



## Employment law updates - 6 April 2024

As of 6 April 2024, employers must comply with some family-focussed changes to Employment law in the form of four key pieces of legislation:

- Employment Relations (Flexible Working) Act 2023
- Carer's Leave Act 2023
- Protection from Redundancy (Pregnancy and Family Leave) Act 2023
- The Paternity Leave (Amendment) Regulations 2024.

### Employment Relations (Flexible Working) Act 2023

Under the Act, employees will have the right to request flexible working from day one of employment, rather than after 26 weeks of service, as is the current position. Flexible working requests are made when an employee is seeking to change or vary their working pattern, for example they might request to work part-time, term-time, flexitime, compressed hours, and varied working locations. The right is for the employee to make the request, not that it has to be granted.

Employees will be able to make two statutory requests for flexible working in any 12-month period, up from one. There is also no longer a requirement for employees to justify the request with an explanation of the effect of the change to their working pattern.

You should be aware that, under the new legislation, you must now explain your reasons for denying a request for flexible working arrangements. You will still only be able to reject a request for one of the 8 business reasons. You will also be obliged to make a decision on a request within two months of receipt (including any appeal), compared to three months previously.

### Carer's Leave Act 2023

This Act grants employees with caring responsibilities a new statutory annual entitlement of one week's unpaid leave. You can choose to be more generous and offer paid carer's leave, but the new legislation does not provide a right to remuneration. As it is a statutory right, employees will be protected from detriment and dismissal which is linked to the fact they have taken or requested carer's leave.

This right will be a day one right available to all employees who care for a dependent, i.e., a spouse, civil partner, child, parent or other dependant who needs care because of a disability, old age or any illness or injury likely to require at least three months' care.

Although you are unable to deny an employee request for carer's leave, you can postpone it if you reasonably consider that business operations would be unduly disrupted were it to be approved.



**Don't forget**, there is a separate right for employees to take a "reasonable" amount of time off work for dependants in an emergency for example, if a dependant falls ill, gives birth or is injured or assaulted, or because of unexpected changes to childcare arrangements.

## Protection from Redundancy (Pregnancy and Family Leave) Act 2023

Under the current regime, employees on maternity leave, shared parental leave (SPL) or adoption leave have enhanced protections when faced with potential redundancy. These employees have the right to be offered a suitable alternative vacancy over other employees also at risk, where one is available.

From 6 April 2024, this priority status will extend to pregnant employees and recent returnees from maternity or adoption leave, or from SPL. Please note the lengths of protection available to employees in each scenario surrounding birth and adoption, set out below.

For pregnant employees taking maternity leave, the protected period will be either 18 months from the child's date of birth, if notified to the employer before maternity leave ends, or 18 months from the expected week of childbirth. For employees who have miscarried before 24 weeks, the period of protection will run for two weeks after the end of the pregnancy. For recent returnees from adoption leave, employees will be protected for 18 months from the date of placement. And for those taking SPL, employees will be protected up to the end of SPL if less than 6 weeks' leave has been taken, or up to 18 months from the child's date of birth inclusive of any statutory leave time, where more than 6 continuous weeks of SPL is taken.

You should be aware that the protection only gives employees priority for redeployment opportunities, this is not a ban on making employees redundant during the protected period.

## The Paternity Leave (Amendment) Regulations 2024

These Regulations will apply in all cases where the expected week of childbirth or adoption falls on or after 6 April 2024 and allow for paternity leave to be taken as either two consecutive weeks, or as two blocks of one week at any point in the first year (52 weeks) after birth or placement for adoption.

For babies born or placed for adoption before the 6 April changes, fathers or partners are only able to take one continuous block of paternity leave of either one or two weeks within the first 8 weeks of birth or placement for adoption.

Under the amended legislation, notice period requirements have also changed. Employees are now obliged to give just 4 weeks' notice before taking each period of paternity leave, instead of the 15 weeks before the expected week of childbirth as was previously the case.

Where employees wish to vary the date of their planned leave, employers who receive 28 days' notice of the variation will be expected to make the change.



**DOWNS**  
SOLICITORS AND NOTARIES

Specialist advice should be obtained before taking, or refraining from taking, actions based on comments in this update which is only intended as a briefing note.