

Legal Issues 2021

What should UK contractors be aware of?



Fire Safety Bill

The Fire Safety Bill is expected to come into force in early 2021 in England and Wales. The bill introduces additional procedures for fire risk assessments which will have to include external walls and individual entrance doors in multi-occupied residential buildings. Non-compliance will be a criminal offence. Sanctions include fines and prison sentences.



Building Safety Bill

The Building Safety Bill (England and Wales) is expected to come into force in late 2021. The bill establishes the role of the 'Building Safety Regulator', who will enforce tougher sanctions for duty holders who breach their fire and structural safety obligations in respect of high-risk buildings. The bill also introduces additional procedures in relation to the planning, development and occupation of high-risk buildings. It is thought likely its scope will widen to other categories of buildings in future.



IR35

A new tax regime for "off-payroll" working will be introduced in April 2021 (delayed from April 2020 due to Covid-19). These rules will bring major changes for off-payroll contractors. There are a few exemptions to IR35, although the relationship may be caught by the Construction Industry Scheme rules instead.



Furlough

The Coronavirus Job Retention Scheme has been extended until 30 April 2021, under the same rules that have applied since March 2020. Employers will be able to claim 80% of their employees' salaries (up to a maximum of £2,500).



Corporate Insolvency and Governance Act

Aspects of the Corporate Insolvency and Governance Act are to be extended to 30 March 2021. Companies at risk of insolvency or which have been subject to insolvency proceedings in the past 12 months, can continue to apply for a 20 day window in which there will be restrictions on enforcement of payment of debts.



Reverse Charge VAT

The much-delayed "Reverse Charge" VAT scheme is now due to come into force on 1 March 2021. The customer will now be responsible for accounting for the VAT, rather than the supplier. Businesses must now inform sub-contractors in writing if they are exempt as a result of being an end user or intermediary supplier.



BREXIT/ immigration

From 1 January 2021, individuals travelling to the UK will be required to obtain a visa through the new points-based system to visit, live, work or study in the UK. The “Skilled Worker” route sets specific skills and salary thresholds and requires there to be a “genuine vacancy”. EU, EEA or Swiss Citizens living in the UK before 31 December 2020 are eligible to apply to the EU Settlement Scheme to continue living in the UK after 30 June 2021.



Class actions

The Supreme Court judgment in *Lloyd v Google* on whether to uphold the Court of Appeal’s significant decision widening the availability of class actions is awaited. Class actions can expose businesses to new – and potentially large – claims by aggregating smaller claims that would otherwise be uneconomical to pursue. Businesses should take steps to mitigate their exposure to such claims by implementing risk management procedures and reviewing their insurance policies to ensure adequate cover is in place.



Settlement sums and VAT

HMRC “Revenue and Customs Brief 12 (2020)” changed HMRC guidance on the VAT treatment of charges described as compensation or early termination fees. A revised Brief is due to be published in the course of January 2021 and is to take effect from 1 February 2021.



Competition law enforcement

The Competition and Markets Authority (CMA) has issued fines of £67 million and conducted investigations into the supply of concrete drainage products, roofing lead, groundworks products, and office fit-out services. The CMA is expected to ramp up its case load in 2021 following the end of the Brexit transition period, prioritising investigations in the construction sector. This will emphasise the need for risk awareness and compliance training within businesses.



Sustainability

COP26 (November 2021) is to be hosted in Glasgow and with the announcement of the National Infrastructure Strategy supporting New Green Growth, sustainability and how the construction industry can support the environment will be a focus for 2021. This requirement may filter down to tender submissions on how businesses promote sustainable construction methods.



Technology on site

The use of digital and wearable technology increased throughout 2020 and will be a key area of development in 2021. Businesses using the tech should consider data protection and employment law implications.

For more information please get in touch with your usual CMS contact.

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