

TECHNICAL UPDATES

Our regular roundup of legal and regulatory change

EMPLOYMENT LAW



THIS SECTION IS SUMMARISED FROM THE BULLETINS OF VARIOUS LAW FIRMS AND ASSOCIATIONS. NONE OF THE INFORMATION IN THIS UPDATE SHOULD BE TREATED AS LEGAL ADVICE

GOVERNMENT ADVISES BUSINESS TO ADJUST TO NEW EU MIGRATION POLICY

The UK government issued a policy paper on 19 February outlining proposed new rules for EU citizens wishing to work in Britain once the Brexit transition period comes to an end on 31 December 2020.

Free movement will be replaced by a points-based system that the government believes will help Britain create “a high wage, high-skill, high productivity economy”.

The EU settlement scheme opened a year ago for those already living and working in the UK has so far received 3.2 million applications. But from 1 January 2021, EU and non-EU citizens will be treated in the same manner.

Priority will be given to scientists, engineers, academics and others deemed highly skilled. Special rules have been promised for those hiring into the NHS and the agriculture sector. A system will also be in place for students. However, a “general low-skilled or temporary work route” will not be in the plans. The government’s decision is based on what it calls a need to “shift the focus of our economy away from a reliance on cheap labour from Europe and instead concentrate on investment in technology and automation”. The policy statement says that employers “will need to adjust”. The government has promised to monitor labour market data for signs of pressure in key sectors.

The Home Office’s points system will lower the salary threshold for entry from £30,000 to £25,600. However, the government adds: “Migrants will still need to be paid the higher of the specific salary threshold for their occupation, known as the ‘going rate’, and the general salary threshold.” It plans to set the rate for new entrants to a profession at 30% lower than the rate for experienced workers.

Salary will be one of nine categories

in which points can be accrued up to a minimum of 70 to apply for a work visa. Having a job offer from a sponsor, appropriate skill level, a salary above the minimum threshold, having a job in a designated shortage occupation, or a PhD in a STEM subject relevant to a job will attract 20 points each. Speaking English, a salary between £23,040 and the minimum threshold, and a general PhD relevant to a job are each worth 10 points.

Further details will be published in the coming months. The current policy document (containing information about visa application process and family reunion rules) can be read in full at tinyurl.com/BAM-Points

TAX



NEWS AND UPDATES FROM THE TAX FACULTY WEEKLY NEWSWIRE. VISIT [ION.ICAEW.COM/TAXFACULTY](https://ion.icaew.com/taxfaculty) AND CLICK THE SIGN-UP LINK TO SUBSCRIBE FOR FREE

UNCERTAINTIES REMAIN AS GOVERNMENT 'SMOOTHS' IR35 IMPLEMENTATION

The Tax Faculty has welcomed changes announced by the government to "support the smooth and successful implementation" of new off-payroll working rules, but warns that businesses are still hampered by uncertainties.

On 27 February the government published its report detailing its review of the implementation of changes to the off-payroll working (OPW) rules that will come into effect on 6 April. The review was launched in January and stakeholders, including ICAEW, raised significant concerns about the regime's implementation and its impact on businesses.

In its report, the government details the concerns and how it aims to address them, including confirming a softer compliance approach that "will not penalise businesses trying to get it right".

The report states: "Customers will not have to pay penalties for inaccuracies relating to the off-payroll working rules in the first 12 months unless there is evidence of deliberate non-compliance."

While the Tax Faculty welcomes the changes outlined in the report, it remains concerned about areas where there is still uncertainty.

For example, one positive change is the obligation on clients of a contractor's personal service company, if asked, to tell contractors and agencies within 45 days whether they are 'small'. However, the faculty remains concerned as to whether the contractor will be aware that if the client is small, it is up to them to comply with IR35.

Also, if a contractor does not receive a status determination statement (SDS), there are two possible reasons for this with very different compliance obligations. They might not have received an SDS because the client has determined that the contractor is not a deemed employee - which means that the client does not have to provide an

SDS. Alternatively, it could be because the client is offshore, which means that the contractor is responsible for applying the April 2000 IR35 rules. How will the contractor know which case applies to them?

If the contractor disagrees with the SDS, there is still no deadline by which the contractor must initiate the client-led disagreement process, potentially leaving the client exposed to a disagreement being raised for an indefinite period.

ESM10015 states: "the client is only required to respond to representations made during the course of the engagement and before the final chain payment is made in relation to that engagement", but there are no powers for this in draft legislation previously published.

FINANCE BILL DUE 19 MARCH

The Financial Secretary to the Treasury confirmed that the Finance Bill will be published on 19 March, eight days after the 2020 Budget.

In a written ministerial statement published on 25 February, Jesse Norman MP, affirmed that the government was committed to measures published in the draft Finance Bill 2020, published in July 2019, "subject to confirmation at Budget 2020".

The statement also confirmed that the Budget resolutions would be published in full after the Chancellor's speech on 11 March, alongside resolutions made under the Provisional Collection of Taxes Act 1968 for "measures that are expected to come into effect ahead of Finance Bill Royal Assent".

ICAEW and the Tax Faculty will be providing analysis of the Budget on the day; follow Twitter at @ICAEW_Tax for live reaction and icaew.com/budget for viewpoints on the chancellor's announcements from across ICAEW. A webinar will also be held at 10:30am on 13 March to discuss the outcomes. See tinyurl.com/BAM-Budget

EXTENSION OF TRUST REGISTRATION SERVICE

Following the changes to the money laundering regulations in January 2020 to reflect the Fifth Money Laundering Directive, the government has published its technical consultation on the extension of the Trust Registration

Service (TRS). This proposes to extend the registration requirements to most UK express trusts, whether or not they have a tax liability. It also catches non-UK trusts who enter into a business relationship with UK professionals. ICAEW responded to the consultation on 21 February 2020 and the full response can be accessed as ICAEW Rep 04/20 Fifth Money Laundering Directive and Extension of Trust Registration Service.

We welcome the efforts by government to narrow the scope of express trusts that would have a registration requirement under the extended TRS. However, there are a number of additional trusts that warrant exclusion from registration, including trusts set up under wills, insurance policies that pay out otherwise than on death or critical illness, and small charities.

The money laundering and terrorist financing risks of different kinds of bare trusts need to be considered further so that a disproportionate administrative burden is not imposed on low-risk family arrangements. Additional clarity is also needed on exactly which types of employment-related trusts and trusts used for joint holding of property will be exempt from registration.

We are concerned about the proposed registration requirement for all trusts that enter into a business relationship with UK-obliged entities. The broader scope of registration for non-UK trusts not only seriously damages the competitiveness of the UK accountancy profession and others, it could also have a detrimental effect on correct tax compliance. Non-UK trustees may be deterred from appointing UK advisers to provide UK tax services, for fear of having beneficial ownership information publicly disclosed.

We are concerned about the loss of privacy for trust beneficiaries that will result from disclosure of data to third parties under the legitimate interest provisions. The appropriate organisations to be undertaking investigations into suspected illicit activity are the relevant law enforcement agencies, not journalists or campaigners.

While we welcome the intent to protect vulnerable beneficiaries and those at risk of harm from having their data disclosed, we have serious concerns with how such protection will be afforded in practice, and how

government will be aware on a real-time basis if individuals are at risk of kidnap, harassment and fraud.

FINANCIAL REPORTING



BREXIT - IMPLICATIONS FOR FINANCIAL REPORTING

The UK has now entered a transition period which is due to end on 31 December 2020 at 11:00pm (IP completion day). During this period the UK is no longer a member of the EU but continues to be subject to EU rules.

UK companies will continue to apply either EU-adopted IFRS or UK GAAP in their accounts. This regime applies for accounting periods beginning before IP completion day, even if the accounting period ends after 31 December 2020.

Exemptions which are dependent on EU status will also continue to apply, for example an intermediate parent company that is the subsidiary of an EU parent can continue to take advantage of the exemption from preparing group accounts (Companies Act 2006 s400) for the time being.

A new regulatory framework will apply for financial statements prepared for accounting periods beginning on or after 1 January 2021. UK companies currently applying EU-adopted IFRS will apply UK-adopted IFRS. In the short-term UK and EU-adopted IFRS are expected to be identical as all extant EU-adopted IFRS will be brought into UK law and become UK-adopted IFRS as at 31 December 2020.

For more information, read our blog at tinyurl.com/BAM-BrexitFR

The Financial Reporting Faculty has also updated its Brexit guide, *Preparing FRS 102 accounts for 2019/20*

IFRS - CLASSIFYING LIABILITIES

The IASB has issued narrow-scope amendments to IAS 1 *Presentation of Financial Statements* to clarify how to classify debt and other liabilities as current or non-current. The amendments aim to promote consistency in applying the requirements by helping companies determine whether debt and other liabilities with an uncertain settlement date should be classified as current or non-current. The amendments include clarifying the classification

requirements for debt a company might settle by converting it into equity.

The amendments are effective for accounting periods beginning on or after 1 January 2022.

Read the press release at tinyurl.com/BAM-IASB

FRC GUIDANCE: CORONAVIRUS

By law, companies are required to disclose principal risks to their business. The FRC is advising companies to carefully consider what disclosures they might need to include in their year-end accounts, which will be particularly relevant for companies either operating in or having close trading associations with China. The extent of the risk and the degree to which it might crystallise depends on companies' specific business circumstances.

Depending on the extent to which the virus spreads outside of China, other companies could also become affected.

Read the guidance tinyurl.com/BAM-Corona

CLIMATE-RELATED REPORTING

The European Reporting Lab has published a report: *How to improve climate-related reporting - a summary of good practices from Europe and beyond*. The primary focus of report is on identifying good reporting practices and assessing the level of maturity in the implementation of the Task Force on Climate-related Financial Disclosures recommendations, while also taking into consideration the climate-related reporting elements of the EU Non-financial Reporting Directive and the related European Commission non-binding guidelines.

Read the report at tinyurl.com/BAM-Climate ●