

Employment Law Factsheet 2023

Is your business prepared for upcoming employment legislation?

It may not have been top of your agenda up until this point, but now is the time to understand if any of the upcoming employment law changes will impact your business.



Changes in effect from April 2023

1. Extra Bank Holiday for the King's Coronation

Taking place on Saturday 6th May will be the King's Coronation providing the UK with an additional bank holiday on Monday 8th May. This is in addition to the standard eight bank holidays in England and Wales, nine in Scotland and ten in Northern Ireland which we have each year.

Will this mean your staff are entitled to the extra bank holiday?

The answer is that it will depend on what your terms are for bank holidays in your contracts of employment.

Contracts which refer to a specific number of bank holidays, mean you are not obliged to permit your team to have time off for the Monday after the Coronation. If it states, the number of days plus bank holidays, then they would be entitled to it.

Of course, you may choose to grant the day off as a goodwill gesture – a good way to create a positive team dynamic around the holiday.

Whatever you decide, communicate with your staff early so that they can plan ahead.

2. Increase in Statutory pay for parental and sick leave

The statutory pay requirements for parents taking maternity, paternity, adoption and shared parental leave will rise from £156.66 to £172.48 a week, and sick pay will rise from £99.35 to £109.40 per week.



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3. National Minimum Wage/National Living Wage

Hourly rates for both National Minimum Wage and National Living Wage will increase on 1st April as follows:

	2022	2023
National Living Wage for workers aged 23 and over	£9.50	£10.42
National Minimum Wage for workers aged 21-22	£9.18	£10.18
National Minimum Wage for workers aged 18-20	£6.83	£7.49
National Minimum Wage for school leavers under 18	£4.81	£5.28
Apprentice Minimum Wage	£4.81	£5.28

All employers are legally obliged to pay staff in accordance with the current legislation. Penalties for non-compliance can be severe: fines of up to £20,000 per employee; public listing by HMRC which can cause reputational damage; and bans on being company directors.

Changes to look out for

1. Flexible working requests

In December 2022 the government presented its response to a consultation on expanding the right to request flexible working to all employees from day one of employment, and that the employee no longer has to explain how the flexible working could work. Employers would be required to respond to flexible working requests within a two month period, as opposed to the three month period as it is now. The employer may still refuse to agree the change for a genuine business reason. It is also important to note an employee has the right to request flexible working changes twice within a 12 month period.

2. Holiday pay calculations for zero-hour staff

Earlier this year the government started a consultation on how holiday pay should be calculated for workers with irregular hours or part year contracts. This follows the Supreme Court's decision in the case of Harpur Trust v Brazel and Unison in July 2022.

The court decision brought a part-year teacher's holiday pay into line with the Working Time Regulations 1998. However, it created an anomaly between the way that holiday pay for irregular hours workers is calculated, contrasted to how it is carried out for part-time workers on regular hours.

This concerns employers as it means some part-year workers are eligible to receive more holiday entitlement than part-time workers who work the same number of hours each year. The government consultation will look at how to tackle the disparity.

3. The Retained EU Law (Revocation and Reform) Bill 2022

Prior to April 2023, EU law took priority over UK law if there is a conflict between the two. From 31st December 2023, this will no longer be the case, allowing the government to change all the EU laws we have retained since Brexit.

Of course, this has wide-reaching ramifications with the sheer volume of legislation to be considered – so much so that there's already some doubt over whether this new law will be postponed, perhaps until as late as 2026. There is an expectation that the Agency Worker and Working Time Regulations will be changed and The Transfer of Undertakings Protection of Employment (TUPE) Act which provides protection for staff in mergers and outsourcing arrangements will be modified.



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4. Minimum Service Levels Bill

The proposed Minimum Service Levels Bill would give the authority to the Business Secretary to establish minimum service standards during strikes in selected parts of the public sector. Employers would then direct unions through “work notices” to specify the number of employees required to be present during strike days to fulfil these levels.

The Bill would cover six sectors: healthcare, education, fire rescue, transportation, border security and nuclear decommissioning. Unions would be obligated to take necessary measures to ensure members comply with the work notice and can be held liable for failure to do so.

During strikes, workers who are asked to work according to the work notice will not be protected from unfair dismissal if their employer gives proper notice prior to the strike day.

The HR Dept offers specialist HR support for business owners like you. We are trusted by over 6,000 SMEs across the UK. Our nationwide network of director-level HR experts ensures a local and personal approach to everything we do.

We offer a FREE initial review where we get to understand your business and provide advice about where we can help. We work flexibly with our customers. You can use us on a one-off, ad hoc basis. Alternatively, we can offer you peace of mind with our unlimited monthly Advice Line, which is backed by employment tribunal insurance, to protect your business. We leave it to you to make the choice, depending on your business's needs.

If you have any questions about the upcoming changes or would like us to review your contracts, to ensure your business is HR ready, don't hesitate to get in touch.



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