



Solutions

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Hot Topics

Whilst we are awaiting the outcome of the EU Law Revocation and Reform Bill (which will determine which pieces of retained EU legislation will remain on the UK statute books) there are a number of private members' bills which have been introduced into Parliament and which may see the following provisions becoming law:

- Neonatal Care Leave and Pay: parents would be allowed to take up to 12 weeks' paid leave, in addition to maternity and paternity leave, in respect of babies up to the age of 28 days who are admitted into hospital and have a continuous stay of seven full days or more. This would be a "day one" entitlement.
- Carer's Leave: employees who are providing or arranging care would have one week's unpaid leave per year for these purposes. Employees would be able to take this leave flexibly to suit their caring responsibilities and there would be no requirement to provide evidence of either how it is being used or for whom it is being used. This would be a "day one" entitlement.
- Protection from redundancy for pregnant women or employees on family-friendly leave: an extension of the existing protection for employees on maternity Leave, to be offered a suitable alternative vacancy where one exists in the event of a redundancy situation, ahead of any other employee. This would be extended to include pregnant employees from the time they inform their employer that they are pregnant and up to 18 months, and also employees on adoption leave or shared parental leave.
- Flexible Working: making the right to request a change to working hours a "day one" entitlement rather than after 26 weeks' service as at present, along with other changes to the procedure and shortening the time which the employer has to agree or otherwise from three months to two.
- Protection from harassment: expansion of employer's liability for harassment in the workplace including a new proactive duty to take all reasonable steps to prevent it and an uplift in awards to employees if the employer has failed in this duty.
- Distribution of tips and gratuities: an amendment to the Employment Rights Act 1996 to ensure that these are paid to employees without deduction and no later than one month after being received from the customer. This would also see the introduction of a new code of practice and a method of complaint for employees.
- Ensuring the maintenance of minimum service levels in the event of a strike by rail, underground and bus workers; if enacted, this legislation would also remove the right to claim unfair dismissal from staff striking during that period, and could possibly allow employers to obtain a court order to prevent a strike from going ahead.

HR Solutions can provide you with expert advice on any aspect of Employment Law and assist with any employee issue you may have

Supreme Court

More changes to Holiday Pay?? – the Supreme Court judgment in *Brazel v Harper Trust* had significant consequences for employers who have part-year workers employed on an ongoing basis. It found that these workers had a full holiday pay entitlement of 5.6 weeks under the Working Time Regulations. Even though this resulted in some part-year workers being entitled to a greater amount of leave compared to a full-time worker, the Supreme Court found that this was compliant with the Working Time Regulations.

The Working Time Directive (original European legislation) allowed for anyone working less than full time, be that hours per week or weeks per year, to have a pro-rated entitlement; when the Directive was enacted in the UK as the Working Time Regulations, this principle was not included and therefore, the Regulations state that all workers are entitled to 5.6 weeks' leave per year. The UK could have amended its domestic legislation in this respect but chose not to.

After the Supreme Court judgment, employers were advised to implement the correct payment of holiday pay to part-year workers promptly in order to reduce the likelihood of claims for backdated holiday (there being a three month time limit for such claims).

The Supreme Court is now considering the *Chief Constable of the Northern Irish Police v Agnew* in respect of whether that gap of three months or more between underpayments does in fact end a claim. If the Supreme Court judgment is in favour of the claimant, this will substantially increase the value of claims for backpay in respect of underpaid holiday pay.

At the same time, however, the Government has now proposed new legislation to remove the inconsistency regarding part-year workers' holiday pay and pro-rate it according to their actual weeks of work. Consultation on the proposal is open until 9 March 2023 but if it proceeds then the use of the 12.07% calculation for holiday pay in respect of part-year workers may well return.

HR Solutions can advise you on the correct calculation of holiday entitlements and pay, including atypical workers.



Statutory Rates

The Government has announced increases to the following employee statutory rates for the year 2023 / 2024:

	From 3 April 2022	From 2 April 2023
Statutory Maternity, Paternity, Adoption, Shared Parental Pay and Parental Bereavement Pay (per week)	£156.66	£172.48

Statutory Sick Pay (per week)

	From 6 April 2022	From 6 April 2023
Statutory Sick Pay	£99.35	£109.40
Lower Earnings Threshold (LEL)	£123.00	£123.00 (no increase)

National Minimum Wage & National Living Wage (per hour)

From 1 April 2022		From 1 April 2023	
23+	£9.50	23+	£10.42
21-22	£9.18	21-22	£10.18
18-20	£6.83	18-20	£7.49
16-17	£4.81	16-17	£5.28
Apprentices	£4.81	Apprentices	£5.28
Accom Offset	£8.70 per day	Accom Offset	£9.10

In order to continue to raise awareness and promote HR Solutions, please see below some examples of the work that we have done recently.

Office

Type of work

London

Right to Work in the UK checks and Background Checks for new employees; profiles created on BreatheHR for all employees

London

2 x Settlement Agreements including drafting the Agreements and liaising with the employees' Solicitors

Leicester

Review of Contracts of Employment and provision of Employee Handbook

London

Provision of Contract of Employment, Privacy Notice and Employee Handbook

Maidstone

TUPE consultation advice and provision of template letters

If you require HR support, please contact us at HRsolutions@mhllp.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 for you 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.



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