

## **BDBF'S EMPLOYMENT LAW TRACKER FOR 2024 AND BEYOND**

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

	AREA	WHAT'S THE CHANGE?	STATUS?
1.	<b>Discrimination</b>	<p><b>Equality Act 2010 amended to reflect EU discrimination law principles</b></p> <p>The Equality Act 2010 has been amended to reflect existing EU discrimination law principles, originating mainly from decisions of the ECJ. These principles had applied in the UK when it belonged to the EU, and for a period of time thereafter, but they were erased from UK law at the end of 2023. To avoid uncertainty, the Government decided to write these principles into the Equality Act 2010 with effect from 1 January 2024. The changes affect the following areas:</p> <ul style="list-style-type: none"> <li>• discrimination in recruitment;</li> <li>• protection for new mothers;</li> <li>• indirect discrimination;</li> <li>• equal pay claims; and</li> <li>• the definition of “disability”.</li> </ul> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	The Equality Act 2010 (Amendment) Regulations 2023 amended the Equality Act 2010 on 1 January 2024.
2.	<b>Working time and holidays</b>	<p><b>Important changes to working time, holiday entitlement and holiday pay rules</b></p> <p>The Working Time Regulations 1998 have been amended to reflect existing EU working time principles and introduce further changes made possible because the UK is no longer a member of the EU.</p>	The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 amended the Working Time Regulations 1998 on 1 January 2024.

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		<p>On 1 January 2024, the law was amended to clarify:</p> <ul style="list-style-type: none"> <li>• what types of payments should be included in the calculation of holiday pay;</li> <li>• when holiday entitlement may be carried forward and for how long; and</li> <li>• that employers are not required to keep a separate daily record of a worker's working hours.</li> </ul> <p>Further changes were made which affect "irregular hours workers" and "part year workers" only (with both terms newly defined). For leave years beginning on or after 1 April 2024, employers:</p> <ul style="list-style-type: none"> <li>• must calculate the accrual of annual leave for such workers on the basis of 12.07% of their working hours in a pay period; and</li> <li>• may introduce a system of rolled-up holiday pay for such workers, whereby they are paid on the basis of 12.07% of their total pay in a pay period.</li> </ul> <p>In addition, new Guidance setting out worked examples of how to make these calculations has been published.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>. You can read more about the new guidance in our briefing <a href="#">here</a>.</p>	<p>The changes affecting irregular hours and part year workers apply to leave years beginning on or after 1 April 2024.</p>
3.	<b>Wages</b>	<p><b>Increase to the National Minimum Wage rates</b></p> <p>On 1 April 2024, the National Minimum Wage rates will increase to the following hourly rates:</p>	<p>The new rates will apply from 1 April 2024.</p>

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		<ul style="list-style-type: none"> <li>National living wage (21 years+): £11.44 (up from £10.42);</li> <li>Development rate (18 – 20 years): £8.60 (up from £7.49);</li> <li>Youth rate (16 – 17 years): £6.40 (up from £5.28); and</li> <li>Apprentice rate: £6.40 (up from 5.28).</li> </ul> <p>From 1 April 2023, the old standard adult rate will no longer apply as, from this date, 21 and 22 year olds will receive the National living wage rate.</p>	
4.	<b>Flexible working</b>	<p><b>Reform of the flexible working request framework</b></p> <p>On 6 April 2024, the right to request flexible working will become a Day 1 employment right.</p> <p>Later in the year (before the end of July 2024) new regulations will introduce further changes to the flexible working framework. The reforms will:</p> <ul style="list-style-type: none"> <li>remove the requirement for employees to explain in their request what effect they think it will have on their employer;</li> <li>allow employees to make two flexible working requests per year rather than one;</li> <li>require employers to consult with the employee before refusing a request; and</li> <li>reduce the deadline for an employer's decision on a flexible working request from three months to two months.</li> </ul> <p>A new draft Acas statutory Code of Practice on requests for flexible working has also been published.</p>	<p>The Flexible Working (Amendment) Regulations 2023 will amend the Flexible Working Regulations 2014 on 6 April 2024, making the right to request a Day 1 right.</p> <p>The Employment Relations (Flexible Working) Act 2023 became law on 20 July 2023. The regulations needed to bring about the changes to the framework have not yet been published. It is expected that these changes will come into force by the end of July 2024.</p> <p>The Code of Practice was laid before Parliament on 11 December 2023 and is due to come into force shortly.</p>

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		You can read more about the reforms in our briefing <a href="#">here</a> .	
5.	<b>Redundancy</b>	<p><b>New rules offering greater protection in redundancy processes during pregnancy and after return from maternity and other forms of family leave</b></p> <p>On 6 April 2024, the following groups will have priority for any suitable alternative vacancies in redundancy situations:</p> <ul style="list-style-type: none"> <li>• pregnant employees from the point that they notify the employer of their pregnancy until the start of their statutory maternity leave; and</li> <li>• employees returning from maternity, adoption or shared parental leave for a period of time following their return to work (the period of time varies depending on the situation).</li> </ul> <p>Affected employees will also have the right to claim automatic unfair dismissal where an employer fails to comply with its obligations regarding offering suitable alternative vacancies and the employee is dismissed as a result.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	<p>The Redundancy (Pregnancy and Family Leave) Act 2023 became law on 24 July 2023. The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024, which set out the specific reforms, are due to come into force on 6 April 2024.</p>
6.	<b>Caring responsibilities</b>	<p><b>New right to leave for those with caring responsibilities</b></p> <p>On 6 April 2024, employees who have caring responsibilities will be eligible for the following new rights and protections:</p> <ul style="list-style-type: none"> <li>• a Day 1 right to take at least one week's unpaid carer's leave in any 12-month period to provide care for, or make arrangements to provide care for, a dependant who has a long-term care need;</li> <li>• a right to benefit from the existing terms and conditions of employment that would have applied but for the leave (apart from</li> </ul>	<p>The Carer's Leave Act 2023 became law on 24 May 2023. The Carer's Leave Regulations 2024, which set out the specific reforms, are due to come into force on 6 April 2024.</p>

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		<p>terms and conditions about remuneration);</p> <ul style="list-style-type: none"> <li>• a right to return to their original job;</li> <li>• a right to claim compensation from employers who unreasonably postpone, attempt to prevent or prevent the taking of carer's leave; and</li> <li>• protection from detriment or dismissal as a result of having taken carer's leave.</li> </ul> <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 reforms in our briefing <a href="#">here</a>.</p>	
7.	<b>Paternity leave</b>	<p><b>Reform of the paternity leave framework</b></p> <p>On 6 April 2024, the following changes will be made to the paternity leave framework:</p> <ul style="list-style-type: none"> <li>• eligible employees will be able to take paternity leave in two separate blocks of one week's leave (or as a single block of one or two weeks' leave);</li> <li>• eligible employees will be able to take their statutory paternity leave within 52 weeks of birth or placement for adoption (currently, it must be taken in the first eight weeks after birth or placement for adoption); and</li> <li>• the notice requirements will be changed to make them more proportionate to the amount of time the father or partner plans to take off work. Fathers will need to give four weeks' notice before each period of leave they intend to take, although the notice of entitlement</li> </ul>	<p>The Paternity Leave (Amendment) Regulations 2024 are due to come into force on 6 April 2024.</p>

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		<p>will still need to be given 15 weeks before the expected week of birth.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	
8.	<b>Pay for hospitality workers</b>	<p><b>Tips, gratuities and service charges to be paid to workers in full</b></p> <p>The Employment (Allocation of Tips) Act 2023 will:</p> <ul style="list-style-type: none"> <li>• 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);</li> <li>• introduce obligations to ensure the fairness of arrangements to distribute tips among workers, either by the employer or an independent tronc arrangement;</li> <li>• require employers to have a written policy on how tips are dealt with in their business; and</li> <li>• give workers the right to bring claims against employers who fail to comply with the new rules.</li> </ul> <p>In addition, a new statutory Code of Practice on Tipping will provide guidance on how tips should be distributed. A consultation has been opened on a draft version of the Code of Practice. You can view the consultation and draft Code of Practice <a href="#">here</a>.</p> <p>You can read more about the proposals in our briefing <a href="#">here</a>.</p>	<p>The Employment (Allocation of Tips) Act 2023 became law on 2 May 2023, although its provisions have not yet come into force. The provisions are expected to come into force one year after the Act was passed i.e. by 2 May 2024.</p> <p>The consultation on the Code of Practice closes on 22 February 2024.</p>
9.	<b>TUPE</b>	<b>Consultation on reform of informing and consulting requirements under TUPE</b>	The Employment Rights

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		<p>Currently, before a TUPE transfer takes place, the outgoing employer must inform and consult with representatives of the affected employees. These can be existing representatives (e.g. trade union representatives) or ones that are elected just for this purpose. However, outgoing employers with up to nine employees (known as micro-employers) may inform and consult with affected employees directly if there are no existing representatives in place.</p> <p>From 1 July 2024, the option of consulting with affected employees directly will be extended to businesses:</p> <ul style="list-style-type: none"> <li>• with up to 49 employees; and</li> <li>• with any number of employees where a transfer of up to nine employees is proposed.</li> </ul> <p>However, this option will only be available where there are no existing representatives.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	<p>(Amendment, Revocation and Transitional Provision) Regulations 2023 amended TUPE 2006 on 1 January 2024. However, the changes apply to transfers taking place on or after 1 July 2024 only.</p>
10.	<b>Predictable working</b>	<p><b>Workers to be given the right to request more predictable working patterns</b></p> <p>Later in the year (by mid-September 2024) new regulations will introduce a new right for qualifying workers and agency workers to request a more predictable working pattern where:</p> <ul style="list-style-type: none"> <li>• their work pattern lacks predictability;</li> <li>• the change requested relates to their working pattern; and</li> <li>• the purpose of the request is to achieve a more predictable working</li> </ul>	<p>The Workers (Predictable Terms and Conditions) Act 2023 became law on 18 September 2023. The regulations needed to bring about the changes have not yet been published. It is expected that these changes will come into force by mid-September 2024.</p>

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		<p>pattern.</p> <p>Up to two applications may be made in a 12-month period, although these may not be made concurrently. This cap includes any requests made under the separate flexible working regime, where the flexible working request is for a change that would have the effect of delivering a more predictable contract.</p> <p>A consultation has been opened on a draft statutory Acas Code of Practice on handling requests for a predictable working pattern. You can view the consultation and draft Code of Practice <a href="#">here</a>.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	<p>The consultation on the Code of Practice closed on 26 January 2024. A response is awaited.</p>
11.	<b>Sexual harassment</b>	<p><b>New rules on sexual harassment at work</b></p> <p>Later in the year (by the end of October 2024) changes will be made to the law on sexual harassment. The new rules will:</p> <ul style="list-style-type: none"> <li>• impose a legal duty on employers to take reasonable steps to prevent sexual harassment in the workplace (however, this will be a lower bar than for the general “reasonable steps defence” to harassment, which requires <u>all</u> reasonable steps to have been taken);</li> <li>• permit employment tribunals to uplift compensation in relevant claims by up to 25% where it finds that an employer has breached the new duty; and</li> <li>• empower the Equalities and Human Rights Commission to investigate suspected breaches and take enforcement action against employers.</li> </ul> <p>The Equalities and Human Rights Commission will also update its statutory</p>	<p>The Worker Protection (Amendment of Equality Act 2010) Act 2023 became law on 26 October 2023, although its provisions have not yet come into force. The provisions are expected to come into force one year after the Act was passed i.e. by 26 October 2024.</p>

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		<p>Code of Practice on Employment and Technical Guidance on Sexual Harassment and Harassment at Work to reflect the changes.</p> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	
12.	<b>Neonatal leave and pay</b>	<p><b>New rights to neonatal leave and pay</b></p> <p>The Neonatal Care (Leave and Pay) Act 2023 provides for the introduction of rights and protections for employees who are parents of babies up to 28 days old who require neonatal care for at least one week without interruption. The rights and protections include:</p> <ul style="list-style-type: none"> <li>• a Day 1 right for employees to take leave where they are the parent of a baby who needs to spend at least one week in neonatal care;</li> <li>• a right for employees with at least 26 weeks' continuous service and whose weekly earnings are at or above the "lower earnings limit" to be paid statutory neonatal pay;</li> <li>• a right to benefit from the existing terms and conditions of employment that would have applied but for the leave (apart from terms and conditions about remuneration);</li> <li>• a right to return to work to a job of a kind to be prescribed by the regulations; and</li> <li>• protection from detriment or dismissal as a result of having taken or sought to take neonatal leave.</li> </ul> <p>You can read more about the reforms in our briefing <a href="#">here</a>.</p>	<p>The Neonatal Care (Leave and Pay) Act 2023 became law on 24 May 2023. The regulations needed to bring about the changes have not yet been published. It is expected that these changes will come into force by April 2025.</p>
13.	<b>Employee competition</b>	<p><b>Non-compete restrictions in employment and worker contracts to be limited to three months</b></p>	<p>It is not yet known whether the Government intends to consult over</p>

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		<p>On 10 May 2023, the Government announced plans to reform the use of non-compete clauses in employment and worker contracts. Legislation will be introduced which will limit such restrictions to three months. Other types of post-termination restrictions will not be affected.</p> <p>You can read more about the proposals in our briefings <a href="#">here</a> and <a href="#">here</a>.</p>	these proposals. It has said that legislation will be introduced when Parliamentary time allows.
14.	<b>Whistleblowing</b>	<p><b>Review of UK whistleblowing framework</b></p> <p>On 27 March 2023, the Government announced the launch of a review of the current UK whistleblowing legal framework. The terms of reference of the review state that it will look at the following core questions:</p> <ul style="list-style-type: none"> <li>• how the whistleblowing framework facilitates disclosures;</li> <li>• how the whistleblowing framework protects workers (and the review will also consider the definition of “worker” for whistleblowing purposes);</li> <li>• whether information about whistleblowing is available and accessible to workers, employers, prescribed persons and others;</li> <li>• what have been the wider benefits and impacts of the whistleblowing framework on employers, prescribed persons and others;</li> <li>• what best practice looks like in terms of responding to disclosures.</li> </ul> <p>You can read more about the review in our briefing <a href="#">here</a>.</p>	The review is expected to conclude by the end of 2023. It will then take several months to consider the findings and decide upon next steps.
15.	<b>Financial services - regulation</b>	<p><b>Review of the Senior Managers and Certification Regime</b></p> <p>On 30 March 2023, the Financial Conduct Authority (<b>FCA</b>) and UK Prudential</p>	The review closed on 1 June 2023. A response is awaited.

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		<p>Regulation Authority (<b>PRA</b>) published a joint discussion paper on the review of the Senior Managers and Certification Regime (<b>SM&amp;CR</b>), inviting responses by 1 June 2023.</p> <p>The FCA and PRA sought views on the effectiveness, scope and proportionality of the SM&amp;CR, and potential improvements to the regime. Of particular interest is how the regime is operating in practice.</p> <p>You can read the review <a href="#">here</a>. You can read BDBF's response to the review <a href="#">here</a>.</p>	
16.	<b>Termination</b>	<p><b>Consultation on new statutory code of practice on fire and rehire practices</b></p> <p>In March 2022, in the wake of the mass redundancies announced by P&amp;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>On 24 January 2023, the Government published a draft statutory Code of Practice on dismissal and re-engagement and launched a consultation seeking views on the draft code. As a statutory code, the Tribunals and Courts would be required to take it 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> <p>You can read the consultation and draft Code <a href="#">here</a>.</p>	The consultation closed on 18 April 2023. The Government's response is expected in Spring 2024. However, no timeline has been given for the implementation of the final Code of Practice.

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17.	Employment Tribunals	<p><b>Consultation on introduction of Employment Tribunal fees</b></p> <p>On 29 January 2024, the Ministry of Justice opened a consultation on proposals to re-introduce fees in the Employment Tribunal and Employment Appeal Tribunal systems. The proposals are to introduce:</p> <ul style="list-style-type: none"> <li>• a £55 issue fee payable by claimants in the Employment Tribunal, which will cover the entire journey of the claim in the system; and</li> <li>• a £55 fee payable by appellants in the EAT, which would be payable per judgment, decision, direction or order of an Employment Tribunal being appealed.</li> </ul> <p>Only those earning more than £1,520 gross per month or with £4,250 or more disposable capital would be expected to pay the full fee.</p> <p>You can read the consultation <a href="#">here</a>.</p>	The consultation closes on 25 March 2024.

**BDBF is a leading employment law firm based at Bank in the City of London. 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](mailto:amandasteadman@bdbf.co.uk)) or your usual BDBF contact.**

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