Dataplan's Compliance Update

Our special edition guide for current legislation, upcoming legislation and our predictions for the future of payroll in the midst of the COVID-19 pandemic.

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dataplan payroll

Welcome!

Welcome to April's special edition of Dataplan's Compliance Update with everything you may need to be aware of as a result of the ongoing COVID-19 crisis in the UK.

There are some very important updates outlined in this document which employers need to stay abreast of, particularly as we enter the new tax year.

CONTENTS

CURRENT LEGISLATION

FUTURE LEGISLATION

Current Legislation

Our comprehensive guide on current legislation which could already be affecting your business.

Legislation: **Statutory Sick Pay (SSP)**
Effective from: **13 March 2020**

ongoing

In the March 2020 budget it was announced that all employers with less than 250 employees can claim full relief for SSP payments.

In response to the situation with COVID-19 the Government announced the revisions to the SSP payments that mean that all employees who self-isolate can do so for up to 14 days and receive SSP. In addition, self-isolators will not be required to obtain a sick note from their GP. Instead they can dial 111 to be provided with a sick note.

The eligible period for the scheme will commence from the day of which the regulations extending SSP to self-isolators come into force. COVID-19 related SSP if recoverable via a special portal on the HMRC login.

It is important to note that as of the 1st April 2021 employers will no longer be able to recover SSP for employees who are shielding or who have a member of their household shielding since the Government is no longer advising the vulnerable to shield.

As the UK prepares to exit the third National lockdown, the Government have extended the Coronavirus Job Retention Scheme with some amendments to support businesses who have been hit by restrictions.

Legislation: **The Coronavirus Job Retention Scheme Extension**
Effective from: **1st March 2021**

ENDS 30 Sep

The Coronavirus Job Retention Scheme has once again been extended to coincide with the recently announced exit strategy from the third UK national lockdown.

The current furlough scheme, which has been in place since April 2020, was due to end at the end of June 2021, but will now continue until the end of September 2021, with changes to what can be claimed as the scheme draws to an end.

For March to June payrolls the current scheme will still apply, with 80% claimable on unworked hours up to a cap of £2,500 per month. National Insurance and Pension contributions are still to be paid by the employer.

In July, the claimable amount on unworked hours reduces to 70%, and the cap reduces to £2,187.50 per month. National Insurance and Pension contributions are still to be paid by the employer.

As the scheme draws to a close in August and September, the claimable amount drops to 60%, with the cap at £1,875. National Insurance and Pension contributions continue to be paid by the employer.

In addition to the gradual decrease in claimable amount, eligibility criteria for the furlough scheme is also changing.

For periods starting on or after 1 May 2021, you can claim for employees who were employed on 2 March 2021, as long as you have made a PAYE Real Time Information (RTI) submission to HMRC between 20 March 2020 and 2 March 2021, notifying a payment of earnings for that employee. You do not need to have previously claimed for an employee before the 2 March 2021 to claim for periods starting on or after 1 May 2021.

This concession will be a big help to employers who may have taken on new staff since the beginning on November 2020.

Legislation: Tax Bands England, Wales & N Ireland
Effective From: 6th April 2021

2021
6 Apr

Rate	%	Earnings range
Basic Rate	20	£12,571 - £50,270
Higher rate	40	£50,271 - £150,000
Additional rate	45	£150,001 and above

Legislation: Tax Bands Scotland
Effective from: 6th April 2021

2021
6 Apr

The income tax rates are based on having a standard Personal Allowance of £12,500. In Scotland, you do not get a Personal Allowance if you earn over £125,000.

Band	%	Earnings range
Personal Allowance	0	Up to £12,570
Starter Rate	19%	£12,571 to £14,667
Basic Rate	20%	£14,668 to £25,296
Intermediate Rate	21%	£25,297 to £43,662
Higher Rate	41%	£43,663 to £150,000
Top Rate	46%	over £150,000

2021
1 Mar

Legislation: Advisory Fuel Rates
Effective From: 1st March 2021

Engine Size	Petrol	LPG
1400cc or less	10p	7p
1401cc to 2000cc	12p	8p
Over 2000cc	18p	12p

Engine Size	Diesel
1600cc or less	9p
1601cc to 2000cc	11p
Over 2000cc	12p

ongoing

Legislation: Approved Mileage rates
Effective From: Ongoing

Type of vehicle	First 10,000 miles	Above 10,000 miles
Cars and vans	45p	25p
Motorcycles	24p	24p
Bikes	20p	20p

2021
1 Apr

Legislation: National Minimum and Living Wage
Effective From: 1st April 2021

Age	Rate
23 and over	£8.91
21-22	£8.36
Development rate (Inc 18-20 year olds)	£6.56
Under 18 but over compulsory school age	£4.62
Apprentices under 19 or in first year	£4.30

The Low Pay Commission (LCP) issued a consultation document in the summer of 2019 seeking views and recommendations for the national minimum wage beyond 2020.

As part of the consultation the LPC indicated an 'on target' rate was forecast to be £8.67 per hour for over 23's. The Government has in 2021 gone a little further and announced an increase in the over 23 rate to £8.91 per hour.

Further annual increases are in the pipeline with the National Living Wage forecast to be £10.50 by 2024.

Legislation: Postgraduate & Student Loans
Effective From: 6th April 2021

2021
6 Apr

There are two plans that form the basis of deductions for student loan, plan 1 and plan 2. Plan 1 has an earnings threshold of £19,895 annually whereas plan 2 has an earnings threshold of £27,295.

Introduced from April 2019 is the postgraduate loan (PGL), with an earnings threshold of £21,000 and a 6% payable rate.

An employee can be liable to repay a Plan 1 or 2 loan as well as a PGL.

Legislation: Pension Auto & Re Enrolment
Check Your Requirements Online
Effective From: Ongoing

ongoing

Auto-enrolment ensured all eligible workers were auto-enrolled into a workplace pension from 1st February 2018. The minimum pension contribution increased to 8%, 5% input from the employee and 3% input from the employer, from April 2019 and unless legislation changes, will remain at these minimum levels.

Re-enrolment takes place 3 years after your company's staging date. The re-enrolment process will auto-enrol any employee who fits the criteria on the re-enrolment date. If employees have opted out previously but still meet the requirements, they will be re-enrolled and will need to opt out again, if they wish to.

The re-enrolment date is flexible meaning you can re-enrol your staff three months before or after your staging date however, this re-enrolment date must apply to all staff. As part of re-enrolment process, a re-declaration needs to be submitted to the Pensions regulator within 5 months of the staging date, not the new re-enrolment date.

If your re-enrolment date is a different date to your original staging date, your re-enrolment date will then be used to determine your next re-enrolment date.

Legislation: Teacher Pension Contribution Increase
Effective From: 1st September 2019

ongoing

The employer contribution towards the teacher pension scheme increased from 16.48% to 23.68% on 1st September 2019. A considerable 43% increase to employer costs. The employee contribution percentage did not increase alongside this.

Legislation: Tax Free Childcare
https://www.gov.uk/tax-free-childcare
Effective From: Ongoing

ongoing

Tax-free childcare is an ongoing scheme available for eligible families with children up to the age of 11. If you're eligible you could receive up to £2,000 per year per child or up to £4,000 if the child is disabled.

This can be used to pay for approved childcare, including nurseries and after school clubs.

Tax free childcare is a valuable scheme because the Government will pay £2 for every £8 that parents pay for childcare. Parents must register for a childcare account as the payments will be deposited into the account by the Government. A word of caution, the Government will only make the contribution if the childcare provider is signed up to the scheme. We advise that suitable checks are made on providers before you sign up with them.

Legislation: **Employment Allowance**
Effective From: **6th April 2020**

ongoing

From April 2020 the employment allowance accessibility will be restricted to only employers with class 1 NI liability of less than 100,000 in the previous tax year. The aim is to target small employers who will be able to claim the £4,000 allowance. As a result of the fact that the Allowance will not be available to all employers, under current EU rules, the allowance will qualify as De Minimus State Aid.

What is De Minimus State Aid? The rules allow companies to receive a certain amount of state aid up to a certain level - this level is called De Minimus. Any amount above the De Minimus will be taken off the company.

Many companies may not be aware they are in receipt of state aid, never mind what the De Minimus amount is, and the fact that payroll bureaus like Dataplan would not know which clients are in receipt of state aid, the amount of state aid does not need to be reported. The claim must be made to HMRC on the Employer Payment Summary. In the state aid box a nil value should be entered. HMRC will deal with any state aid issues that may arise.

One other point to note is that unlike years to date when the claim is carried forward form one year to the next, a claim must be made on an annual basis for the allowance.

Legislation: **Short Term Business Visitors**
Effective From: **6th April 2020**

ongoing

Employers with Short Term Business Visitors (SBTV) from foreign branches can currently use the PAYE special arrangement. This allows such employers to pay annually rather than monthly.

Employers must report SBTV through Real Time Information (RTI) by 19th April and pay by 22nd April. HMRC are relaxing the reporting and paying date to 31st May following the end of the tax year.

Legislation: **Termination Payments**
Effective From: **6th April 2020**

2020
6 Apr

Termination Payments have long been a review area for HMRC. Having made all Payments In Lieu of Notice taxable and liable to National Insurance, from 6 April 2020 termination payments will be chargeable to employers NIC, over £30,000.

The longstanding tax exemption will remain whereby termination payments are not taxable below £30,000, the new rules align income tax and NIC rules. Historically there has been no NIC payable over the £30,000 exemption (although tax is charged over £30,000), however there will now be a charge on the employer.

The employer will pay employers NIC at 13.8% on all amounts over the £30,000 exemption.

Although the charge is a Class 1A charge, this is not to be confused with Class 1A NIC that is payable on benefits in kind. The NIC charge on termination payments will be paid through the PAYE RTI system.

Legislation: **Company Car Tax Rates**
Effective From: **6th April 2021**

2021
6 Apr

CO^2 emissions g/km	Electric Range	2021-22 (%) Cars Reg before 6 April 2020	2021-22 (%) Cars Reg after 6 April 2020
0	n/a	1	1
1-50	>130 miles	2	1
1-50	70-129 miles	5	4
1-50	40-69 miles	8	7
1-50	30-39 miles	12	11
1-50	<30 miles	14	13
51-54		15	14
55-59		16	15
60-64		17	16
65-69		18	17
70-74		19	18
75-79		20	19
80-84		21	20
85-89		22	21
90-94		23	22
95-99		24	23
100-104		25	24
105-109		26	25
110-114		27	26
115-119		28	27
120-124		29	28
125-129		30	29
130-134		31	30
135-139		32	31
140-144		33	32
145-149		34	33
150-154		35	34
155-159		36	35
160-164		37	36
165 +		37	37

Legislation: OpRA

ongoing

Click here for more information about OpRA

Effective From: Ongoing

OpRA stands for Occupational Remuneration Arrangements. Salary Sacrifice arrangements have been in place for some time, however due to the extending of such arrangements and the tax benefits that employee gained, the Government wanted to bring into charge to income tax, salary sacrifice arrangements.

It should be borne in mind, however, that certain salary sacrifice arrangements are unaffected by the OpRA legislation, these inlcude;

- Pension Contributions
- Childcare vouchers and provisions
- Cycle to work schemes
- Purchase of additional annual leave days

The legislation defines 2 distinct types of arrangements

- Type A - Salary exchange
- Type B - Cash alternative

For type A arrangements the main benefits caught by the net will be workplace car parking, mobile telephones and tablets. The most common Type B arrangement, will be where employees chose between a company car and a cash alternative car allowance. The tax charge will be the amount of earnings that the employee would have received if they had not taken the option and, the otherwise taxable cash equivalent value of the benefit in kind. The tax on the 'additional' benefit is collectible through the P11d process.

This is a very complex area of new rules and legislation around salary sacrifice and benefits in kind. Please contact Paul Chappell on 03331 123456 for more advice or assistance.

Legislation: Pay Gap Reporting Public Sector

Effective From: Ongoing

ongoing

Gender pay gap reporting applies to the public sector.

The snapshot date is the 31st March. Employers need to have a headcount of at least 250 staff and must publish their report by the 30th March the following year.

Legislation: Pay Gap Reporting Private & Voluntary Sector

Effective From: Ongoing

ongoing

Gender pay gap reporting applies to all employers in the private and voluntary sector who have more than 250 employees on the snapshot date of 5th April. The report must be published by employers by 4th April the following year.

Gender Pay Gap Reporting deadline extended due to pandemic

Following signs of relief in the COVID-19 pandemic in the UK, Gender Pay Gap reporting is once again being enforced after a hiatus during 2020.

However, Gender Pay Gap reports are still required for the year 2019/2020, but the deadline for completion has been extended to 5th October 2021.

Legislation: Average Holiday Pay

Holiday Pay Calculations Changes

Effective From: 6th April 2021

2021
6 Apr

Currently when calculating holiday pay a 12 week reference period is used, however as stated in the Good Work Plan, the reference period will be changing to 52 weeks. This is to ensure fairer calculation for seasonal and atypical workers. For employees who have been employed and paid for less than 52 weeks, employers should instead use all the pay data available to them for the weeks employed.

What difference will the holiday pay calculation change make?

The headline change of the holiday pay reference period increasing from 12 weeks to 52 weeks has been designed to ensure that workers in seasonal roles, or with abnormal working hours, are not disadvantaged when holiday pay is calculated.

A 12 week period does not deal adequately with the peaks and troughs of certain workers. Also, workers who are 'canny' about the 12 week reference period may receive higher holiday pay rates if they take holiday immediately after a busy 12 week period.

By making the reference period 52 weeks the rates should be fairer.

For seasonal workers working on a 'full time' basis, it may be necessary to go back beyond 52 weeks to establish a 52 week period, although the maximum an employer can go back is 104 weeks.

Legislation: Agency Workers Regulations

Read More in The Good Work Plan

Effective From: 6th April 2020

ongoing

The old Agency regulations (pre 6th April 2020) provide an exemption to the right to equal pay with full time employees, this is known as the Swedish Derogation, if the worker is employed under a permanent contract of employment with a temporary work agency and paid by the agency for periods between assignments, i.e when they are not working.

The new rules state that after a 12 week qualifying period, the worker will be entitled to equal pay to those directly engaged by the employer. In addition on or before 30th April 2020 existing workers contracts that contain the Swedish Derogative provision must be provided with a written statement advising that it no longer applies.

Legislation: Parental Bereavement Act

Effective From: 6th April 2020

ongoing

Employed parents will have the right to at least 2 weeks' leave if they lose a child under 18 or suffer a stillbirth from 24 weeks' of pregnancy. If they meet the eligibility criteria, they will also be able to claim pay for the period of leave. The leave can be taken within 56 weeks of the child's death and can be taken as one block or broken down into two separate periods of leave.

Legislation: Van & Van Fuel Benefit Charges

Effective From: 6th April 2021

2021
6 Apr

From the 6th of April 2021 the Van and Van Fuel Benefit charges will increase as follows.

	2021/2022
Van Benefit Charge	£3500
Van Fuel Benefit Charge	£669

Legislation: **Working From Home Allowance**
Effective From: **6th April 2020**

ongoing

Employees may be eligible to claim tax relief for their additional household costs if they are required to work from home on a regular basis, including if they are forced to work from home due to the ongoing COVID-19 pandemic.

However, they cannot claim tax relief if working at home is a choice rather than a necessity.

Costs that may be included for tax relief are heating, metered water bills, home contents insurance, business calls or new broadband connections. They do not include costs that will stay the same such as mortgage, rent or council tax.

The claimable amount is as follows:

- £6 a week from 6th April 2020 - no evidence of extra costs required
- The exact amount of extra costs that have been incurred above the weekly amount of £6 - evidence such as receipts, bills or contracts required

As working from home continues into the 2021/2022 tax year, the claimable amount remains at £6 per week.

Please note tax relief will be based on the rate at which the employee pays tax, and employees are able to submit a claim directly themselves via the gov.uk website.

Legislation: **Earlier Year Update**
Effective From: **6th April 2021**

2021
6 Apr

Since the change to Real Time Information reporting for PAYE, any amendments that are necessary for a closed tax year have been made using an Earlier Year Update (EYU). From 6th April 2021 HMRC will cease to accept an EYU as a valid submission.

To amend incorrect information that has been submitted through RTI, an amended Full Payment Submission (FPS) will need to be submitted.

Legislation: **Apprenticeship Allowance**
Effective From: **6th April 2021**

2021
6 Apr

In a push to boost employment following the detrimental effects the COVID-19 pandemic has had on the job market, the March 2021 Budget announced that cash incentives will be raised to £3,000 for employers who take on apprentices, regardless of their age.

Previously, companies were awarded £2,000 per new apprentice aged under 25, and £1,500 per new apprentice aged over 25, in addition to a £1,000 grant they would already receive.

Legislation: **New HMRC Tax Investigators**
Effective From: **6th April 2021**

2021
6 Apr

In the March 2021 Budget, it was announced that an additional 1,000 HMRC tax investigators will be added to the already strong taskforce.

This additional resource will no doubt support the effort to recoup fraudulently claimed furlough support, delivering hefty fines to those found to have abused the system during the COVID-19 pandemic.

Legislation: **Off Payroll Working Private Sector (Commonly known as IR35)'**

Check Employment Status For Tax

HMRC Guidance For Preparation

Get in Touch if You Require a Consultation 03331 123456

Effective From: 6th April 2021

2021
6 Apr

Medium and large businesses, are defined by HMRC as meeting at least two of the following criteria:

- Annual turnover of at least £10.2m
- Balance sheet total of at least £5.1m
- 50 employees or more

These businesses will, from 6th April 2021, be responsible for determining if the off payroll rules apply for a worker they engage through an intermediary (the workers own Limited Company). This is where the term Intermediaries Legislation comes from. There has long been the perception at HMRC that workers operating through their own Limited company, have had a tax advantage over workers they work alongside who are employed direct. The engager must determine whether the worker would have been classed as an employee if it were not for the fact the work is invoiced through the workers Limited Company.

HMRC have, after extensive testing, published the revised and updated Check Employment Status for Tax (CEST) tool. Although not perfect, it is much improved and remains one of the few options available to engagers wanting to assess employment status.

If it is considered that a worker is caught by the new rulings, they should have been an employee but for the fact that they have worked through their own Limited Company, for example, then the engager is responsible for processing the payments made to the worker (net of VAT) through the payroll. Basic Rate tax and National Insurance Contributions should be deducted and paid over to HMRC. This must be done though the engagers PAYE scheme via the Real Time Information reporting system.

It is anticipated that there will be resistance from the worker to the reclassification, if appropriate, however the responsibility sits with the engager to operate PAYE. Get the assessment wrong and HMRC will seek recovery of the tax and NIC, in addition to interest and penalties.

Our Head of Compliance & Legislation was invited by the CIPP to be involved in the development work for CEST in conjunction with HMRC.

Here is his view on the good, bad and ugly of the new CEST tool.

✓ *Questions are more thought-provoking and comprehensive*

✓ *Tool takes around 15 minutes to complete*

✓ *More detailed questions around terms of engagement*

✗ *The tool still has an 'unable to provide a determination' outcome which isn't very helpful!*

✗ *The HMRC Helpline is not being very helpful in such cases and does not seem to have the expertise to help*

✗ *Mutuality of Obligation (MOO) is a huge omission with key Tribunal case outcomes largely resting on MOO*

In general, however, the new CEST tool is a vast improvement on the old model and we recommend all engagers to use CEST as part of all engagement processes.

From the 6th of April 2021 the primary threshold for NI will go up to £9,568. The thresholds and rates will be as follows:

Thresholds:

Class 1 National Insurance thresholds	2021 to 2022
Lower earnings limit	£120 per week £520 per month £6,240 per year
Primary threshold	£184 per week £797 per month £9,568 per year
Secondary threshold	£170 per week £737 per month £8,840 per year
Upper secondary threshold (under 21)	£967 per week £4,189 per month £50,270 per year
Apprentice upper secondary threshold (apprentice under 25)	£967 per week £4,189 per month £50,270 per year
Upper earnings limit	£967 per week £4,189 per month £50,270 per year

Class 1 National Insurance Rates:

National Insurance Category Letter	Earnings at or above lower earnings limit up to and including primary threshold	Earnings above the primary threshold up to and including upper earnings limit	Balance of earnings above upper earnings limit
A	0%	12%	2%
B	0%	5.85%	2%
C	Nil	Nil	Nil
H (apprentice under 25)	0%	12%	2%
J	0%	2%	2%
M (under 21)	0%	12%	2%
Z (under 21- deferment)	0%	2%	2%

Future Legislation

Our expert Paul Chappell gives us the run-down of where he sees legislation heading next, and what we can likely expect if it does.

Legislation: Employment Rights Bill
Effective From: TBC

TBC

The Queen's Speech on 19 December 2020 reiterated the Governments' intention (from the Queen's Speech in November 2019) to ensure that tips left by customers go to the workers in full.

It has been common practice in the hospitality industry for employers to retain all tips or keep a proportion of the tips to cover expenses, such as credit card charges.

Should the legislation proceed through Parliament, it is expect to state that 100% of tips left for employees should be passed to the employees. This will impact on credit and debit card tips as these are held within the employers bank account. It is therefore imperative that an effective Tronc scheme is in place to protect the payments from employees and employers NIC from National Insurance Contributions.

Legislation: Grandparent Leave
Effective From: TBC

TBC

As part and parcel of the Good Work Plan, consideration has been given to allowing grandparents the same parental leave allowances, if the grandparents have 'parental' responsibilities for children. This may become law in the future, but the anticipated date of 6 April 2021 did not materialise. Hopefully this remains on the government's agenda.

About the Author

Paul Chappell, Head of Legislation and Compliance.

Paul has worked with Dataplan since 2016 and previously worked as a Tax Inspector for HMRC. He has successfully represented clients throughout HMRC PAYE and TAX investigations. Paul is committed to providing our clients and employees with expertise and advice.

paul-chappell

CEST

"I was fortunate enough to receive an invitation through the CIPP to spend an hour with HMRC testing the new, and improved, Check Employment Status for Tax (CEST) tool that went live in December 2019."

Read more on my LinkedIn article here.

Ill Health & SSP

On 20th August I attended a CIPP Policy Think Tank at which HMRC and BEIS gave additional information, and invited discussion on consultation document around Ill Heath and Statutory payments. The consultation is looking at ways for employers, supported by the state, to facilitate an early return to work for employees who have been off sick. The discussion covered staged returns to work and the interaction with staged returns and SSP.

HMRC were looking for comments and thoughts on making such considerations mandatory and if HMRC and BEIS go down that route how legislation could be brought in.

There were also lengthy discussions on SSP and the proposal that employees earning under the Lower Earnings Limit should receive SSP. What level this would be paid at was considered, the consensus was that the proposal of 80% of pay for employees earning less than £118 per week was a good level. CIPP will be responding to the consultation, I will have more news in due course.

Employment Allowance

On 9 August I attended a CIPP Policy Think Tank on HMRC's proposals, via consultation, to restrict the availability of the employment allowance to smaller employers. There is an unintended consequence of the proposal, which was discussed at great length, being that such a proposal will lead to the allowance being classified as State Aid.

Currently all employers, with a few exceptions, claim the allowance. As such the across the board policy does not favour one set of employers and therefore does not meet the criteria as State Aid.

Employers claiming the allowance from 6th April 2020 will be required to advise via RTI, which sector of industry they are in. There are di minimus levels of state aid per sector that if breached restrict the ability to receive any state aid above those levels. RTI submissions will be amended to facilitate the claim and reports however there was much discussion on how payroll providers will receive the information from clients to enable a complete claim to be made. We await the result of the consultation with interest.

Dataplan has been in the business of providing payroll solutions since 1969.

We currently act for over 1500 businesses nationally and our customers are spread throughout the country from Edinburgh to Torquay. We handle payrolls of all sizes although our core client base is with businesses between 50 and 10,000 employees.

We are not a huge faceless bureau but a specialist managed payroll provider. We have expertise in some of the most demanding payroll sectors such as education and with our team of payroll professionals there is no payroll situation, however complex, that we cannot handle.

Throughout our growth we have kept to our overriding principals of providing high levels of payroll expertise with an informal and personal touch. For our clients, we aren't just a payroll bureau, but are an extension of their in-house team.

To discuss how Dataplan can help your business streamline your payroll processing

Call **03331 123456**

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