the use of a website or smart-phone application. They will also be encouraged to use computers found at libraries or specialised contact centres.

To successfully be granted 'settled status,' applicants will need to provide proof of identification, information on their current

living arrangements and confirmation of any previous criminal convictions. The government has announced that the 'default' response to the applications will be to allow status to be granted, with 'clear reasons' being provided for refusal. Predominantly, a refused application will be down to severe examples of criminality that would put the public at risk.

Family Members

Existing close family members of a EU national (a spouse, civil partner, unmarried partner, dependent child or grandchild, and dependent parent or grandparent) living in the UK or overseas are also eligible for the scheme. Parents can apply on behalf of their child.

Those Who Already Have Indefinite Leave to Remain

EU nationals who already have indefinite leave to remain may choose to swap their status to UK settled status, which they can do free of charge, because settled status comes with better rights. Non-EU nationals will have to provide evidence of a family relationship to an EN national living in the UK.

Irish Nationals

Irish nationals working in the UK will not need to be apply for settled status but they can if they wish.

Norway, Iceland, Liechtenstein and Switzerland

Although not yet confirmed, the Government intends to open up the settlement scheme to nationals from Norway, Iceland, Liechtenstein and Switzerland.



Thank you for taking the time to read our Newsletter which I hope you found informative. An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly. A copy of the Newsletter is also available on our website www.workmattershr.co.uk

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of April 2019.