

New Changes to Employment Contracts/Section 1 Statements From 6 April 2020 (UK)

As the law currently stands, only employees are entitled to receive a written statement (sometimes referred to as a “section 1 statement”) containing certain basic information about their terms and conditions of employment. This must be provided within two months of the employee starting work and the required information is usually included in the employee’s contract of employment.

The New Rules

All employees **and workers** who start work on or after **6 April 2020** will be entitled to receive the following information in writing on or before starting work:

- The names of the employer and employee/worker
- The date when employment/engagement began
- In the case of employees, the date on which the employee’s period of continuous employment began
- The scale or rate of remuneration or the method of calculating remuneration
- The intervals at which remuneration is paid, e.g. weekly, monthly
- Any terms and conditions relating to hours of work, including any terms and conditions relating to normal working hours, **the days of the week the individual is required to work and whether or not such hours or days may be variable and, if so, how they vary or how that variation is to be determined**
- Any terms and conditions relating to entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the individual’s entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated); incapacity for work due to sickness or injury, including any provision for sick pay; and **any other paid leave** and pensions
- **Any other benefits provided by the employer that have not been set out elsewhere in the statement**
- Notice periods
- Job title or brief description of work
- Where the employment is not intended to be permanent, the period for which employment/engagement is expected to continue and, if it is for a fixed term, the date when it will end

- **Any probationary period, including any conditions and its duration**
- Place of work or, where the individual is required or permitted to work at various places, an indication of that and of the address of the employer
- Any collective agreements that directly affect terms and conditions
- Additional information where the individual is required to work outside the UK for a period of more than one month
- **Any training entitlement provided by the employer, any part of that training entitlement which the employer requires the individual to complete and any other training which the employer requires the individual to complete and which the employer will not pay for**
- Information about disciplinary and grievance procedures

The items highlighted in bold indicate the additional information that must be included in section 1 statements. Employers can continue to provide this information in the contract of employment/engagement issued to the individual when they start work.

Other Points to Note

- Most information must be given at the start of the working relationship – only very limited information (pensions, collective agreements, training and disciplinary procedures) can be provided within two months of starting work. It will, therefore, become a “Day One” right for employees and workers.
- If there is no information in relation to any of these items, this must be stated.
- Information about sickness, sick pay, any other paid leave, pensions, training entitlement and disciplinary rules can be contained in a separate document, e.g. a staff handbook, which is reasonably accessible to the individual.
- These new provisions apply to employees and workers who are engaged on or after 6 April 2020. Existing employees will, however, have the right to request a statement containing this additional information after this date, which must then be provided within one month.

These changes affect employers in England, Wales and Scotland.

Consequences of Non-Compliance

As is currently the case, if an employer fails to provide this information, individuals will be entitled to make a referral to an employment tribunal for a declaration of what their terms of employment/engagement are.

Furthermore, if an individual brings certain successful claims, the tribunal will be able to award them between two and four weeks' pay (subject to the statutory cap, which is currently £525) for a failure to provide the required information.

Wider Review of Contracts

Although these new provisions only apply to people starting work on or after 6 April 2020, many employers are already starting to review their contracts to ensure they contain the required information. Now is also a useful opportunity to carry out a more general review and update of your template contracts to ensure they provide your business with the right protection.

Impact on Worker Status

This is a key step in the government's agenda to close (and, we suspect, ultimately remove) the gap in legal rights between workers and PAYE employees. To the extent you wish to preserve that distinction in your workforce at this stage (for example, because workers have limited unfair dismissal and family-friendly rights), it will make cosmetic sense to use different forms of document for workers and employees even if the information contained in them is, by law, broadly the same. Because the information is required by law to be provided, that of itself would not help workers claim that, actually, they are employees. On the other hand, providing it through a document that is clearly a thinly-amended employment contract is likely to have at least an unconscious impact on an employment tribunal's view of whether employment is the right categorisation of the relationship.

If you would like to discuss these changes or a wider review of your contractual documentation, please speak to your usual contact in the Labour & Employment team.