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Welcome to June's PayrockPayroll update. Coming up in this month's edition...

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Hi

So, May and its three bank holidays are now behind us. How is it that we're almost halfway through the year already?! This month's newsletter focuses on the government's announcement that it has reversed its plan to withdraw almost 5,000 EU laws currently in force in the UK. Read on to understand how this decision has the potential to impact all of us. But first, a further update about meeting the P11D filing deadline on 6 July.

Filing P11Ds when different agents deal with tax affairs

I've mentioned in previous newsletters that since 6 April 2023, forms P11D (for reporting employee benefits) can now only be filed electronically, which is posing problems for some employers who don't have much time to obtain payroll software to enable them to do this before the reporting deadline of 6 July. But there is another group of employers facing unexpected challenges because of this late change to the method of filing of P11Ds: it is not uncommon for employers to outsource their payroll to two different payroll agents, one company to deal with day to day payroll, and another to complete and submit the P11Ds and everything associated with them. Unfortunately HMRC's systems do not currently have the functionality to allow an employer to have more than one agent working for them on the same head of duty, in this case PAYE. So where does that leave employers who find themselves in this position? The Institute of Chartered Accountants in England and Wales raised the issue with HMRC who advised that an agent can file P11Ds and P11D(b)s, including amendments, for an "unauthorised" client. They would need to add the client to their unauthorised client list in their Agent portal. Once they have done that, they are then able to file returns on behalf of the client. If the agent does not have log in credentials, which could well be the case if they have previously only filed paper returns, they will need to register themselves first, before being able to log in and then add a client to their unauthorised list.

Another Brexit U-Turn?

Doesn't Brexit seem such a long time ago? With everything that has happened since, COVID and the war in Ukraine spring immediately to mind, it's easy to forget that once upon a time we were all keen to know how Brexit would impact payroll, and indeed our lives in general, and that we haven't yet felt the full effect of our departure from the EU. The driving force for many Brexiteers was the desire to take control of our own laws, and the Retained EU Law (Revocation and Reform) Bill was therefore welcomed as the route to UK autonomy. The Bill contained a "sunset clause" which meant that any EU law, initially retained when we left the EU on 31 December 2020, would be automatically repealed at the end of 2023, unless it had been specifically preserved or replaced. However, there were many who had grave concerns that this "sunset clause" would have an adverse impact on employment law, and workers could lose access to long-established rights that currently form an integral part of Britain's standing as a fair nation, such as holiday pay or protection against fire and rehire. It was not unexpected then that the news that the government has now decided to scrap the "sunset clause" from the Bill met with mixed reactions.

Instead of the approximately 4,800 retained laws being discarded on 31 December this year, only around 600 pieces of retained EU law will be set out in a revocation schedule. Any laws not listed in the revocation schedule will be automatically retained.

However, there are some key pieces of legislation affecting payroll and HR professionals, and indeed all of us, that the government is looking to change:

Working Time Regulations 1998 (WTR)

Holiday Entitlement: Currently we are entitled to 5.6 weeks (28 days) annual leave each year. That is broken down in to two parts; four weeks that we are entitled to as a result of the EU Working Time Directive, and 1.6 weeks that come from the UK's Working Time Regulations. The government plans to merge these two separate leave entitlements into one pot of statutory annual leave of 5.6 weeks. Whilst most employees won't know or care about these different types of leave, this will bring a welcome simplification to payroll professionals.

Rolled Up Holiday Pay: Despite the fact that rolled up holiday pay is illegal, and has been for some years, many employers still use this method of calculating and paying holiday pay, especially for workers with irregular working patterns. However, the outcome of the Brazel v Harpur Trust court case was to declare it unlawful to use the 12.07% method to calculate holiday entitlement, which is central to the calculation of rolled up holiday pay.

The government now plans to introduce rolled up holiday pay into law, so some workers are able to receive holiday pay with every payslip, rather than when they take their holiday. This is done by adding money onto every hour of pay to represent the holiday pay, and then not paying the worker when they actually take leave. Now that we are no longer subject to EU law, the government is also consulting on its plan to allow the 12.07% calculation method, which would make it easier to calculate rolled up holiday pay should these reforms come in as proposed.

Record Keeping Requirements: The UK's WTR require employers to keep "adequate records" such as the maximum daily/weekly working time, including for night workers and young workers.

But EU case law takes this much further than the WTR ruling that, in order to comply with the EU's Working Time Directive, employers must also record the daily working hours for each worker.

The government plans to remove this EU law, reducing the record keeping burden on employers.

Employers will, however, still need to:

- Keep records of time worked to ensure payment is made at the appropriate National Minimum Wage rate
- Keep records to show employers are complying with the maximum 48-hour week

Transfer of Undertakings (Protection of Employment) Regulations (2006)

The government is consulting on an employer's duty to consult in TUPE situations.

Currently, employers must collectively consult with employees affected by a TUPE transfer via elected employee or union representatives. Individual consultation is only allowed for microbusinesses – ie. where a business employs 10 employees or less.

The government plans to remove the requirement to consult with elected representatives for businesses with fewer than 50 people and transfers affecting less than 10 employees.

This will reduce the need for many SMEs to elect representatives in TUPE situations, but may mean they have to complete more individual consultations.

Restriction of Non-Compete Clauses

The government has also proposed a new law to limit the length of non-compete clauses to three months. A non-compete clause is a section in the contract which prevents a departing employee from working for a similar or competing business.

The consultation proposes that legislation is changed to limit such clauses to three months in length. However, the government has stated that this is a matter that will be put forward "when parliamentary time allows".

Did you know the Payroll Administrator Apprenticeship has been updated?

When the Level 3 Payroll Administrator Apprenticeship was launched in June 2018, it was always in the knowledge that it would be reviewed after three years. With payroll being a profession of constant change, this is of course essential to ensure it remains up-to-date and relevant. But in addition to that, the Trailblazer Group recognised that, after seeing hundreds of apprentices take this professional and vocational qualification, there were things that worked well, and things that could work better.

The new framework for the [Payroll Administrator Apprenticeship, version 1.1](#), was launched on 17 March and there are some fundamental changes for those starting this qualification since then which I thought you might like to know about.

The first thing to know is that, although the job role hasn't changed, all of the Duties, along with the required Knowledge, Skills and Behaviours (KSBS) are new. The KSBS have been updated to take into account any changes, for example the introduction of Statutory Parental Bereavement Leave and Pay which did not exist in 2018. The KSBS have also been reviewed to remove any elements that were no longer considered appropriate at Level 3. In addition, the KSBS have been made more specific and contain more detail about what needs to be taught and, therefore, assessed. A good example of this is the manual calculation of Income Tax which now specifies that this must be taught using the tax tables.

The next thing you need to know is that the way in which the apprentice will be assessed has also changed. Following along the same lines as the assessment methods in the Level 5 Payroll Assistant Manager Apprenticeship, the End Point Assessment is now made up of the following elements:

1. Multiple Choice Questions now known as the Knowledge Test
2. The Role Simulation has gone and has been replaced by a Workplace Project, and
3. The Professional Discussion remains, but this is now based on a portfolio of work that the apprentice must compile during their studies

Finally, the funding band for this qualification has been set at £10,000. However, unlike commercial qualifications, employers can fund an apprenticeship through their Apprenticeship Levy pot. Non-Levy-paying employers can apply for UK Government co-funding of up to 95% of the cost.

As a result of the changes, we have updated our content and delivery to support the new EPA elements. Though remember, these changes only apply to those joining the course on or after 17 March 2023. Those who were studying for this qualification before 17 March are unaffected.

If this has whetted your appetite, and you are interested in undertaking this qualification yourself, or you know of someone who may be interested, you may be able to start on this exciting journey as early as this month! [Get in touch now](#) to find out more.

Advisory Fuel Rates from 1 June 2023

HMRC has announced the latest Advisory Fuel Rates to be used from 1 June 2023. Although the petrol rates have stayed the same this quarter, diesel rates have gone down and the rates for LPG cars have, in the main, gone up.

Hybrid cars are treated as either petrol or diesel cars for advisory fuel rates.

You can use the previous rates for up to 1 month from the date any new rates apply.

The Advisory Fuel Rates for electric, petrol, LPG and diesel cars are shown in the table below. Previous rates are in brackets:

Engine size	Petrol	LPG
1400cc or less	13p (13p)	10p (10p)
1401cc to 2000cc	15p (15p)	12p (11p)
Over 2000cc	23p (23p)	18p (17p)
Engine size	Diesel	
1600cc or less	12p (13p)	
1601cc to 2000cc	14p (15p)	
Over 2000cc	18p (20p)	
Fully electric vehicles	9p (9p)	

PayrockPayroll Update

MBKB 2023-24 payroll factcard now available on the MBKB website

We have collated all the payroll facts and figures that you will need for the new tax year into one factcard which is free to download from the [MBKB website](#)

Payroll support helpdesk available to PayrockPayroll members

As payroll processing gets ever more complicated, we know that, much as we would like to, none of us can know everything, and here at PayrockPayroll we want to help. As a PayrockPayroll member you have access to our payroll support helpline. Several of you have already used this service, all you need do is email your query to payrollsupport@mbkggroup.com but please remember to write your membership number in the subject line, it was included in your membership pack email.

As a reminder, your Tier 2 PayrockPayroll membership includes:

- Payroll Update sessions – Online
- PayrockPayroll e-newsletter – Monthly
- Payroll helpdesk / support - 10 queries
- 1 x short course delivery

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