

UK EMPLOYMENT LAW - KEY CONCERNS WHEN SETTING UP A BUSINESS IN THE UK

Regardless of whether you are setting up a branch, a subsidiary of an existing company or a completely new legal entity, if you are employing staff in the UK, they will be protected by a number of different laws. Set out below are the key points of concern from an employment law perspective when employing staff in the UK.

- An employment contract can be either written or verbal.
 - Any employee who is employed for more than a month is entitled to a written statement of employment which must contain information such as pay, holiday entitlement and working hours. You must provide the written statement within two months of the employee starting work or you could be fined up to four weeks' pay.
 - The contract of employment cannot be varied without the agreement of both parties and you will need to confirm any agreed changes in writing within one month.
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- You must register as an employer with HMRC before you first pay your new employee. You can register up to 2 months before you start paying people.
 - You must tell HMRC about a new employee on or before their first pay day.
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- Employees have the right to work in the UK without a work permit if they are a British citizen, an EEA citizen or a Swiss national.
 - You must ensure that all employees have the legal right to work in the UK before they start work. This is very important as you could face a civil penalty if you employ an illegal worker and have not carried out the correct checks.
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- You must get Employers' Liability insurance from an authorised insurer with a minimum cover of £5 million.
 - You can be fined £2,500 for every day you are not properly insured.
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- Below is a non-exhaustive list of some of the rights that employees in the UK:
 - equal pay
 - the national minimum wage
 - 5.6 weeks' paid holiday per year for full time workers (part-time workers are entitled to the same holiday but on a pro rata basis)
 - statutory sick pay
 - maternity/paternity/adoption leave and pay
 - All workers aged 18 or over are entitled to work no more than 48 hours per week, although they can 'opt out' of this limit.
 - All employees have the right not to be discriminated against. You will need to have policies in place to ensure that employees are protected from discrimination and to ensure that complaints are dealt with properly.
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- All eligible employees must be enrolled into a workplace pension and you will need to make minimum contributions.
 - The current minimum contributions are 5% total with a minimum of 2% contributed by the employer. These rates are going to increase to 8% total with a minimum of 3% contributed by the employer in April 2019.
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- By law, you must have a written Health and Safety policy if you have five or more employees.
 - There are a range of other policies which are not a statutory requirement but are considered best practice for an employer in the UK. These include an equal opportunities policy, a disciplinary and grievance policy and a parental leave policy.
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- The General Data Protection Regulation (GDPR) came into force on 25 May 2018 and governs the way that employers can manage their employees' (and prospective employees') personal data.
- You are under a duty to notify your employees about how their personal data is handled and processed. Privacy statements are generally used by employers to inform employees about how their data is to be collected, stored, used, transferred and protected.

- You can only keep an employee's personal data for the amount of time necessary to fulfil the purpose for which it was collected.
- There are strict rules on how you can transfer employees' personal data.
- Non-compliance can result in extensive fines and criminal sanctions.
- You will need to give most employees at least one week's notice of termination of their employment. The amount of notice that you need to give will increase by reference to the employee's length of service.
- Employees have the right not to be unfairly dismissed and can complain to an Employment Tribunal if they believe they have been dismissed unfairly. Employees will usually need to have two years' continuous service to bring a claim for unfair dismissal. However, if they have been dismissed for an automatically unfair reason (e.g. their race), there is no minimum service requirement.
- Employees who have been employed for over two years will be entitled to redundancy pay if they are made redundant.