

BDBF'S EMPLOYMENT LAW TRACKER FOR 2023 AND BEYOND

Our tracker highlights new domestic legislation and other key proposals for legislative reform.

	AREA	WHAT'S THE CHANGE?	STATUS?
1.	Statutory minimum payments	<p>Increase to national minimum wage rates and other statutory payments</p> <p>National minimum wage rates will rise on 1 April 2023 as follows:</p> <ul style="list-style-type: none"> • age 23 or over: £10.42 per hour (up from £9.50); • age 21 to 22: £10.18 per hour (up from £9.18); • age 18 to 20: £7.49 per hour (up from £6.83); • age 16 to 17: £5.28 per hour (up from £4.81); and • apprentice rate: £5.28 per hour (up from £4.81). <p>Statutory sick pay will rise on 10 April 2023 to £109.40 per week (up from £99.35 per week).</p> <p>Statutory maternity, paternity, adoption, shared parental and parental bereavement pay will also rise on 10 April 2023 to £172.48 per week (up from £156.66 per week).</p>	<p>National minimum wage rate increases come into force on 1 April 2023.</p> <p>Statutory sick pay and family leave pay increases due to come into force on 10 April 2023.</p>
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 £571 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 £93,878. The new rate has yet to be announced.</p>	<p>Increases expected to come into force on 6 April 2023.</p>

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3.	Termination	<p>New Statutory Code of Practice on fire and rehire practices</p> <p>In March 2022, in the wake of the mass redundancies announced by P&O Ferries, the Government promised to publish a statutory Code of Practice which would detail how businesses should hold fair, transparent and meaningful consultations on proposed changes to employment terms and would include practical steps to follow.</p> <p>As a Statutory Code of Practice, the Tribunals and Courts would be required to take the Code into account when considering relevant cases, including unfair dismissal, and would have the power to apply an uplift of up to 25% to an employee's compensation where the Code applied, and the employer had unreasonably failed to follow it.</p>	In November 2022 it was said in Parliamentary debate that the draft Code would be published in the "near future". It is still awaited.
4.	EU-derived employment law	<p>Retained EU law to expire on 31 December 2023</p> <p>The Retained EU Law (Revocation and Reform) Bill provides that all retained EU law contained in statutory instruments, and all retained directly applicable EU law, will automatically expire on 31 December 2023 unless it is preserved.</p> <p>Retained EU Law includes a number of important employment law protections including in the following areas:</p> <ul style="list-style-type: none"> • working time and paid holiday rights; • rights upon the transfer of a business / an outsourcing (TUPE); • part-time workers' rights; • fixed-term employees' rights; • agency workers' rights; • posted workers' rights; and • information and consultation rights. 	<p>The Retained EU Law (Revocation and Reform) Bill is due to proceed to its third reading.</p> <p>If the Bill passes, it will take effect on 31 December 2023.</p>

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		<p>Any Retained EU Law which is kept will be “assimilated” into UK law. In practice this means that certain EU law principles that govern how these rights operate will disappear. On top of this, the Bill makes a number of other provisions which are aimed at downgrading the continued impact of EU law on UK law, for example, by making it easier for the courts and tribunals to depart from previous EU case law decisions.</p> <p>You can read more about the proposals in our briefing here.</p>	
5.	Discrimination and harassment	<p>New rules on sexual harassment at work</p> <p>The Government has backed a Private Members’ Bill that is intended to implement the Government’s earlier commitments to enhance the law on harassment at work. The Worker Protection (Amendment of Equality Act 2010) Bill 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>You can read more about the proposals in our briefing here.</p>	<p>The Worker Protection (Amendment of Equality Act 2010) Bill passed its second reading in the House of Commons on 21 October 2022 and will proceed to the next stage in 2023.</p> <p>The Bill states that its provisions will come into force one year from the day on which the Act is passed, meaning that the changes are unlikely to come into force until 2024.</p>
6.	Caring responsibilities	<p>New right to leave for those with caring responsibilities</p> <p>The Government has backed a Private Members’ Bill that is intended to implement the Government’s earlier commitments to introduce a new right to unpaid leave for employees with caring responsibilities. The Carer’s Leave Bill would introduce:</p>	<p>The Carer’s Leave Bill is due to proceed to its third reading on 3 February 2023.</p> <p>If the Bill passes, secondary legislation will be drafted and laid before Parliament, meaning the</p>

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		<ul style="list-style-type: none"> • a Day 1 right for employees to one week's unpaid carer's 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 a disability, care needs relating old age or an illness or injury likely to require at least three months of care; • protections from detriment or dismissal as a result of having taken carer's leave; and • a right to claim compensation from employers who unreasonably postpone or prevent the taking of carer's leave. <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>	changes are unlikely to come into force until 2024.
7.	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 has backed a Private Members' Bill that is intended to implement the Government's earlier commitments to strengthen redundancy protection for pregnant employees and those returning from certain forms of family leave. The Redundancy (Pregnancy and Family Leave) Bill 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 	<p>The Redundancy (Pregnancy and Family Leave) Bill passed its second reading in the House of Commons on 21 October 2022 and is due to proceed to the next stage in 2023.</p> <p>If the Bill passes, secondary legislation will be drafted and laid before Parliament, meaning the changes are unlikely to come into force until 2024.</p>

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		<p>the return from shared parental leave, although the protected period may be different given that this leave can be taken in discontinuous blocks.</p> <p>You can read more about the proposals in our briefing here.</p>	
8.	Neonatal leave	<p>New rights to neonatal leave and pay</p> <p>The Government has backed a Private Members' Bill that is intended to implement the Government's earlier commitments to introduce new rights to neonatal leave and pay. The Neonatal Care (Leave and Pay) Bill would allow regulations to be made which will:</p> <ul style="list-style-type: none"> • introduce a Day 1 right for employees to take leave where they are the parent of a baby in neonatal care (this is expected to be at least one week's leave to be taken within 68 weeks of the child's birth); and • introduce a right for employees with at least 26 weeks' continuous service to be paid statutory neonatal pay (the level and duration of the statutory pay will be dealt with in secondary legislation). <p>You can read more about the proposals in our briefing here.</p>	<p>The Neonatal Care (Leave and Pay) Bill is due to proceed to its third reading on 3 February 2023.</p> <p>If the Bill passes, it is expected that the related regulations will come into force some time in 2024 or early 2025.</p>
9.	Flexible working	<p>Reform of the flexible working request framework</p> <p>The Government has backed a Private Members' Bill that is intended to expand and improve the flexible working framework. The Employment Relations (Flexible Working) Bill will:</p> <ul style="list-style-type: none"> • remove the requirement for employees to explain in their request what effect they think it will have on their employer; • allow employees to make two flexible working requests per year rather 	<p>The Employment Relations (Flexible Working) Bill has passed its second reading and started the next stage on 7 December 2022.</p> <p>If the Bill passes, the changes are unlikely to come into force until 2024.</p>

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		<p>than one;</p> <ul style="list-style-type: none"> • require employers to consult with the employee before refusing a request; and • reduce the deadline for an employer's decision on a flexible working request from three months to two months. <p>In addition, in December 2022, the Government responded to an earlier consultation on flexible working reform. In the response, the Government confirmed that it would continue to support the Bill as it progresses through Parliament and that it would also make the right to request flexible working a Day 1 employment right.</p> <p>You can read more about the proposals in our briefing here.</p>	<p>The Government has said it will bring in the right to request a Day 1 right by way of secondary legislation, to be introduced when Parliamentary time allows.</p>
10.	Pay for hospitality workers	<p>Tips, gratuities and service charges to be paid to workers in full</p> <p>The Government has backed a Private Members' Bill that is intended to improve pay conditions for hospitality workers. The Employment (Allocation of Tips) Bill will:</p> <ul style="list-style-type: none"> • require employers to ensure that all tips, gratuities and service charges that it receives, or exercises control over, are paid to workers in full without deductions by the end of the following month (this would not cover tips paid directly to workers in cash, where those tips are kept by them); • introduce obligations to ensure the fairness of arrangements to distribute tips among workers, either by the employer or an independent tronc arrangement; • require employers to have a written policy on how tips are dealt with in their business; and 	<p>The Bill is due to proceed to its third reading on 20 January 2023.</p> <p>If the Bill passes, it is expected that the changes will come into force one year later. This is likely to be some time in 2024.</p>

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		<ul style="list-style-type: none"> give workers the right to bring claims against employers who fail to comply with the new rules. <p>In addition, a new Code of Practice on Tipping will be published and will provide guidance on how tips should be distributed.</p> <p>You can read more about the proposals in our briefing here.</p>	
11.	Menopause	<p>Call for the introduction of robust menopause discrimination laws</p> <p>The House of Commons Women and Equalities Select Committee published its report on the impact of menopause in the workplace and recommended that the Government should:</p> <ul style="list-style-type: none"> appoint a “Menopause Ambassador” to lead the way in showcasing good practice to business; produce model menopause policies; introduce Day 1 right to request flexible working; require a large public sector employer to trial specific “menopause leave”; publish new guidance on the law; commence the dormant dual discrimination provisions in section 14 of the Equality Act 2010; and consult on making menopause the tenth protected characteristic in the Equality Act 2010. <p>You can read more about the proposals in our briefing here.</p>	<p>The Women and Equalities Select Committee’s Report was published on 28 July 2022.</p> <p>The Government’s response was due to be published on 28 September 2022 but is overdue.</p>
12.	Vulnerable workers	Other measures designed to help vulnerable workers	Awaiting draft legislation. The timescale for introducing these

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		<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 including:</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; and • introducing a right for workers who have variable working hours to request a more predictable and stable working pattern after 26 weeks' service. 	reforms is unknown.

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.