

## What to expect in employment law in 2024

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As we approach the end of 2023, and a well-deserved festive break for all, here is a brief look at what is to come in 2024.

### **Holiday pay, TUPE and working time**

The government has published The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023, enforcing the proposed changes to holiday pay, TUPE and working time. The key changes, which are coming into effect on 1 January 2024:

- Simplifying holiday pay calculations by making rolled-up holiday pay (12.07%) lawful for part-year or irregular hour workers.
- Confirming various pieces of retained EU case law to allow the carry over of annual leave in various circumstances including; family related leave, sickness or where the employer has failed to inform the employee that they have leave to take.
- Defining 'normal remuneration' in relation to holiday pay, to include commission payments and other payments (such as regular overtime).
- Removing the requirement that meant working hours and rest records must be kept for almost all members of the workforce.
- Small businesses (fewer than 50 employees) conducting TUPE transfers of any size, and businesses of any size undertaking a small transfer (of fewer than 10 employees) will be able to consult their employees directly, if there are no existing representatives in place.

## **Duty on employers to take reasonable steps to prevent sexual harassment**

The Worker Protection (Amendment of Equality Act 2010) Act 2023 introduces a new duty on employers regarding sexual harassment, and will come into force in October 2024.

The new Act imposes a statutory duty on all employers to take reasonable steps to prevent sexual harassment in the workplace. If employers fail to take reasonable steps to prevent sexual harassment, the Equality and Human Rights Commission can take enforcement steps, and successful tribunal claims will be subject to a compensation uplift of up to 25%.

## **Right to request a predictable working pattern**

The Workers (Predictable Terms and Conditions) Act 2023 is expected to come into force in September 2024, and provides workers with a statutory right to request a more predictable working pattern.

Key points of the new legislation to note:

- The qualifying period is likely to be 26 weeks service, although the weeks will not need to be continuous.
- The right will apply to workers that have patterns lacking certainty in terms of hours or times, workers on fixed term contracts of 12 months or less (who can request a longer fixed term or the removal of provisions relating to fixed term) and agency workers.
- A maximum of two applications can be made in any 12 month period. The application must specify the change being applied for and the date to take effect.
- The request can be in relation to hours of work, days of work or period of engagement.
- Employers will be required to deal with any requests in a reasonable manner and notify the worker of their decision within one month.
- Requests may be refused on several grounds including; the burden of additional costs or there being insufficient work in the periods being asked for. There are currently six grounds listed in the Act and the Secretary of State reserves the right to add more.
- If a request is granted then employers must offer the new terms within two weeks of granting the request.

ACAS have produced a draft Code of Practice providing guidance on how to handle requests.

## **Amendments to Employment Relations (Flexible Working) Regulations 2023**

- The Employment Relations (Flexible Working) Act 2023 will enhance the existing right for employees to request flexible working arrangements. The government confirmed that the measures in the Act and secondary legislation are expected to come into force in summer 2024.
- The new Act amends the existing statutory flexible working regime set out in the Employment Rights Act 1996.
- Employers will now be required to consult with their staff before rejecting a flexible working request.
- Employees can make two flexible working requests in any 12 month period as opposed to one.
- Employers will be required to respond to flexible working requests within two months instead of three.
- Employees will no longer be required to set out how the effects of their flexible working request might be dealt with by their employer.

ACAS has published a draft code of practice which is due to come into effect on 6 April 2024.



If you require further information from us in regards to the upcoming reforms, please contact our [employment team](#).



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