



# Solutions

Monthly Newsletter | February 2024



## **New holiday legislation came into force on 1 January 2024.**

Some of these provisions apply only to the original 20 days provided for full time employees back in 1998 (known as the "EU entitlement") and others to the full 28 days provided for by an amendment to the Working Time Regulations in 2007 (known as the "UK additional entitlement").

The new provisions are as follows:

- Workers can carry holiday entitlement over into the following holiday year if they were unable to take it due to a period of maternity leave or other family-friendly leave; this applies to the EU entitlement and the UK additional entitlement.
- Workers can carry holiday entitlement over into the following holiday year if they were unable to take it due to a period of long-term sick leave; this only applies to the EU entitlement and, in addition, must be taken within 18 months of the end of the holiday year from which it was carried over.
- Workers can carry holiday entitlement over into the following holiday year if their employer fails to:
  - recognise the worker's entitlement to paid annual leave;
  - give the worker reasonable opportunities to take the leave; or
  - inform workers that they will lose any entitlement not taken by the end of the holiday year.

This only applies to the EU entitlement

- Holiday pay calculations must take into account all aspects of "normal remuneration" including:
  - bonus or commission payments which are intrinsically linked to the worker's performance of tasks;
  - overtime pay which has been paid to the worker on a regular basis in the 52 weeks prior to the holiday period in question; and
  - additional payments for length of service, seniority or possession of a professional qualification.

These provisions have been enshrined in case law for some time but are now part of statute.

**HR Solutions can amend your Leave policy to ensure that it is compliant with the new legislation, and can advise on individual cases.**

In addition, a "new" method of calculating holiday entitlement for irregular hours and part-year workers will come into force for leave years commencing from 1 April 2024 onwards. This is effectively going back to the old 12.07% which used to be utilised in irregular hours contracts before it was found to be unlawful.

For both the EU entitlement and UK additional entitlement, holiday for irregular hours and part-year workers will be calculated in terms of hours and will be deemed to have accrued on the last day of each pay period. Employers can choose to pay at the time the holiday is taken at the rate of the average weekly pay over the previous 52 weeks (as is the current requirement) or to pay rolled up holiday pay at a rate of 12.07% of the hours worked in the pay period.

**HR Solutions can assist you in identifying to which of your workers this will apply; in providing Contracts of Employment which include these provisions (or amending your existing Contracts); advising on the consultation necessary if you are looking to change your method of calculation for existing employees; and performing the holiday pay calculations for you.**

## **Potential reintroduction of Employment Tribunal fees**

The Government has commenced consultation regarding the reintroduction of fees for employees wishing to raise claims in the Employment Tribunal. These were previously in place up to July 2017 when they were ruled to be unlawful by the Supreme Court as they were seen as preventing access to justice. Employees then had to pay £250 to lodge a claim and then a further £950 to proceed to a hearing.

The new proposal is for a one-off fee of £55 for an Employment Tribunal claim with no further fee being due in order to progress to a hearing.

A £55 one-off fee would also apply to an appeal hearing in the EAT.

As previously, a limited system will be in place for remission from the fees for those who are judged as being unable to afford to pay a fee.

This is a far more modest fee than previously which is therefore unlikely to attract an accusation of preventing access to justice. It is unlikely to deter employees from bringing a claim; however, it may give pause for thought to those who are considering raising a claim which has no merit in order to force a settlement from their employer.

**HR Solutions can advise you on the full range of HR issues with a view to avoiding costly Tribunal claims.**



## Amendments to Paternity Leave

The Paternity Leave (Amendment) Regulations 2024 will make the following changes to the current Paternity Leave provisions:

- Currently, employees have to request Paternity Leave as either one week or two consecutive weeks; they will now be able to request two separate one-week blocks.
- Currently, employees have to take Paternity Leave within 56 days of the birth or adoption of the child; they will now be able to take it at any time in the 52 weeks after the birth or adoption.
- Currently, employees have to give notice of their intention to take Paternity Leave no later than 15 weeks before the Expected Week of Childbirth or the week in which the main adopter is notified of having been matched with the child; they will now only have to give 28 days' notice.

These amendments will apply in respect of births and adoptions on or after 6 April 2024.

**HRSolutions can draft a Paternity Leave policy for you and advise you on the whole range of family-friendly legislation.**

## Elevate your expertise with the **Employment Law Update Webinar on 29 February at 10am - a crucial add on to our February 2024 Finance Directors Update!**

Get ready to dive deep into the latest changes that will shape the employment landscape in 2024. This CPD course promises to be an enlightening journey, specially curated for professionals like you!







### Course Highlights

- Explore Minimum Wage Increases
- Stay up-to-date on Holiday Accrual for Irregular Hours and Part-Time Workers
- Navigate Changes to Consultation Requirements under TUPE
- Embrace Revised Procedures for Flexible Working Requests
- Understand Statutory Rights for Workers under Atypical Contracts
- Tackle Changes to Regulations on Harassment
- Discover New Provisions for Family Leave and Safeguards for Pregnant Employees or Those Returning from Parental Leave

This isn't just a webinar; it's an opportunity to equip yourself with the knowledge needed to navigate the evolving employment landscape successfully!



## Please see below some examples of the work that we have completed recently.

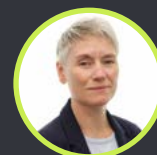
 <b>Birmingham</b>	Advice on resignation and post-termination grievances
 <b>Leicester</b>	Ongoing advice on long term sickness absence and unauthorised absence
 <b>London</b>	Advice on redundancy and offer of suitable alternative employment
 <b>Northampton</b>	Advice on disciplinary for insubordination and refusal to comply with reasonable management instruction
 <b>London</b>	Advice on maternity pay and KIT days
 <b>Thames Valley</b>	UK Expansion Worker Sponsor Licence successfully obtained and advice on uprating to Skilled Worker



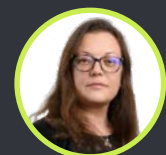
### How we can help?

If you require HR support, please contact us at [HRsolutions@mha.co.uk](mailto:HRsolutions@mha.co.uk) to discuss how we could assist you.

We can provide support on an hourly, fixed-fee or retainer basis so there are a number of options available according to your needs; as you can see from the above examples, we can assist with a large project or a one-off piece of advice.



**Stephanie Pote**  
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**Now, for tomorrow**

