

Legislation Updates for Members

Employment Law

- This is your Q2 2023 Legislation Update e-book
- Preventing you from wading through multiple legislation updates
- Allowing you to keep up to date
- Preparing you for future legislation



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National Minimum Wage Increases (1 April 2023)

- £9.50 to £10.42 for workers ages 23 and over (the national living wage)
- £9.18 to £10.18 for workers aged 21 or 22
- £6.83 to £7.49 for workers aged 18 to 20
- £4.81 to £5.28 for workers aged under 18 who are no longer of compulsory school age; and
- £4.81 to £5.28 for apprentices under 19, or over 19 and in the first year of the apprenticeship

Other increases in pay -

- Statutory maternity, adoption, paternity, shared parental and parental bereavement pay will increase to £172.48, up from £156.66. The increase normally takes effect on the first Sunday in April, which in 2023 is 2 April
- SSP rose on 6 April 2023. The new rate will be £109.40, up from £99.35
- Redundancy pay will come into force on 6 April 2023., weekly pay is subject to a maximum amount £643 from 6 April 2023

Remains the same -

- The weekly earnings threshold a worker must meet to become eligible for statutory parental pay or statutory sick pay will remain the same, at £123 per week

- A change to the [right to request flexible working](#) procedure to allow 2 requests in a 12 month period rather than 1
- The [Protection from Redundancy \(Pregnancy and Family Leave\) Bill](#) provides for greater protection against redundancy during pregnancy and for six months after return to work from maternity leave as well as certain other family-related leave
- The introduction of [carers' leave](#)

- The introduction of [neonatal care leave and pay](#)
- The introduction of [liability for third-party harassment](#). employers will be liable for third-party harassment if they fail to take reasonable steps to prevent it. There will be a positive duty on employers to take all reasonable steps to prevent sexual harassment of their staff in the course of their employment. Procedures for customer facing roles within your organisation may need to be reviewed

In addition, the Government has announced the following developments –

- Reform of the UK data protection regime which amongst other measures should make complying to Subject Access Requests easier to comply with; the introduction of a statutory code of practice on changing contracts of employment, including through "fire and rehire"
- new provisions to give workers the right to request a more predictable and stable contractual working pattern. This is part of an ongoing trend to increase protection of workers and will particularly affect companies employing agency staff

Refusal to come to work because of the perceived imminent danger of Covid –

- In *Miles v Driver and Vehicle Standards Agency* [2023] EAT 62, the EAT upheld an employment tribunal decision that an employee had not been automatically unfairly dismissed under section 100(1)(d) of the Employment Rights Act 1996, nor did he suffer unlawful detriment under section 44(1)(d) for refusing to return to work after the first COVID-19 lockdown
- It was not reasonable for the employee to believe that there was a "serious and imminent" danger to himself, as required to bring detriment or unfair dismissal claims under sections 44(1)(d) and 100(1)(d) of the Employment Rights Act 1996; He had not taken medical or occupational health advice and his assessment of risk had "lost objectivity"

Menopause

- Proposals have been made to provide additional support to women in the workplace going through menopause. However, the Government has decided that the Equality Act 2010 provides sufficient protection

Changing Terms and Conditions of Employment

- The advice remains the same, employers can only change terms and conditions if they consult and can show express / written consent, implied consent through custom or practice, a restructure or the last but riskiest option of dismissal and reengagement
- ACAS has welcomed the Government's hire and rehire policies which encourage employers to take all reasonable steps to explore alternatives to dismissal and engage in meaningful consultation... "in good faith, with an open mind, and does not use threats of dismissal to put undue pressure on employees to accept new terms"

Holiday Pay

- We await the outcome of Government consultation about the Harper Trust case
- The content of which confirms that all employees and workers are entitled to 5.6 weeks holiday pay regardless of how long they have been employed, with the inherent unfairness that recently employed staff and part time staff get more holiday pay on a pro rata basis than longer serving and full-time employees
- BPIF submitted its response to the consultation paper and proposed that holiday pay should be pro rata'd to ensure fairness within the workplace

EU Laws

- The adjourned date of 31st December 2023 for the revocation of EU laws under the EU Law (Revocation and Reform) Bill has now been abandoned and the policy reversed.
- The plan was to revoke almost all EU laws at the end of 2023, unless a statutory instrument was passed to preserve it. The new policy is to retain all EU Laws unless expressly repealed.

Please make contact if you require any further information

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