

Human Resources



Do you employ staff?

Forthcoming Employment Law Update

Changes taking effect during April 2024

This newsletter provides information about the forthcoming changes to holiday rules, to an employee's right to request flexible working, new carers leave, changes to paternity leave, increased protection for maternity, adoption and shared-parental leave (in the case of redundancy), and the forthcoming increases to statutory payments, all of which are expected to take effect during April 2024.

Changes to Holiday Rules

It is expected that from 1 April 2024, for holiday years beginning on or after this date, holiday entitlement for part year and irregular hours workers can be calculated using (the former practice of) 12.07% of hours worked in the pay period. Rolled up holiday will also be permissible from this date for part year and irregular hours workers only.

Right to Request Flexible Working

It is expected that from 6 April 2024 the long awaited changes to the 'right to request' flexible working will come into force. The expected changes are:

- Employees will no longer be required to have 26 weeks' continuous service before being eligible to make a request. The right to request flexible working will become a 'day one' right.
- If a request is denied, then employers will be required to work with the employee, to discuss and consider alternative options.
- The requirement for the employee to consider the impact of the request on the business will be removed.
- The employee will be permitted to make two requests (rather than one) in a 12 month period, although only one 'live' request may be permitted at a time.
- The current three month response timeframe will be reduced to two months.

ACAS have a new associated Code of Practice, which is currently still in draft, but which will be confirmed and published in full, in due course. The draft Code will replace the 'ACAS Code of Practice on handling in a reasonable manner requests to work flexibly'. The draft Code can be accessed here: <https://www.acas.org.uk/acas-code-of-practice->

Carer's Leave

It is expected that from 6 April 2024 The Carer's Leave Act 2023, and Carer's Leave Regulations 2024, will introduce a brand-new right for eligible employees to take one week of unpaid carer's leave per year. The right to take carer's leave will apply where an employee has a dependant with a long-term care need and the right will apply from day one of employment, so there will be no minimum service requirements.

A person is a dependant of an employee if they:

- are a spouse, civil partner, child or parent of the employee
- live in the same household as the employee, however, this does not include the employee's boarder, employee, lodger or tenant
- reasonably rely on the employee to provide or arrange care. This could be, for example, an elderly neighbour.

A dependant of an employee has a long-term care need if any of the below apply:

- They have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months.
- They have a disability for the purposes of the Equality Act 2010.
- They require care for a reason connected with their old age.

What amounts to "old age" has not been defined yet by the Act itself or the Government.

Carer's leave is to be used by employees to provide care or make care arrangements for a dependant who has a long-term care need.

Employees already have the right to reasonable unpaid time off to deal with an emergency involving a dependant in their care. This might be taken, for example, when an employee's child falls ill while at school so the employee needs to leave to pick them up. Time off for dependants is to deal with the emergency that has arisen and make arrangements; it is not intended to be used by employees to actually provide that care. This new right, however, will entitle eligible employees to take planned leave to provide care, or to make arrangements for it, when there is not an emergency.

Whilst the definition of 'dependant' is the same for 'time off the dependants' and 'carer's leave', carer's leave can only be taken when that dependant meets the criteria of 'long-term care need'. This means, therefore, that carer's leave is not simply an extension of the right to time off for dependants nor does it give employees an extra type of time off to use for childcare, unless the child is disabled.

Employees who need to support dependants for a short period of time would not be eligible to take carer's leave due to the 'more than three months' element to the definition of 'long-term care need'.

Whilst the legislation itself does not provide any examples, the government has previously stated that carer's leave should be used for a wide variety of caring activities, such as the following:

- providing personal support, such as keeping an eye out for someone, keeping them company, and staying in touch.
- providing practical support, such as making meals, going shopping for them, laundry, cleaning, gardening, maintenance, and other help around the house.
- helping with official or financial matters, such as helping with paperwork, dealing with 'officials', paying bills/rents/rates, collecting pensions/benefits.
- providing personal and/or medical care, such as collecting prescriptions, giving medications, changing dressings, helping them to move around the home, getting dressed, feeding, washing, bathing, using the toilet.
- making arrangements, such as dealing with social services or the voluntary sector, moving someone into a care home, making home adjustments or adaptations.

Paternity Leave

It is expected that from 6 April 2024, and subject to parliamentary approval, the draft Paternity Leave (Amendment) Regulations 2024 will come into force and permit paternity leave to be taken in the first 52 weeks after birth or adoption, and in two separate weeks. This will apply in relation to children whose expected week of childbirth is after 6 April 2024, and children whose expected date of placement for adoption, or expected date of entry into Great Britain for adoption, is on or after that date.

Extended Redundancy Protection for Maternity, Adoption and Shared-Parental Leave

It is expected that from 6 April 2024, and subject to parliamentary approval, the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 will extend redundancy protection during pregnancy and for the period of 18 months after the birth or placement of a child for those taking maternity, adoption or shared parental leave.

Increases to Statutory Payments

National Minimum Wage

From 1 April 2024 the National Minimum Wage (NMW) rates will increase as follows:

- Apprentices under 19 or over 19 and in the first year of their apprenticeship, the NMW rate will increase from £5.28 to £6.40 an hour.
- Young Workers Rate aged 16 and 17, will increase from £5.28 to £6.40 per hour.
- National Minimum Wage for Workers aged 18 to 20, will increase from £7.49 to £8.60 per hour.
- National Living Wage (NLW) for workers aged 21 and over, will increase to £11.44 an hour.

Statutory Sick Pay Payments

From 6 April 2024 Statutory Sick Pay (SSP) will increase from £109.40 to £116.75 per week, with the Lower Earnings Limit (LEL) remaining at £123 per week.

Compensation Limits

From 6 April 2024 the following Compensation Payments limits will apply:

- Limit on Guaranteed Payment will increase from £35 to £38.
- Limit on a week's pay for calculating a statutory redundancy payment and unfair dismissal basic award will increase from £643 to £700.
- Maximum basic award for unfair dismissal and statutory redundancy payment (30 weeks' pay subject to the limit on a week's pay) will increase from £19,290 to £21,000.
- Minimum basic award for dismissal on trade union, health and safety, occupational pension scheme trustee, employee representative and on working time grounds only will increase from £7,836 to £8,533.
- Maximum award for unlawful inducement relating to trade union membership or group activities, or collective bargaining will increase from £5,128 to £5,584.
- Maximum compensatory award for unfair dismissal — subject to a maximum cap of a year's pay will be £115,115.
- Minimum compensation for employees excluded/expelled from trade union will increase from £11,967 to £13,032.
- Claims (if a claim for breach of contract e.g., wrongful dismissal) is raised in an employment tribunal, claims will be capped at £25,000. Higher claims can be raised in the local county court.
- The minimum additional award for failure to comply with employment tribunal rulings to reinstate or reengage an employee will be £16,718 and the maximum additional award will be £33,436.

Family Friendly Payments

From 7 April 2024 Family Friendly Payments i.e., Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP), Statutory Shared Parental Pay (ShPP), Statutory Paternity Pay (SPP) and Statutory Parental Bereavement Pay (SPBP)

will increase from £172.48 to £184.03 per week.

How can we Help?

We will be updating HR documentation for all retained clients, to take account of the changes to the holidays, right to flexible working, carers leave maternity, paternity leave, adoption and shared-parental leave.

If you have any queries relating to the content of this newsletter, or any other HR related topic, please don't hesitate to contact us via hradvice@hasslefreehr.co.uk.

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