

Future Changes: What to expect in 2021 - Financial Services

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THE FACTS

Unsurprisingly in the context of the pandemic, the Government's legislative agenda for 2021 may evolve. Below are the changes we expect to happen in 2021, with some potential developments, and our pick of upcoming cases and judgments.

Expected changes

The following changes are expected to come into effect in 2021.

31 March 2021	Fitness and propriety implementation for solo-regulated firms, conduct rules, and details of directory persons	The deadline for solo-regulated firms to undertake the first assessment of the fitness and propriety of their certified persons under SM&CR was postponed last year and is now set for 31 March 2021. Conduct rules for Other Conduct Rules Staff are also due to take effect on 31 March 2021, and training must therefore have taken place before that date. This is also the last date for firms to submit details of directory persons.
6 April 2021	Changes to the current formula for post-employment notice pay (PENP) calculations	The aim of these amendments is to avoid unfair outcomes if the employee's pay period is defined in months, but the contractual notice period is expressed in weeks. The changes will also ensure that non-residents who received PENP are taxed fairly.
	Changes to the off-payroll working rules	These changes, designed to address non-compliance with IR35 in the private sector, shifting responsibility for income tax and NICs to the client or intermediary, were postponed last year in response to the pandemic.
	Changes to statutory payment limits	The annual uplifts to statutory limits and minimum payments - including payments for weekly pay, family leave, national minimum wage and redundancy pay - come into effect on 6 April every year. We will notify readers of the new rates when they are published.
End of April 2021	COVID-19	Coronavirus Job Retention Scheme due to end.

Potential developments

We may see developments in the below areas this year:

Employment Bill 2019/2020	At the end of 2019, the Government announced that it would introduce a new Employment Bill, covering topics ranging from the establishment of a single enforcement body for the labour market to a requirement for employers to pass on all tips and services charges to workers. The progress of this bill has been delayed.
Neonatal leave and pay	In 2020, the Government proposed the introduction of statutory neonatal leave and pay for up to 12 weeks for parents of babies requiring neonatal care. Legislation implementing this will be included in the new Employment Bill.
Leave for unpaid carers	The Government's consultation on its proposal to give employees who are unpaid carers one week's unpaid leave per year for the purposes of caring closed in August, and the Government response is awaited.
Extending redundancy protection for women	If passed, new legislation will prohibit redundancy during pregnancy and maternity leave and for six months after the end of the pregnancy or maternity leave, except in specified circumstances.

Cases and judgements expected in 2021

There are several important holiday pay cases due to be heard by the Supreme Court this year.

Chief Constable of the Police Service of Northern Ireland and another v Agnew and others

This is an appeal from the Northern Ireland Court of Appeal. If decided against the employer, the scope for workers to make substantial retrospective claims for unpaid holiday pay will be significantly increased.

Holiday pay

Harpur Trust v Brazel

The Supreme Court is due to consider whether an employment tribunal was wrong to find that “part-year workers” (such as school teachers employed during school terms) should have their annual leave capped at 12.07% of annualised hours.

Flowers and others v East of England Ambulance Trust

The Supreme Court is set to decide whether holiday pay under the Working Time Regulations must include regular voluntary overtime.

Equal Pay

Asda v Brierley

The judgment on this case is expected imminently. The Supreme Court is considering whether workers in retail stores were employed under comparable terms and conditions to those working in separate distribution depots for the purposes of equal pay claims.

Employment Status

Uber BV and others v Aslam and other

The Court of Appeal decided that Uber drivers were workers and so entitled to paid holiday and National Minimum Wage. Uber’s appeal was heard by the Supreme Court, and we are waiting for the Judgment.

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