

What To Know About Latest UK Employment Law Changes

By **Annabel Gillham, Oliver Spratt and Lara King** (April 15, 2024)

As the new U.K. tax year has started, U.K. businesses face a variety of changes following the government's shake-up of the regulatory landscape in employment law. Many of these changes took effect on April 6, and included:

- Increased redundancy protection for pregnant employees and new parents;
- New rights for employees in relation to flexible working, carer's leave and paternity leave; and
- A simplification of annual leave and holiday pay calculations for irregular hours and part-year workers.

This article highlights the changes that will likely have the most significant day-to-day impact on U.K. employers, and provides some practical suggestions for human resources practitioners and in-house employment lawyers to ensure that businesses comply with these new requirements.

Changes to the Regulatory Landscape

Extension of Redundancy Protection for Pregnant Employees and New Parents

Existing redundancy protections entitle employees who are on maternity, adoption or shared parental leave to priority consideration for suitable alternative vacancies.

These redundancy protections have been extended to pregnant employees and to new parents who have recently returned to work after a period of family leave, meaning that a much higher number of employees will potentially benefit from such protection compared to before.

Broadly speaking, the new protections apply across varying circumstances, including:

- In the case of pregnancy, from the date the employer is notified of the pregnancy as long as it was notified to the employer on or after April 6;
- In the case of maternity and adoption leave, from the beginning of the leave until 18 months from the child's date of birth or 18 months from the date of placement for adoption; and
- In the case of shared parental leave, from the day after the employee has taken six consecutive weeks' shared parental leave — when that period starts on or after April 6 — up to 18 months after the child's birthdate or placement for adoption.



Annabel Gillham



Oliver Spratt



Lara King

Note that, in cases of shared parental leave, the additional protection does not apply if the employee is already entitled to the new protections by virtue of having taken maternity or adoption leave.[1]

Employers that are contemplating large-scale reorganization or redundancy exercises should be particularly conscious of the larger pool of employees who will benefit from these redundancy protections.

Carer's Leave

Employees who are providing or arranging care for a dependent are now entitled to one week's unpaid leave in each rolling 12-month period, calculated by reference to the number of days that the employee usually works over a seven-day period.

When determining eligibility for carer's leave, a dependent is a person who, due to a physical or mental illness, is expected to need care for more than three months, has a disability, and/or needs care because of their old age.

Carer's leave is a "day one" entitlement, which means that there is no qualifying length of service, and that it supplements existing parental and emergency leave entitlements.

It should be noted that the entitlement applies per employee rather than per dependent. In other words, an employee with multiple dependents is only entitled to one week of carer's leave every 12 months.

The entitlement also award carers the same protection from dismissal or detriment as that given to individuals exercising rights related to other types of family-related leave.

While employers are not allowed to refuse a carer's leave request, they can ask the employee to delay the leave if the employee reasonably considers that the operation of their business would be unduly disrupted by the employee's absence.

An employer may only postpone the requested period of leave in such circumstances where the reason for the delay is provided to the employee in writing within seven days of the original request and the employer agrees an alternative date within one month of the original date requested.[2]

Paternity Leave

The previous rules provided that statutory paternity leave had to be taken in a single block within 56 days of the baby's birth or, if born early, due date. For babies due after April 6 — or, in the case of adoptions, due to be placed on or after April 6 — employees now have greater flexibility as to how they exercise the two weeks of paternity leave.

The leave can be taken either as a single period of leave spanning one week or two weeks or two nonconsecutive blocks of one week, and can be taken at any time in the 52 weeks from birth or placement for adoption.

Flexible Working as a 'Day One' Right

From April 6, employees have the right to request flexible working from their first day in a new job, which abolished the prior 26-week qualifying period.

The legislation is supplemented by statutory guidance, which also came into effect on April 6, in the form of the revised Advisory, Conciliation and Arbitration Service's code of practice on requests for flexible working.[3]

Simplification of Annual Leave and Holiday Pay Calculations for Irregular Hours and Part-Year Workers

Calculating holiday entitlement for irregular hours and part-year workers has been simplified for leave years commencing on or after April 1. The changes included:

- Permitting "rolled-up" holiday pay, which means that employers can choose to include an additional amount with every payslip to cover a worker's holiday pay — in contrast to paying holiday pay only when a worker takes annual leave — although, if they choose not to use rolled-up holiday pay, employers must use the existing 52-week reference period to calculate the amount of leave;
- Setting an annual leave accrual method of 12.07% of actual hours worked in a pay period, i.e., how regularly a worker gets paid, for example, weekly or monthly; and
- Introducing a method for determining how much annual leave irregular hours or part-year workers accrue when taking family-related leave or being off sick.

As a reminder, as of Jan. 1, new rules were also introduced regarding the carryover of annual leave and confirming the components that must be included in the calculation of a normal rate of pay for holiday pay calculations more generally. The government issued updated, detailed guidance on each of these changes in April.[4]

How Employers Should Manage the Changes

As an immediate priority, if they have not already done so, employers should review and, where necessary, update their flexible working, maternity and family leave policies and procedures, and introduce or update a carer's leave policy to reflect the new protections and entitlements.

Employers should also:

- Provide training to HR teams and managers to ensure they are up-to-date with these latest developments and requirements;
- Communicate any changes to company policies to their workforce in a clear and transparent manner, explaining the nature of the changes, the reasons for them, and directing employees to raise questions if necessary; and
- Ensure that HR recordkeeping and payroll systems are updated to implement changes relating to annual leave and holiday pay.

Employers with recognized trade unions or employee representative bodies should also ensure that these bodies have been informed and, where necessary, consulted about the changes.

More broadly, given the likely collection of employees and dependent's health data for the new or enhanced leave entitlements, employers will also need to revisit their data protection policies and training to ensure that HR teams and managers are aware of good data minimization and data hygiene practices.

Looking Ahead

Given the scope and scale of these changes, employers might be forgiven for hoping for some breathing space after implementing the various steps outlined above. This will not be the case, as further legislative updates are planned for the second half of 2024.

These include changes relating to the consultation requirements under the Transfer of Undertakings (Protection of Employment) Regulations 2006, updates to statutory guidance on "fire and rehire" practices, additional requirements for terms and conditions of employment, and the much talked about proactive employer duty in relation to the prevention of harassment.

Annabel Gillham is a partner, Oliver Spratt is of counsel and Lara King is an associate at Morrison Foerster LLP.

MoFo trainee solicitor Michal Pati contributed to this article.

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[1] https://www.legislation.gov.uk/ukxi/2024/264/pdfs/ukxi_20240264_en.pdf.

[2] <https://www.gov.uk/carers-leave>.

[3] <https://www.acas.org.uk/acas-code-of-practice-on-flexible-working-requests/2024>.

[4] <https://www.gov.uk/government/publications/simplifying-holiday-entitlement-and-holiday-pay-calculations/holiday-pay-and-entitlement-reforms-from-1-january-2024>.