

The background of the slide is a photograph of the Illinois State Capitol building in Springfield, Illinois. The building features a prominent white dome with a gold finial. The sky is overcast with grey clouds. In the foreground, there is a modern glass and steel structure, likely part of a transit station or a public square. The image is overlaid with numerous horizontal, multi-colored lines in shades of red, green, blue, yellow, and purple, creating a digital or glitch effect.

In-house lawyer regulatory tracker for 2020

March 2020



Category	Details	

Category	Details	Expected or actual date
<p>Off payroll working in the private sector (IR35)</p>	<p>The IR35 rules are designed to ensure that individuals who provide services through an intermediary (usually a personal services company) but would have otherwise been an employee pay the same PAYE and NICs as direct employees. The responsibility for this rests with the intermediary, but the government believes that this is not an effective control and that only 10% of those who should comply with IR35 rules do so.</p> <p>The government's position is to move to similar rules that already apply in the public sector where the public-sector employer is responsible for determining whether IR35 applies and for paying tax and NICs if it does. The draft legislation is expected to be in force by April 2020 and will apply to certain medium-sized and large private sector businesses (as amended by the incoming Finance Act).</p> <p>The government published draft legislation on 11 July 2019, largely disregarding concerns raised during earlier consultations.</p>	

Category	Details	Expected or actual date
Parental Bereavement Leave	<p>The Parental Bereavement (Leave and Pay) Act 2018 received Royal Assent on 13 September 2018. The main provisions of the Act will be brought into force by statutory instrument and provide for regulations to be made giving qualifying bereaved parents of children the right to two weeks of Annual Leave</p>	

Category	Details	Expected or actual date
<p>Individual rights arising from trade union membership</p>	<p><i>Kostal UK v Dunkley</i> A2/2018/0108, [2019] EWCA Civ 1009, UKSC 2019/0153 Case about whether an employer's attempt to bypass a recognised trade union by negotiating directly with individual employees regarding changes to terms and conditions amounted to unlawful inducement contrary to section 145B of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>	

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Vicarious liability for sexual assault	<p><i>Barclays Bank v Various Claimants</i> UKSC 2018/0164 Case about whether an employer is vicariously liable for the actions of an independent contractor doctor who allegedly committed sexual assaults on employees during medical examinations requested by the employer.</p> <p>The High Court held that the employer was liable for any such assaults that were proved—see report of 9 Aug 2018 660 J:</p>	

Data & Privacy

Category	Details	Expected or actual date
ePrivacy	<p>The draft Regulation on privacy and electronic communications is intended to replace the current ePrivacy Directive (Directive 2002/58/EC) and align electronic privacy requirements with the General Data Protection Regulation, Regulation (EU) 2016/679 (GDPR).</p> <p>After years of negotiations, the draft text was rejected at the end of November 2019 by the Committee of Permanent Representatives (the body responsible for preparing the business of the Council of the EU). While some progress was made on key areas, Member States failed to overcome differences on how the proposal fits with the GDPR, how to handle cookie walls—pop-up windows that block access to websites until a user gives consent to advertising cookies—and whether an exception should be granted to allow tech companies to scan billions of images for child sexual abuse. Croatia, which holds the presidency of the Council of the EU until June 2020, is now attempting to breathe life into the Regulation and has presented a compromise proposal. See the text of 21 February 2020 and also see News Analysis: Telecoms and big tech face revised, slimmed-down EU draft ePrivacy regulation. For the latest draft, see the general approach of 18 November 2019. See: ePrivacy Regulation—timeline.</p>	Not known—unlikely to be before 2023 and how or if it applies in the UK will depend on the terms of the UK’s future relationship with the EU.

Category	Details	Expected or actual date
Copyright	The EU Directive on Copyright in the Digital Single Market (

Corporate governance

Category	Details	Expected or actual date
Privilege - regulators	<p>there is no implied power or special status which would require an organisation to produce privileged documents to a regulator.</p> <p>See News Analysis: Court of Appeal confirms legal privilege applies to regulatory disclosure request (Sports Direct International Plc v The Financial Reporting Council).</p>	

Commercial & competition

Category		

Category	Details	Expected or actual date
Loyalty penalty	The CMA issued a 12-month progress update on tackling the loyalty penalty on 21 January 2020 noting that further action from the Financial Conduct Authority (FCA) and Ofcom is awaited in the interests of consumers. Potential FCA action endorsed by the CMA may include requiring insurers to automatically move consumers to cheaper equivalent deals.	Further report from the FCA awaited in the first half of 2020.

Miscellaneous

Category	Details	Expected or actual date
Brexit	The UK has left the EU on the basis of the Withdrawal Agreement as implemented in the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020 . However, we are now in an implementation period running until 31	



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