



Retained EU Law (Revocation and Reform) Bill

Following the end of the Brexit transition period on 31st December 2020, EU law that applies in the UK have been preserved within the UK's domestic law, known as 'retained EU law'.

The Retained EU Law (Revocation and Reform) Bill introduced to Parliament on 22nd September 2022 will remove all retained EU laws by 31st December 2023 unless they are restated or replaced by UK law. Little is known about the Government's intentions for employment related law but is likely to lead to uncertainty for employees and employers affecting areas such as working time rights, TUPE transfers, agency worker rights and the rights of part time and fixed term employees. With over 2,000 pieces of legislation to be reviewed, the Government may well choose to extend the deadline to June 2026.

The impact on employment law will depend on any action taken by the Government and we will be keeping a close eye on how any changes could affect the day-to-day running and administration of businesses.

The Bill is currently at the Committee stage - line by line examination of the bill - is scheduled to begin on 23 February.



Divorce Leave



Many companies are pledging to change their HR policies, treating divorce and separation the same as a family death or illness. For many, the breakdown of a relationship can have a devastating impact on their lives.

The Positive Parenting Alliance (PPA) (a group of organisations and individuals who believe that children deserve a positive experience during parental separation or divorce) is promoting companies to have more family friendly policies for people going through divorce and separation. Asda, Tesco, Metro Bank, PwC and Unilever have already signed up to the initiative.

According to the PPA's survey (Jan 2023), 90% of employees admitted that a marriage breakdown impacted on their ability to do their job, with 95% reporting that their mental health at work also suffered. Over 40% felt they had to take time off work as a result of their separation and over 10% stopped working altogether.

Currently there is no legislation in place which compels employers to offer divorce leave. Many companies are changing their HR policies to recognise divorce and separation as a 'life event' but there is no change in the law in this respect.

Employers will have many questions eg. will any leave be paid or unpaid? There is no legal right to paid leave for significant life events. This decision is entirely down to the employer. If the leave is paid, this could raise questions where lengthy divorces are concerned and could place a burden on employers.

Supporting employees however, with paid time off to attend court hearings or counselling can be beneficial to both employer and employee in supporting and helping the employee to rebuild their lives, get back on their feet and help to feeling positive.

We can help...

If you would like to review your HR policies, please contact Lisa on **01926 491181**. If you have an employee or know someone who is going through a divorce or separation and needs legal advice, please call Carline, our family lawyer on **01926 354704**.

Flexible Working

The Employment Relations (Flexible working) Bill will change the way in which flexible working requests are dealt with.

- | Employees will have the right from day one of employment to make a flexible working request
- | Employers will need to consult with their employees before rejecting the request
- | Employees will be able to make two flexible working requests per 12 months
- | Employers must make their decision within two months
- | Employees will no longer be required to explain and address what effect the requested change may have on the employer

ENSURE YOUR POLICIES ARE UP-TO-DATE

The Carer's Leave Bill introduces the right for employees to take at least a week's unpaid leave per year in order to provide or arrange care for a dependant with long term needs.

With Government backing, it is likely to be passed by Parliament and become law which is a welcome step forward towards recognising and supporting the millions of unpaid carers who are caring for their loved ones.

The Bill provides more flexibility for carers who are employed as well as caring for a loved one. Leave will be available to eligible employees from the first day of their employment and they will be able to take this leave flexibly to suit their caring responsibilities.

WHO IS A DEPENDANT?

A dependant is defined as the employees' spouse, civil partner, child or parent, someone who lives in the same household (other than a lodger or tenant) or someone who reasonably relies on the employee to provide or arrange care for them.

WHAT IS A LONG-TERM CARE NEED?

A long term care need is defined as:

- | if they have an illness or injury (whether physical or mental) that requires or is likely to require care for more than three months.
- | If they are disabled for the purposes of the Equality Act 2010
- | If they require care due to old age.
- | Employees will be protected from dismissal and detriment as a result of taking time off and they will also be entitled to bring an employment tribunal claim if their employer unreasonably postpones their leave, prevents or attempts to prevent them from taking it.

Although the Bill is progressing through Parliament it is not clear at this stage when the new right will be in force.



If you have any queries regarding employment law, please contact **Lisa Aitken** or if you are a carer and have questions regarding NHS continuing healthcare funding, please contact **Judy Timson**.

Fire and Re-hire | new Statutory Code

The government is consulting on the new Statutory Code until 18th April 2023. Following mass dismissals involving P&O Ferries, the new Code will seek to curb employers failing to engage in meaningful consultations with employees in a fair and transparent way. It will also allow tribunals to increase awards of compensation up to 25% where employers fail to follow the code.

New legislation to protect against harassment



The Worker Protection (Amendment of Equality Act 2010) Bill proposes to place greater responsibilities on employers to protect their workers against harassment, including sexual harassment. The new duties include:

- | Taking reasonable steps to prevent sexual harassment
- | Making employers liable for harassment of their employees by third parties during the course of their employment (eg. by clients/customers)
- | Enabling employment tribunals to increase compensation by up to 25% where an employee has been subjected to sexual harassment.

Employers are looking at a new round of challenging legislation. The harassment by third parties can relate to someone over whom the employer has no direct control, with liability set to apply whether or not the employer is aware of the actions of the third party.

TOP TIP

Employers should check that all the correct processes are in place. A tribunal will be looking for robust policies and evidence of the steps taken to actively prevent harassment.



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