

# Employment Law Update- 8 June 2023

## RECENT/UPCOMING LEGISLATION

The following have recently received Royal Assent and will come into force in the short to medium term:

### **Protection from Redundancy (Pregnancy and Family Leave) Act 2023**

- [https://www.legislation.gov.uk/ukpga/2023/17/pdfs/ukpga\\_20230017\\_en.pdf](https://www.legislation.gov.uk/ukpga/2023/17/pdfs/ukpga_20230017_en.pdf)
- Expected to come into force in July 2023, with detailed regulations to follow.
- The regulations will:
  - extend protection from redundancy during and after periods of maternity, adoption or shared parental leave and
  - after the end of pregnancy.
- We expect that protection will be extended to 6 months following an employee's return to work or the end of pregnancy, but this will be confirmed in the regulations.

### **The Neonatal Care (Leave and Pay) Act 2023**

- <https://www.legislation.gov.uk/ukpga/2023/20/enacted>
- This will introduce up to 12 weeks' paid leave for employees with responsibility for children admitted to neonatal care.
- The new entitlements will be set out in detailed regulations.
- To be implemented by April 2025.

### **Carer's Leave Act 2023**

- [https://www.legislation.gov.uk/ukpga/2023/18/pdfs/ukpga\\_20230018\\_en.pdf](https://www.legislation.gov.uk/ukpga/2023/18/pdfs/ukpga_20230018_en.pdf)
- This will entitle unpaid carers who are caring for a dependant with a long-term care need to one week of flexible unpaid leave per year, which will kick in on the first day of employment.
- Regulations implementing these changes are expected around April 2024.

### **Employment (Allocation of Tips) Act 2023**

- <https://www.legislation.gov.uk/ukpga/2023/13/enacted>
- This is expected to come into force in approximately one year's time.
- Employers will be required to:
  - ensure tips are allocated fairly between its workers
  - keep a written record of how tips and service charges are allocated, and keep these for 3 years
  - have a written policy on how it deals with tips and service charges
- There will be a 12-month limitation period for claims (rather than the usual 3 months).
- No imminent change- a formal consultation and Code of Practice are expected later in 2023.

### **Update on Retained EU Law (Revocation and Reform) Bill**

- At final stage of Bill (just before Royal Assent), Government has scrapped the 'sunset clause' (which provided that retained EU law would be automatically revoked at the end of 2023 unless the government had passed a law to preserve it).
- This change means that EU law will remain binding in the UK unless it is expressly repealed.
- Bill is awaiting Royal Assent.

## **POTENTIAL FUTURE CHANGES**

Department for Business and Trade Policy paper: “Smarter regulation to grow the economy”- <https://www.gov.uk/government/publications/smarter-regulation-to-grow-the-economy/smarter-regulation-to-grow-the-economy>

### **Proposed changes include:**

#### **Working Time Regulations:**

- Removing the requirement to record working hours.
- Making it simpler to calculate holiday pay including by:
  - allowing rolled-up holiday pay so that workers can receive holiday pay with every payslip; and
  - merging the current 2 separate leave entitlements (of 20 days’ EU minimum leave and additional 8 days’ leave under WTR) into one pot, so that they don’t have to be treated in different ways.

#### **TUPE:**

- Simplifying consultation obligations so that businesses can consult directly with affected employees (rather than having to elect representatives to consult with) where the business has fewer than 50 people and the transfer affects fewer than 10 employees.

#### **Reforming non-compete clauses**

- Government will legislate, when Parliamentary time allows, to limit the length of non-compete clauses to 3 months.

## **HOT TOPICS**

### **Long-term sickness hits record high**

- Number of people out of work due to long-term sickness has reached a record high of 2.55 million.
- ONS May 2023 labour market figures show that 438,000 more people were not looking for work from January to March 2023 because they were on long-term sick leave.
- Record number of working days lost due to short-term sickness, with workers taking 185.6 million days off work due to sickness or injury in 2022.
- Sickness rate was the highest since 2004, with 2.6% of hours lost due to sickness or injury, up from 1.9% in 2019.

<https://www.reuters.com/world/uk/uk-sees-record-sickness-zero-productivity-growth-2022-2023-04-26/>