

BDBF'S 2022 EMPLOYMENT LAW TRACKER

Our tracker highlights new domestic and EU legislation and Government consultations for legislative reform.

	AREA	WHAT'S THE CHANGE?	STATUS?
1.	Statutory minimum payments	<p>Increases to national minimum wage and other statutory payments</p> <p>National minimum wage rates will rise on 1 April 2022 as follows:</p> <ul style="list-style-type: none"> • age 23 or over: £9.50 per hour (up from £8.91); • age 21 to 22: £9.18 per hour (up from £8.36); • age 18 to 20: £6.83 per hour (up from £6.56); • age 16 to 17: £4.81 per hour (up from £4.62); and • apprentice rate: £4.81 per hour (up from £4.30). <p>Statutory sick pay will rise to £99.35 per week (up from £96.35) on 6 April 2022.</p> <p>Statutory maternity, paternity, adoption, shared parental and parental bereavement pay will rise to £156.66 per week (up from £151.97) on 11 April 2022.</p>	Increases come into force on 1, 6 and 11 April 2022.
2.	Increases to Employment Tribunal awards	<p>Increases to Employment Tribunal awards</p> <p>A “week’s pay” (used to calculate statutory redundancy payments and basic awards in unfair dismissal claims) is expected to increase from the current rate of £544 per week. The new rate has yet to be announced.</p> <p>The maximum compensatory award for unfair dismissal is also expected to increase from the current rate of £89,493. The new rate has yet to be announced.</p>	Increases expected to come into force on 6 April 2022.

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3.	Discrimination and harassment	<p>New rules on sexual harassment at work</p> <p>The Government consulted on various proposals to prevent sexual harassment in the workplace. A response to the consultation was published in July 2021. The Government committed to introduce legislation that will:</p> <ul style="list-style-type: none"> • impose a legal duty on employers to take proactive steps to prevent sexual harassment in the workplace; and • make employers liable for third party harassment of their workers in certain circumstances. <p>The Government has also committed to looking at whether the time limit for all discrimination claims should be extended from three months to six months.</p> <p>You can read more about the proposals in our briefing here.</p>	Due to be introduced as soon as Parliamentary time allows. Awaiting draft legislation.
4.	Discrimination and harassment	<p>Restrictions on the use of confidentiality clauses in situations of workplace harassment or discrimination</p> <p>The Government consulted on various proposals to prevent the misuse of confidentiality clauses in cases of workplace harassment or discrimination. A response to the consultation was published in October 2019 and the Government committed to introduce legislation that will:</p> <ul style="list-style-type: none"> • ensure that confidentiality clauses do not prevent individuals disclosing allegations of harassment or discrimination to the police, regulated health and care professionals or legal professionals; • ensure that the limitations of confidentiality clauses are made clear to those signing them; • improve independent legal advice available to individuals when signing 	Due to be introduced as soon as Parliamentary time allows. Awaiting draft legislation

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		<p>settlement agreements; and</p> <ul style="list-style-type: none"> introduce enforcement measures for clauses that do not comply with the new legal requirements. <p>You can read more about the proposals in our briefing here.</p>	
5.	Caring responsibilities	<p>New right to leave for those with caring responsibilities</p> <p>The Government consulted on proposals to introduce a new right to unpaid leave for employees with caring responsibilities. A response to the consultation was published on 23 September 2021. The Government committed to introduce legislation that will introduce a Day 1 right to one week's unpaid carer's leave. Employees will be entitled to take the leave to care for and/or make arrangements to provide care for a dependant who has a long-term care need. In this context, a "long-term care need" will mean:</p> <ul style="list-style-type: none"> a long-term physical or mental illness or injury; a disability under the Equality Act 2010; and/or care needs relating old age. <p>This new leave will supplement other forms of leave such as unpaid parental leave or unpaid time off for dependant emergencies.</p> <p>You can read more about the proposals in our briefing here.</p>	Due to be introduced as soon as Parliamentary time allows. Awaiting draft legislation
6.	Pregnancy and maternity	<p>New rules offering greater protection in redundancy processes during pregnancy and for six months after the return from maternity and other forms of family leave</p> <p>The Government consulted on proposals to strengthen redundancy protection</p>	Due to be introduced as soon as Parliamentary time allows. Awaiting draft legislation

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		<p>for pregnant employees and those returning from certain forms of family leave. A response to the consultation was published in July 2019 and the Government committed to introduce legislation that will:</p> <ul style="list-style-type: none"> • give pregnant employees priority for any suitable alternative vacancy that is available from the point that they notify the employer of their pregnancy; and • give family leave returners priority for any suitable alternative vacancy that is available for six months after their return to work from a period of maternity or adoption leave. Protection will also be available after the return from shared parental leave, although the protected period may be different given that this leave can be taken in discontinuous blocks. <p>You can read more about the proposals in our briefing here.</p>	
7.	Neonatal leave	<p>New right to neonatal leave</p> <p>The Government consulted on proposals to introduce a new right for parents to take neonatal leave in certain circumstances. A response to the consultation was published in March 2020. The Government committed to introduce legislation that will introduce a Day 1 right for parents of babies aged 28 days or below who are admitted to hospital for neonatal care to take one week's leave for each week that their baby is in care. If eligible, they will also be entitled to receive statutory pay.</p>	Awaiting draft legislation
8.	Restrictive covenants	<p>Consultation on restricting the use of non-compete clauses</p> <p>The Government consulted on proposals to restrict the use of non-compete restrictions in the employment context. The proposals included:</p>	The consultation closed on 26 February 2021. Awaiting the Government's response.

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		<ul style="list-style-type: none"> • making non-compete clauses unenforceable altogether; • making non-compete clauses enforceable only where the employer provides compensation during the term of the clause; and • introducing additional transparency measures and statutory limits on the length of non-compete clauses. <p>You can read more about the proposals in our briefing here.</p>	
9.	Employment contracts	<p>Consultation on banning exclusivity clauses in employment contracts</p> <p>The Government consulted on extending the ban on exclusivity clauses in employment contracts to prevent employers from restricting low-paid employees (i.e. those earning below £120 per week) from working for another employer.</p>	The consultation closed on 26 February 2021. Awaiting the Government's response.
10.	Flexible working	<p>Consultation on reform of flexible working laws</p> <p>The Government consulted on proposals to expand and improve the flexible working framework. The proposals included:</p> <ul style="list-style-type: none"> • making the right to request flexible working a Day 1 employment right; • making changes to the eight business reasons for refusing a flexible working request; • requiring employers to show that they have considered alternatives when rejecting flexible working requests; • permitting employees to make more than one flexible working request per year and changing the time period for employers to respond to requests; and • encouraging employees to make requests for temporary changes where needed. 	The consultation closed on 1 December 2021. Awaiting the Government's response.

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		You can read more about the proposals in our briefing here .	
11.	Menopause	<p>Inquiries into providing further protection for menopausal workers</p> <p>The House of Commons Women and Equalities Select Committee opened an inquiry into the impact of menopause in the workplace. The purpose of the inquiry is to receive evidence on current workplace practices and views on whether existing discrimination legislation protects workers going through the menopause, or whether more needs to be done.</p> <p>The All-Party Parliamentary Group on Menopause (Menopause APPG) also opened an inquiry into the impacts of menopause on women and families and the case for policy reform. This inquiry will examine a wide range of issues surrounding menopause including current workplace attitudes, policy or initiatives towards menopause and whether further workplace action that should be taken.</p> <p>You can read more about the proposals in our briefing here.</p>	The Women and Equalities Select Committee Inquiry closed on 17 September 2021. The Menopause APPG Inquiry closed on 30 September 2021. Awaiting the outcome of both inquiries.
12.	Employer reporting: disabled workers and ethnicity pay	<p>Consultations on new reporting requirements for large employers on their disabled workforce and ethnicity pay</p> <p>As part of the Government's National Disability Strategy, a consultation on disability workforce reporting for large employers (i.e. those with 250+ workers) was opened at the end of 2021. The logic is that reporting on disability within a workforce will increase transparency which, in turn, may prompt employers to implement the changes needed to build a more disability inclusive environment. The consultation looks at how disability reporting could be stepped up and whether any new practices should be voluntary or mandatory. The Government has committed to respond to the consultation by</p>	<p>Response to the Disability Workforce Reporting consultation due by 17 June 2022.</p> <p>Awaiting the Government's response to Ethnicity Pay Reporting consultation.</p>

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		<p>17 June 2022.</p> <p>In 2018 the Government consulted on proposals to introduce mandatory ethnicity pay reporting for large employers. That consultation closed in January 2019, but the Government has yet to publish its response. On 22 September 2021, the Equalities Minister, Kemi Badenoch MP, indicated that the Government response would be published in Autumn 2021. The response has still not been published.</p>	
13.	Vulnerable workers	<p>Other measures designed to help vulnerable workers</p> <p>The Queen's Speech delivered in 2019 outlined plans for a new Employment Bill which would include certain measures designed to help vulnerable workers. These include:</p> <ul style="list-style-type: none"> • introducing a single enforcement agency for employment rights, including national minimum wage, statutory sick pay, holiday pay and enforcement of unpaid Employment Tribunal awards; • introducing a right for workers who have variable working hours to request a more predictable and stable working pattern after 26 weeks' service; and • introducing a right for workers to receive tips in full, without any deduction by the employer. 	Awaiting draft legislation.
14.	Working conditions	<p>New EU Directive on transparent and predictable working conditions</p> <p>This Directive introduces measures designed to protect vulnerable workers. The measures include:</p> <ul style="list-style-type: none"> • giving workers the right to receive a written statement of information 	<p>EU Member States have until 1 August 2022 to transpose the Directive into national law.</p> <p>It is not yet known whether the UK will introduce domestic legislation to align with the Directive.</p>

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		<p>concerning their working conditions from Day 1 of their engagement (including particular information where the work pattern is unpredictable);</p> <ul style="list-style-type: none"> • giving workers the right to request more predictable and secure working conditions after six months; • banning probationary periods of more than six months save in exceptional circumstances; and • banning exclusivity requirements, save in limited circumstances. <p>It is not yet known whether the UK will introduce domestic legislation to align with this Directive. However, UK law is already partially compliant. The right for workers to receive a Day 1 written statement of particulars of employment came into force on 6 April 2020. Further, the Queen's Speech delivered in 2019 outlined plans to introduce a new Employment Bill which would include a right for all workers to request "a more predictable contract". Also, the Government has consulted on banning exclusivity clauses (see 9 above).</p>	
15.	Family-friendly	<p>New EU Directive on work-life balance for parents and carers</p> <p>This Directive includes measures designed to assist working parents and carers. The measures include:</p> <ul style="list-style-type: none"> • giving fathers/co-parents a Day 1 right to take at least ten working days' paternity leave and, after six months' service, to receive pay for such leave; • introducing a right to two months' paid parental leave per parent, which can be taken flexibly; • introducing a right to one week's unpaid carer's leave; and • extending the right to request flexible working to all working parents of children up to eight years old and to all carers. 	<p>EU Member States have until 1 August 2022 to transpose the Directive into national law.</p> <p>It is not yet known whether the UK will introduce domestic legislation to align with the Directive.</p>

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		<p>It is not yet known whether the UK will introduce domestic legislation to align with this Directive. However, UK law is already substantially compliant. We already have laws providing for paid paternity leave, shared parental leave and flexible working requests for all. However, some minor changes to these rights would be needed, and a right to carer's leave would have to be introduced. The Government has confirmed that it intends to introduce a right to carer's leave (see 5 above).</p>	

If you would like further information, or to discuss how to prepare for any of these changes, please contact Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.