

Employment Law Timetable

June 2021

Legal Round up

In this month's newsletter, we will be focusing on the latest employment law changes that are coming into force in the coming months including the EU settlement scheme and the graduate immigration route, the return to pre Covid-19 return to work checks as well as the latest updates on the Coronavirus Job Retention Scheme.

Based on the current government guidance there are some key dates, as follows:

- The Coronavirus Job Retention Scheme has been extended until **30 September 2021**.
- Eligible employees need to apply for pre-settled status or settled status under the EU settlement scheme **by 30 June 2021**. Further information on applying to the EU settlement scheme (settled and pre-settled status) can be found on the Government website [click here](#).
- Graduate immigration route opens **1 July 2021** whereby International students who graduate from a UK university are eligible to remain in the UK to work or look for work on an unsponsored graduate immigration route. Graduates can work at any level for up to two years from the end of their degree (three years for PhD students).

Coronavirus Job Retention Scheme

From 1 July, employers are required to contribute 10% of furloughed employees' wages (along with NICs and pension contributions).

From 1 July the Government will contribute 70% of wages up to £2,187.50 and you will need to contribute the remaining 10% up to £313.50 when employees are furloughed (along with NICs and pension contributions).

From 1 August to 30 September the Government will contribute 60% of wages up to £1,875 and you will need to contribute the remaining 20% up to £625 when employees are furloughed (along with NICs and pension contributions).

It would be your choice whether you decide to top up employees' wages beyond the 80% total whilst furloughed.

Reminder: The Coronavirus Job Retention Scheme is due to end on 30 September 2021. Employees that have been on, or remain on, furlough may also have questions about how and when they can take their annual leave, which continues to accrue during furlough.

EU Settlement Scheme Deadline

The deadline for EU citizens needing to apply under the EU Settlement Scheme is 30 June 2021 in order to ensure that they can continue to live and work in the UK beyond that date.

If your employee's application is turned down for any reason the employee needs to immediately lodge an application to secure a review of the decision or an appeal. Ensure you take further advice on whether you can continue to employ this person pending a final decision on their application.

If you have a sponsor licence and the role they're doing qualifies under the new immigration rules the employee can apply for a visa. However, you will still need to ensure you have the right to continue working in the meantime.

If an employee does lose the right to work in the UK, you will need to terminate their contract. Whilst it may be possible to end their employment without notice and without following a 'fair process' please ensure you seek advice before taking this course of action.

Right to Work Checks

Temporary Covid-19 Right to Work checks concessions were extended to 20 June 2021 to coincide with the date when restrictions were hoped to be fully lifted. These concessions included a review of ID documents via video call and an online checking service for those documents that an employee or prospect cannot provide. This temporary adjustment has been extended further and employers now have until 31 August 2021 to carry out temporary Covid-19 adjusted check measures which include;

- asking the worker to submit a scanned copy or a photo of their original documents via email or using a mobile app.
- arranging a video call with the worker – asking them to hold up the original documents to the camera and check them against the digital copy of the documents record the date you made the check and mark it as “adjusted check undertaken on [insert date] due to COVID-19.
- if the worker has a current Biometric Residence Permit or Biometric Residence Card or has been granted status under the EU Settlement Scheme or the points-based immigration system you can use the online right to work checking service while doing the video call – the applicant must give you permission to view their details.

You will not be required to carry out retrospective checks on those who had Covid-19 adjusted checks between 30 March 2020 and 31 August 2021 (inclusive). This has been confirmed by the Home Office and is a departure from previous guidance where employers were advised that the Covid-19 adjusted right to work checks would only provide a temporary statutory excuse and that new retrospective checks would need to be carried out within 8 weeks of the temporary measures coming to an end.

From 1st September 2021, you must either:

- Check the applicant's original documents, or
- Check the applicant's right to work online, if they've given you their share code

Remember you could face a civil penalty if you employ an illegal worker and have not carried out a correct right to work check.

Also note that due to the impact of COVID-19 some individuals may struggle to show evidence of their right to work in the UK. As a result, you must take extra care to ensure no-one is discriminated against as a job applicant or employee because they are unable to show you their documents.

Other Forthcoming Legal Updates

Expected October 2021 – People working in care homes in England required to have full coronavirus vaccination

Only people who can demonstrate evidence of having had a complete course of a coronavirus (COVID-19) vaccine (or evidence that they are exempt from vaccination) will be allowed to work in a CQC-registered care home in England.

The requirement to be vaccinated applies to individuals who enter the indoor premises of a care home, including the care home staff and any professionals visiting the home, such as healthcare workers, tradespeople, hairdressers and beauticians, and CQC inspectors.

The requirement excludes residents; friends or relatives of residents who are visiting; persons providing emergency assistance or urgent maintenance work in the care home; and those under the age of 18.

The Government has said that regulations will be laid before Parliament at the earliest opportunity. Following parliamentary approval, there will be a 16-week grace period before the requirement to be vaccinated comes into effect.