

BIPO Work Guide

UK | September 2023

Introduction

Welcome to our comprehensive Employment Guide, it serves as a valuable resource for our clients and HR professionals seeking to navigate the intricate landscape of employment laws in the UK. This guide is designed to offer essential information and guidance throughout various employment procedures in the UK.

Within these pages, you will find a wealth of information that not only facilitates your smooth entry into the UK market but also ensures that you have a firm grasp of the fundamental statutory requirements. Moreover, it underscores the critical importance of legal compliance for our clients while simultaneously safeguarding the legal rights and protections of the employees.

UK Overview

UK employment law is the cornerstone of the employer-employee relationship, assuring the preservation of their rights and the promotion of workplace equity. It encompasses an array of facets, including employment contracts, minimum wage standards, working time regulations, anti-discrimination provisions, safeguards against unjust dismissal and redundancy, family and maternity entitlements, health and safety protocols, trade union engagement, whistle-blower safeguards, national insurance, pension arrangements, and immigration-related employment eligibility checks.

Understanding these laws is important as they constitute the bedrock for equitable and lawful employment practices in the UK, subject to potential revisions and additions over time.

Official Language	English
Official Currency	(GBP; £)
Population	67,333,000 (2021)
Land Area	243,610 square kilometres
Total GDP	2.2 trillion GBP
Government System	Parliamentary constitutional monarchy
Governing Law	Employment Right Act 1996

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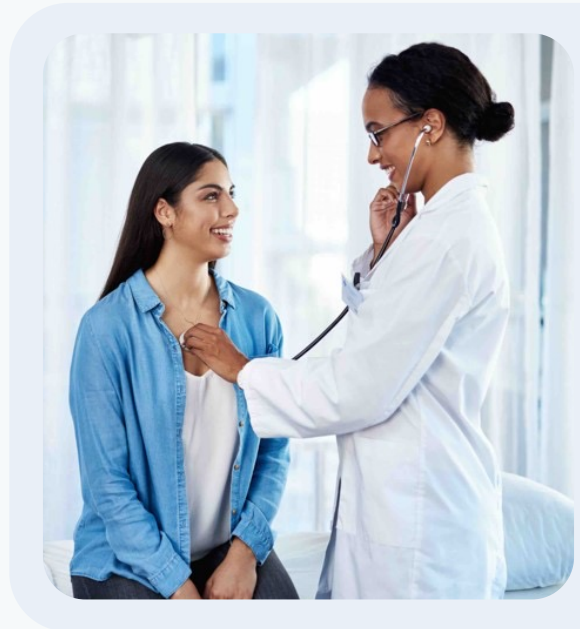
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1 | Welfare Essentials

National Health System

Founded in 1948, the NHS stands as a beacon of pride in the United Kingdom, providing comprehensive and publicly-funded healthcare services to the residents of the UK, regardless of their financial status. Its funding mechanism primarily relies on taxation and national insurance contributions, ensuring that healthcare remains accessible to every citizen.

In the context of employment, the rate of National Insurance Contributions (NICs) from employers is currently fixed at 13.8% on earnings surpassing the secondary threshold, which has been set at £175 per week or £758 per month for the 2023/24 financial year.



Auto-enrolment Pension

Auto-enrolment in workplace pensions in the UK was introduced in stages, beginning in October 2012. This initiative was part of the government's efforts to address the growing issue of under-saving for retirement and to encourage more people to save for their later years. Under the Pensions Act 2008, every employer in the UK must put their eligible staff into a workplace pension and pay into it. The employer has legal duties from the moment they employ their first member of staff.

Actions to take

1. Work out who to put into a pension
2. Choose a pension scheme
3. Put eligible staff into a qualifying pension scheme
4. Write to staff
5. Declare compliance
6. Re-enrol staff that have left the pension scheme every three years

If your staff meet the eligibility criteria, they must be put into a pension:

- Aged from 22 up to state pension age
- Earnings before tax are at least £10,000 per year (or £833 per month, or £192 per week)

1 | Welfare Essentials



If staff don't meet the eligibility criteria, they don't need to be automatically enrolled in a pension unless they ask to be put into one – but the employer only has to pay into it if the staff earn more than £120 per week/£520 per month/£6,240 per year.

The minimum pension contribution is 8%, with 5% paid by an employee, and 3% paid by an employer, and the most common contribution bases are :

Definition	Qualifying Earnings	Basic Earnings	Total Earnings
Includes	All earnings between a lower and upper limit set by the government and reviewed each year.	Basic pay, holiday pay and statutory pay such as sick pay, but not bonuses, commission, overtime and similar payments.	All earnings including basic pay, holiday pay, sick pay, bonuses, commission, overtime and similar payments.
Total Minimum Contribution	8%	9%	7%
Employer	3%	4%	3%
Employee	5%	5%	4%

1 | Welfare Essentials

Employer Liability Insurance

Employers' Liability (EL) insurance is a mandatory requirement for all UK businesses as soon as they employ individuals. This essential insurance policy must provide coverage of at least £5 million from an authorized insurer. Its primary purpose is to cover the expenses related to compensating employees who sustain injuries or fall ill due to work-related circumstances. By securing EL insurance, employers ensure compliance with legal obligations while providing financial protection for both their business and employees in the event of workplace injuries or illnesses.

Sickness

For absences of seven days or less, a self-certification form can be completed by the employee; For absence of more than seven days, a 'fit note' is required, which is a certificate on which a doctor will state whether the employee is unfit for work or whether they may be fit to return to work if certain adjustments are made.

Statutory Payment	Rate from 1st April 2023	Eligibility
Statutory Sick Pay (SSP)	£109.40 per week for up to 28 weeks	<ul style="list-style-type: none"> • Be classed as an employee and have done some work for the employer • Earn an average of at least £123 per week • Have been ill for at least 4 days in a row (including non-working days)

1 | Welfare Essentials

Statutory Payments for Family Leave

Statutory Payment	Rate From 1st April 2023	Eligibility for the statutory payment
Statutory Maternity Pay (SMP)	<ul style="list-style-type: none"> • First 6 weeks paid at 90% of normal weekly earnings • Then 33 weeks at £172.48 (or 90% of normal weekly earnings if this is lower). 	<ul style="list-style-type: none"> • Earn on average at least £123 a week • Give at least 28 days' notice and proof of pregnancy • Have worked for the employer continuously for at least 26 weeks continuing into the 'qualifying week' - the 15th week before the expected week of childbirth
Statutory Paternity Pay	£172.48 per week (or 90% of normal weekly earnings if this is lower) for up to 2 weeks	<ul style="list-style-type: none"> • Earn on average at least £123 a week • Give notice of at least 15 weeks before the baby is due • Have been continuously employed by your employer for at least 26 weeks up to any day in the 'qualifying week'
Statutory Adoption Pay	<ul style="list-style-type: none"> • First 6 weeks paid at 90% of normal weekly earnings • Then 33 weeks at £172.48 (or 90% of normal weekly earnings if this is lower). 	<ul style="list-style-type: none"> • Have been <u>continuously employed by you</u> for at least 26 weeks up to any day in the week they were matched with a child • Be on your payroll and earn at least £123 a week in an 8-week period - the 'relevant period' • Give the correct notice of 28 days • Give proof the adoption
Statutory Shared Parental Pay (ShPP)	<p>£172.48 per week (or 90% of normal weekly earnings if this is lower)</p> <p>Please contact us for further information of this leave.</p>	Eligibility for birth parents and adopters or parents using a surrogate is different, please contact us for details.

2 | General Labour Law

National Minimum Wage

All rates of the National Minimum Wage, including the National Living Wage, increase each year from April 2023. Employers are legally obligated to pay at least the National Minimum Wage to eligible employees, and it's essential to stay updated on the current rates to ensure compliance with the law.

Statutory Payment	Rate From 1st April 2023	Previous rate (April 2022 to March 2023)	Increase
National Living Wage	£10.42	£9.50	9.7%
21-22 Year Old Rate	£10.18	£9.18	10.9%
18-20 Year Old Rate	£7.49	£6.83	9.7%
16-17 Year Old Rate	£5.28	£4.81	9.7%
Apprentice Rate	£5.28	£4.81	9.7%
Accommodation Offset	£9.10	£8.70	4.6%



2 | General Labour Law

Working Time Regulations

The Working Time Regulations apply to 'workers'. They are entitled to the correct rest period, rest breaks or paid holiday, and they are able to make a claim to an employment tribunal under the Working Time Regulations.

General Principles

In general, the Working Time Regulations provide rights to:

- A limit of an average of 48 hours a week on the hours a worker can be required to work, though individuals may choose to work longer by "opting out"
- 5.6 weeks' paid leave a year
- 11 consecutive hours' rest in any 24-hour period
- A 20-minute rest break if the working day is longer than six hours
- One day off each week
- A limit on the normal working hours of night workers to an average of eight hours in any 24-hour period, and an entitlement for night workers to receive regular health assessments

The employer is responsible for taking all reasonable steps to ensure that each worker's average working time does not exceed 48 hours per week over a 17-week reference period. However, adult workers can 'opt out' of this protection either for a fixed period or indefinitely, if a worker opts out this means the average 48-hour weekly working limit does not apply to them and they can work longer hours.

Please contact us if you have night workers, mobile workers, shift workers, and young workers.

Working Hours

The most common and standard Working Hours are from 35 hours to 40 hours a week, 5 days a week. Overtime pay is not mandatory, for regular overtime, compensatory time off can be provided in lieu of overtime pay.

Employees will have the right to request flexible workings from day one in any 12-month period for a change in:

- The hours they are required to work;
- The times when they are required to work;
- Where they are required to work.

2 | General Labour Law

Annual Leave

Employees and workers (such as casual and agency workers) are entitled to a minimum period of 5.6 weeks of paid holiday. Please refer to the tables below for the public holidays in England, Wales and Scotland in 2024, the employer can choose to include PH into the holiday entitlement or provide more holidays above statutory minimum as benefit should they wish to do so.

England and Wales: 8 days

Public Holiday	Date
New Year's Day	1 January
Good Friday	29 March
Easter Monday	1 April
Early May bank holiday	6 May
Spring bank holiday	27 May
Summer bank holiday	26 Aug
Christmas Day	25 December
Boxing Day	26 December

Scotland: 9 days

Public Holiday	Date
New Year's Day	1 January
2 nd January	2 January
Good Friday	29 March
Early May bank holiday	6 May
Spring bank holiday	27 May
Summer bank holiday	5 Aug
St Andrew's Day	2 December
Christmas Day	25 December
Boxing Day	26 December

2 | General Labour Law

Northern Ireland: 10 days

Public Holiday	Date
New Year's Day	1 January
St Patrick's Day	18 March
Good Friday	29 March
Easter Monday	1 April
Early May bank holiday	6 May
Spring bank holiday	27 May
Battle of the Boyne (Orangemen's Day)	12 July
Summer bank holiday	26 Aug
Christmas Day	25 December
Boxing Day	26 December

You need to give workers a minimum holiday entitlement of 5.6 weeks holiday per holiday year. This equates to 28 days of holiday for a full-time worker who works five days per week. There is no automatic right to have a paid day off on a public/bank holiday unless it is in their contract, although it is a custom and practice of doing so for most employees, especially those office-based roles. The workers can be allowed to carry up to 1.6 weeks of their statutory holiday entitlement into the next holiday year.

You must pay a worker at the rate of a week's pay for each week of holiday they take.

- What you pay them will depend on the overtime worked any bonuses received (including attendance bonus), commission and any other regular payments made to the employee.
- The rules for calculating a week's pay for holiday pay purposes have changed increasing the reference period for variable pay workers/employees from 12 weeks to 52 weeks.

2 | General Labour Law

The employer must provide the principal statement on the first day of employment and the wider written statement within 2 months of the start of employment.

The Principal Statement

The principal statement shall include:

- The employer's name
- The employee's or worker's name, job title or a description of work and start date
- How much and how often an employee or worker will get paid
- Hours and days of work and if and how they may vary (also if employees or workers will have to work on Sundays, during the 'night period' or take overtime)
- Holiday entitlement (and if that includes public holidays)
- Where an employee or worker will be working and whether they might have to relocate
- Whether an employee will be required to work abroad for over a month
- If an employee or worker works in different places, where these will be and what the employer's address is
- How long a job is expected to last (and what the end date is if it's a fixed-term contract)
- How long any probation period is and what its conditions are
- Any other benefits (for example, childcare vouchers and lunch)
- Obligatory training, whether or not this is paid for by the employer
- Sick pay and procedures
- Other paid leave (for example, maternity leave and paternity leave)
- Notice periods

The Wider Written Statement

Employers must give employees and workers a wider written statement within 2 months of the start of employment. This must include information about:

- Pensions and pension schemes
- Collective agreements if applicable
- Any other right to non-compulsory training provided by the employer
- Disciplinary and grievance procedures

2 | General Labour Law

UK Contracts

Contract Types	Date
Permanent Contract	The most common employment relationship, normally a permanent position with annual or hourly wages. There is no discretion as to specific number of hours that must be worked, although most full-time roles are 35+ hours per week.
Temporary / Fixed-term Contract	Contract is valid for a designated length of time or until a specific task is completed. Fixed-term employees have the same legal protections and rights as full-time workforce. Any employee on fixed-term contracts for 4 or more years will automatically become a permanent employee
Zero-hour Contract	The employer is under no obligation to provide a set number of hours to work. And, similarly, the employee does not have to accept any work that is offered to them.
Freelancer and Contractor Contract	Most of often the contract have specific start and end date, based on set projects or pieces of work. Employer does not cover TAX or NINO.

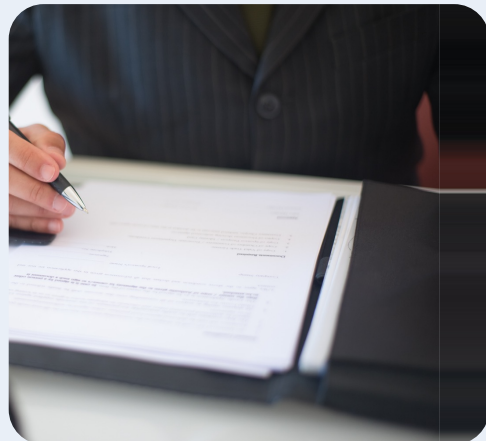
Equal Opportunity

Whilst it is not a legal requirement to have an equal opportunities policy, it is recommended to have one to protect the organization in the event that an employee makes a claim out of discrimination. It is recommended to make it clear that you will provide equal opportunity employment and fair treatment to all individuals irrespective of their 'protected characteristics', which are:

- Age
- Disability
- Gender reassignment
- Marriage and Civil Partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The policy shall make it clear that discrimination, harassment and victimisation are not permitted conduct. It also makes it clear that violation of the policy may result in disciplinary action and possible dismissal.

3 | Terminations



We strongly advise our clients to immediately inform their BIPO operations contact of any conflict or event that may eventually result in the need to terminate or dismiss a candidate, so that a joint strategy can be developed to achieve this with the least possible harm to the parties.

The employment relationship may be terminated for the following reasons:

Performance/Capability

Capability is classed as anything related to an employee's skill, aptitude, health, or any other physical/mental quality.

There are many reasons why an employee's performance may go below the required standard. It is important that you act reasonably and fairly at every stage of addressing poor performance as employees can complain to an employment tribunal if they feel they have been constructively dismissed due to the way in which you have treated them.

Conduct

Common examples of misconduct include bullying, harassment, poor attendance, insubordination, and unexplained absence. Gross misconduct is more serious in nature and includes acts that are very serious or have very serious effects on the business, such as fraud, violence, gross negligence, or serious insubordination.

Disciplinary procedure will need to be followed in order to address any of those misconducts.

3 | Terminations

Redundancy

The employee can be made redundant due to a business closure, a workplace closure, or less requirement for employees to carry out a particular kind of work etc. The selection process for redundancy needs to be fair and clearly signposted from the beginning (including a consultation process, and consideration of any alternative work), otherwise an employee can still file for unfair dismissal.

When being made redundant Employee might be eligible for the:

- Redundancy pay
 - Half a week's pay for each full year you were under 22
 - One week's pay for each full year you were 22 or older, but under 41
 - One and half week's pay for each full year you were 41 or older
 - Length of service is capped at 20 years.

Your weekly pay is capped at £643 at the moment and the maximum statutory redundancy pay you can get is £19,290.

- A notice period
- A consultation with your employer
- The option to move into a different job
- Time off to find a new job

Breach of Statutory Restrictions

If it becomes illegal or a statutory breach for an employee to continue working within their role, this is a fair reason for dismissal.

Some Other Substantial Reason

You may be dismissed fairly if, for example:

- You unreasonably refuse to accept a company reorganisation that changes your employment terms
- You're sent to prison
- Breakdown of trust/confidence between employers and the employee

As well as having a fair reason for dismissal, the dismissal process must also be conducted fairly and reasonably for all employees, please contact us to discuss in detail any emerging dispute issues before engaging in a formal disciplinary process.

BIPO UK Work Guide

FOR MORE INFORMATION

Marilyn Jiang

HR Service Delivery Manager

E: marilyn.jiang@biposervice.com

M: 07714003474

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