

Employment Law Timetable

May 2022

Legal Round up

This month saw the Queen's speech delivered by Prince Charles set out the Government's legislative agenda for the next parliamentary year. The speech highlighted some of the 38 laws that ministers intend to pass in the coming year, however, the long-anticipated Employment Bill was not mentioned. Unions and industry groups have expressed their disappointment that mention of the Employment Bill has been omitted in the Queen's Speech and the impact of the omission does mean that we may not see as much progress with employment related legislation during 2022 as we had been initially hoping for.

The Health and Safety Executive ("HSE") has updated their guidance for workplaces as Covid-19 restrictions across the UK relax. It has now replaced the workplace guidance with public health advice. The HSE no longer requires every business to consider Covid-19 in their risk assessments or have specific measure in place, however, employers may still choose to continue to cover Covid-19 in their risk assessments and there is still very much the requirement to protect those who will come into contact with the virus due to their work activity.

In addition, due to the relaxation of the rules related to Covid-19 the Information Commissioners Office ("ICO") has set out some key things' organisations need to consider around the use of personal data. Organisations need to firstly consider, is it still necessary to either collect or retain this type of data?

With regard to retaining any additional information collected during the pandemic this needs to be assessed and anything that is no longer required needs to be securely disposed of.

If employers are continuing to collect vaccination information, they must be clear about what they are trying to achieve and how asking people for their vaccination status helps to achieve this. The use if this data must be fair, relevant and necessary for a specific purpose.

The Employment Bill

The Employment Bill was due to cover the following reforms:

- Making flexible working the default and making requests a day 1 right (currently employees need 26 weeks' service to make a request)
- Extending redundancy protection for pregnant workers and adding a further six months to mothers' protection after maternity leave ends
- Leave for neonatal care, giving the right to up to 12 weeks' paid neonatal leave to parents of babies needing neonatal care
- Leave for unpaid carers of 1 week
- Sexual harassment – creating a duty on employers to prevent sexual harassment at work, including from third parties and extending the time limit for claims to six months
- NDAs – restricting the use of non-disclosure agreements in settlement agreements

Some of these rights have passed through consultations during the past 18 months or so with the timescale for implementation given as 'when parliamentary time allows'. These reforms could be introduced as separate pieces of legislation on a piecemeal basis rather than as part of an Employment Bill.

The 2 provisions that were announced included the Harbours (Seafarers' Remuneration) Bill which, will empower ports to surcharge or refuse access to ferry services that do not pay an equivalent to the national minimum wage to seafarers while in UK waters. This is a specific response to the P&O ferries controversy. Although an important issue, this will not affect the vast majority of UK employees.

The other announcement was the Modern Slavery Bill which will strengthen the requirements on companies with an annual turnover of over £36 million to publish an annual statement on the steps they are taking to prevent modern slavery.

Two other Bills relevant to employment included the Brexit Reform Bill which will allow the government to change laws inherited from the EU without a vote in Parliament and the Data

Reform Bill which will aim to shift data privacy away from a box ticking exercise as the government maintains that the GDPR and Data Protection Act 2018 has 'encouraged excessive paperwork' for businesses.

Key Dates

What to watch out for in 2022

Thursday 2nd June – Friday 3rd June – The Queen's Jubilee

We are quickly approaching the Queen's Jubilee celebrations which is seeing the usual late May Bank Holiday Monday move to Thursday 2nd June along with an additional bank holiday for Friday 3rd June to give workers a four-day weekend.

Whether or not employees are entitled to the extra bank holiday depends on the wording in an employee's contract of employment. You will need to check whether the contract lists the bank holidays that employees are entitled to, whether it states they are entitled to the 8 bank holidays, or it states they are entitled to the usual or standard bank holidays. If it does, there is no right for an employee to be allowed the additional bank holiday as a bank holiday.

In addition to the contractual wording, employers should also consider what you have done in previous years with the additional bank holidays as employees may consider the additional day of holiday as an implied term of their contract. Consideration should also be given to part-time employees who should be treated in the same way as their full-time colleagues, with entitlements pro-rated to reflect their working hours.

Note: The above guidance was correct at the time of writing this article on 20/05/22.

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