

# Retail Quarter

October 2016



## Apprenticeship Levy

The Apprenticeship Levy, which the government hopes will help create three million new apprentices, is due to come into force in April next year. Draft regulations have now been produced, setting out how employers should calculate, report and pay their levy liability. A recent study by the British Chamber of Commerce showed that two out of five businesses did not understand or know about the levy. Of those that do, many are placing the focus of “apprenticeships” on young people entering employment, whereas this opportunity could, and should, benefit a wide range of development opportunities. Retailers should consider what training they currently provide and ascertain what will fit into an approved “apprenticeship” framework, so that they can reap the best possible value from the levy. The Retail Trust is working closely with the industry to create apprenticeship standards for the retail sector.

**Matthew Lewis:** Partner, Labour & Employment, Leeds  
T +44 113 284 7525 E [matthew.lewis@squirepb.com](mailto:matthew.lewis@squirepb.com)

## National Living Wage – Non-conscious Breaches

The introduction of the National Living Wage in April 2016 caused issues for many retailers finding ways to get the base rate up to £7.20 an hour and the problem is only set to continue. Just because an employer has managed to squeeze the budget to pay £7.20 does not mean they are compliant. Recent press reports of retailers being “named and shamed” by BIS have caused concerns across the industry. Retailers need to look carefully at their practices, including employees conducting work-related tasks outside of their paid hours (e.g. conducting bag searches, firing up tills, locking up), or employees being required to pay for, or provide part of their uniform (e.g. black trousers). Businesses need to be aware that the retail sector is in the sights of HMRC – the body responsible for enforcing the NLW and NMW.

**Laura McLellan:** Senior Associate, Labour & Employment, Leeds  
T +44 113 284 7048 M +44 7545 935632  
E [laura.mclellan@squirepb.com](mailto:laura.mclellan@squirepb.com)

## Brexit – Where the FX Are We?

UK retail has reportedly “shrugged off” Brexit, with August sales up 6.2% year-on-year. Sales to foreign tourists taking advantage of the weaker pound cannot, however, cancel out the longer-term flipside of costlier imports and rising suppliers’ prices.

As our future in Europe remains uncertain even to those in charge of shaping it, retailers are asking what Brexit means for their commercial contracts. Clauses allocating the risk of future exchange rate changes are more common than express Brexit termination clauses. Retailers should check if they can rely on such clauses, or insist upon their future inclusion. You can keep up to date with all Brexit-related issues by subscribing to our Brexit Legal blog.

**Peter Lees:** Senior Associate, Litigation, Manchester  
T +44 161 830 5357 M +44 7921 600412  
E [peter.lees@squirepb.com](mailto:peter.lees@squirepb.com)

## Changes to TV Licensing for Digital Content

Since 1 September 2016, if BBC iPlayer is downloaded or watched on a “TV Receiver” the device must be covered by a TV licence. A TV Receiver has a wide meaning within the legislation and includes tablets, mobile phones and other portable devices. The TV licensing authority has issued guidance and FAQs in relation to this.

Any person or organisation with a TV Receiver in his possession or under his control who knows, *or has reasonable grounds for believing*, that another person intends to use it without a TV licence, is guilty of an offence. If retailers provide tablets for use by staff, for example, for ordering, it is possible that they would have such reasonable grounds, particularly if there is Wi-Fi and staff are permitted to use the devices during their breaks. Retailers may need to introduce and/or enforce policies requiring staff not to use devices for these purposes or ensure there is a licence.

**Nicola Smith:** Senior Associate, Environmental, Safety & Health, Birmingham  
T +44 121 222 3230 E [nicola.smith@squirepb.com](mailto:nicola.smith@squirepb.com)

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