

Protection of workers' rights downgraded in Brexit withdrawal legislation

```
[et_pb_section fb_built="1" _builder_version="3.0.100"
background_image="http://davidk423.sg-host.com/wp-content/uplo
ads/2017/09/bdbf_final-stages-1-4-1.jpg" custom_padding="|||"
global_module="2165" saved_tabs="all"] [et_pb_row
_builder_version="3.25" custom_padding="|||"] [et_pb_column
type="4_4" _builder_version="3.25" custom_padding="|||"
custom_padding__hover="|||"] [et_pb_text
_builder_version="3.26.6" background_layout="dark"
custom_margin="0px|||" custom_padding="0px|||"]
```

Employment Law News

```
[/et_pb_text][/et_pb_column][/et_pb_row][/et_pb_section][et_pb
_section fb_built="1" admin_label="section"
_builder_version="3.22.3"] [et_pb_row admin_label="row"
_builder_version="3.25" background_size="initial"
background_position="top_left"
background_repeat="repeat"] [et_pb_column type="4_4"
_builder_version="3.25" custom_padding="|||"
custom_padding__hover="|||"] [et_pb_text
_builder_version="3.26.6" text_orientation="justified"
use_border_color="off"]
```

Protection of workers' rights downgraded in Brexit withdrawal legislation

With Britain set to leave the European Union on 31 January 2020, thoughts inevitably turn to what lies ahead. A key question for those working in HR is what will happen to

workers' rights post-Brexit. Will EU workplace rights be retained and will the ECJ's judgments on workers' rights remain binding?

An important part of the jigsaw in understanding the future of workers' rights in the UK is the [European Union \(Withdrawal Agreement\) Act 2020](#) (the Act). The Act is the legislation which enshrines the draft Withdrawal Agreement between UK and EU in law and allows the Government to formally agree the Withdrawal Agreement. The Act became law on 23 January 2020.

The previous draft version of the legislation contained provisions which ringfenced workers' rights. First, there was a lock on EU-derived workers' rights as at the end of the transition period (currently, 31 December 2020). This lock meant that before the Government could change workers' rights, it would have to consult employer bodies and trade unions and issue a "non-regression statement" confirming that EU-derived workers' rights would not be watered down by any new proposals. Second, there were provisions which put ECJ decisions on a par with UK Supreme Court decisions. In other words, only the UK Supreme Court would have the power to depart from a ruling of the ECJ; lower courts could not.

However, these two key protections have been removed from the Act. The lock on EU-derived rights has gone and there are new provisions which would allow lower courts and tribunals to depart from earlier decisions on EU-derived workers' rights, whether from the ECJ or our own courts or tribunals. What do these changes mean in practice? The Employment Lawyers Association (ELA) has considered these changes and concluded that they have the potential to "*create substantial, and long-lasting, uncertainty*" for both employers and employees alike. You can read ELA's full statement on the Act and its potential impact on workplace [here](#).

[/et_pb_text][et_pb_column][et_pb_row][et_pb_section][et_pb_section fb_built="1" _builder_version="3.26.6"]

```
_builder_version="3.26.6"][et_pb_column      type="4_4"  
_builder_version="3.26.6"][/et_pb_column][et_pb_row][et_pb_s  
ection]
```