



This Week in Employment Law

Covid carry-over holiday rules end

2024 is set to be a busy year for HR with a number of legislative changes on the way, and January is no exception!

- From 1 January 2024 Covid holiday carry-over ends — the emergency rules on annual leave which were implemented in 2020 meant that workers could carry over four weeks of leave into the next two leave years where it was not reasonably practicable for them to take it because of the effects of Covid.
- From 1 January 2024, this will be removed, and employees who have any “Covid carry-over leave” accrued by that date but have not yet taken it, have until 31 March 2024 to use it.
- Remaining rules on holiday carry-over continue — nothing is actually changing here but as these rights derive from ECJ case law, it has had to be added to our legislation to ensure that the status quo is maintained. There will continue, therefore, to be a right of carry-over in the following situations.
- Where a worker was unable to take holiday due to being on maternity leave or other family-friendly leave — they can carry over 5.6 weeks to the following leave year.
- Where a worker was unable to take holiday due to sickness — they can carry over four weeks of leave for 18 months after the end of the leave year in which the leave was accrued.
- Legislation has been updated to state that for leave years starting on or after 1 April 2024, employers can lawfully pro rata holiday entitlement for part-year and irregular hours workers, and if they want to do so, can again use rolled-up holiday pay but only for these types of workers.

Other key developments in January

From 16 January 2024, subject to parliamentary approval, the Immigration Health Surcharge is set to increase from £624 to £1,035. This is payable by foreign nationals who are applying for temporary leave to enter the UK for more than 6 months, and who are not exempt. Also, from 22 January 2024, if approved by parliament, the civil penalty when an employer is found to have employed foreign workers unlawfully, will increase to £45,000 per illegal worker for a first breach and to £60,000 for repeated breaches.

Did you know?

The increases in the fines for unlawfully employing foreign workers emphasises the importance of ensuring that right to work checks are carried out correctly and consistently.

Proposed increase to salary for family visas reduced

The Home Secretary, Mr Cleverly previously announced that the Government intended to raise the salary needed to bring family members to the UK to the same level as the new minimum salary threshold for skilled workers — £38,700. However, on 21 December 2023, the Home Office issued further detail on the measures stating that it plans to initially set the minimum income for family visas at £29,000 from Spring 2024, with further increases at some point in the future “to give predictability to families”.

Did you know?

Those who already have a family visa within the five-year partner route, or who apply before the minimum income threshold is raised, will continue to have their applications assessed against the current income level.

Engaging in grievance not likely to affirm contract

The employment tribunal dismissed the claimant’s constructive dismissal claim on the basis that she had affirmed her employment contract by continuing to be paid without resigning for three months following the employer’s repudiatory breach. The claimant, however, had raised a grievance about the breach, which was still ongoing when she resigned, in which she expressly reserved her rights. The claimant appealed the employment tribunal’s decision.

Did you know?

The Employment Appeal Tribunal found that the tribunal had not considered the claimant’s ongoing grievance and that she had reserved her rights. The case has been remitted back to the tribunal to consider this.

E-bikes and e-scooter issues for businesses

As e-bikes and e-scooters have become more popular, especially over the Christmas period, it’s important that employees and employers alike understand the fire risks that accompany them. As such you should include them in your company’s health and safety policy and carry out a risk assessment. Your policy should educate your employees on the dangers of leaving them on charge unattended and put measures in place to mitigate risks.

Did you know?

Include e-bikes in your health and safety policy for your business to inform your employees of what kind of e-bike or e-scooter they can bring onto the premises.

Employers need to ensure that their HR teams understand the situations when workers are entitled to carry-over annual leave. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 hour advice service for advice on your specific situation before acting on the information in this publication.