

## Changing direction? Employment forecast General Counsel



### April 2016 to September 2016 – long range forecast

Key developments summarised	Impact on employers
<b>United Kingdom</b>	
An <b>in-out referendum</b> on the European Union will take place on 23rd June 2016.	Even if the UK left the EU, major short-term changes to employment law are not expected. However, the impact on freedom of movement could be greater. <a href="#">Read our Brexit Briefing.</a>
The first <b>slavery and trafficking statements</b> must be published by organisations with a £36m+ turnover, carrying out business in the UK (wherever incorporated) and supplying goods and services, where their year-end is after 30 March 2016.	Businesses should assess risks, particularly in their supply chains, and put in place policies, training, due diligence and other measures. <a href="#">Read our briefing.</a> Pressure groups are expected to monitor compliance, with associated reputational risks, and there is already a ripple effect as anti-slavery terms are added to procurement contracts.
Larger employers in the private and third sectors (250+ staff) will need to report upon <b>gender pay gaps</b> . New legislation is being finalised with the first reports expected to fall due by April 2018. While this is two years away, employers need to prepare early given potentially complex issues where gaps exist.	Affected employers should review all current pay practices in order to identify and explain the differentials which may exist. Non-compliance risks reputational damage. <a href="#">Read our briefing.</a>
Significant changes to the law on <b>industrial action</b> are expected to be finalised with implementation from October 2016. <a href="#">Read our briefing.</a>	The changes are intended to deter strikes based on low ballot turnouts and to ensure sufficient support for strikes in key public services such as transport, education and health.
<b>European Union</b>	
Adoption of new <b>EU Data Protection</b> regulations.	The draft General Data Protection Regulation is expected to receive formal adoption by the summer. With implementation due by 2018, it is destined to have significant impact upon data protection law and practice in UK and Europe-wide. <a href="#">Read our briefing.</a>
<b>Belgium</b>	
Employer <b>social security contributions</b> decrease from April 2016-2018. However, there are proposals for employers to <b>guarantee pay</b> for longer when employees are on sick leave.	With long-term sickness absence rising, increasing employer pay is part of a package of proposals which include greater employee duties to inform his/her employer of the nature and duration of the illness.
<b>Denmark</b>	
Employers need to ensure they are not caught out by two significant 1 January 2016 changes which make a <b>compulsory retirement age</b> unlawful and prohibit the use of new <b>non-solicitation of employees</b> clauses, except in transfer of undertakings. Existing clauses are valid until 1 January 2021.	Making a compulsory retirement age unlawful is aimed at keeping people working for longer. Prohibiting non-solicitation of employee clauses, while allowing non-competition and non-solicitation of customers clauses, reflects similar policies in some other European countries.
<b>France</b>	
Major changes ('Macron' and 'Rebsamen' laws) implemented during 2015, including to the rules on mandatory <b>information and consultation</b> processes, are now having an impact.	Exercise caution if relying on French employment law advice which pre-dates these changes, particularly in relation to M&As, redundancies and business sales.
<b>Germany</b>	
A new law proposes significant new restrictions on the use of <b>temporary agency workers</b> ('leased workers'), including a maximum 18 month assignment duration and a ban on using agency workers as "strike breakers".  Multinationals should be aware of new case law suggesting that certain changes to reporting lines, even in a country outside Germany, may trigger <b>co-determination rights</b> of the German works council.	The new agency law is expected to come into force early in 2017. However, it has met with employer opposition which is delaying its progress to date.  While the case law on reporting lines is not legally binding, employers need to consider whether to involve works councils in such circumstances.
<b>Ireland</b>	
A change in the law means that <b>retirement ages</b> must now be objectively justified, as well the offer of a fixed term contract to those over compulsory retirement.  New government institutions and processes governing workplace relations, including <b>employee claims</b> , are now in place.	The retirement age change may lead to an increase in litigation to test whether a justification exists.  Don't be caught out by the workplace relations changes when responding to employee claims, for example, new timelines and documentation requirements.
<b>Netherlands</b>	
From May 2016, a new law will affect employers using <b>independent contractors</b> as the tax authorities decide whether workers should be granted contractor or employee status, depending on their contracts.	Given the high use of contractors, there are concerns that the tax authorities may be overwhelmed initially. In addition, questions have been raised as to whether they are equipped to make these decisions correctly.
<b>Poland</b>	
New <b>shared parental leave</b> entitlements have been introduced and a <b>minimum wage for contractors</b> is being proposed.  Significant changes to <b>fixed term contracts</b> now apply, including a 33 month limit (exceptions apply) and indefinite employment if it is exceeded.	The minimum wage for service agreements is proving controversial and, if adopted, could have repercussions on the employee minimum wage.  Employers must review their use of, and policies for, fixed term workers to avoid them joining the permanent headcount.
<b>Spain</b>	
A Supreme Court decision has decided that liability for social security benefit surcharges for pre-transfer <b>health and safety breaches</b> can fall on the transferee, where there is a transfer of an undertaking. Previously this liability did not transfer.	This decision emphasises the need for transferees to ensure that due diligence and indemnities include accidents and related health and safety events pre-transfer.
<b>Sweden</b>	
A central collective bargaining agreement has changed the regulation of <b>non-competes</b> going forwards. In addition, new guidelines aimed at reducing <b>workplace stress</b> have entered into force on 31 March 2016.	Reducing organisational stress has been debated for some time in Sweden and these guidelines focus on the role employers play in addressing the causes of stress.

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