

Alliant Global Services

Global Knowledge Center – Legal & Regulatory Updates

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Australia

New law increases unpaid parental leave and supports shared childcaring responsibilities

Published 14 July 2023

Effective 1 July 2023, the [Fair Work Legislation Amendment \(Protecting Worker Entitlements\) Act 2023](#) (Act no. 43, 2023) amends unpaid parental leave provisions of the [Fair Work Act 2009](#), aligning these provisions with the recent amendments to the Paid Parental Leave Act 2010, that also came into effect 1 July 2023 (please see our March 2023 Newsletter).

In Australia the term "parental leave", unlike in most other countries, is not a separate leave entitlement in addition to statutory maternity and/or paternity leaves. There is no leave specifically designated as paternity or maternity leave. Instead, parental leave is a gender-neutral term referring to unpaid leave entitlements that are related to the birth or adoption of a child.

New unpaid leave provisions

Schedule 2 of Act no: 43, makes several amendments to unpaid parental leave provisions of the Fair Work Act 2009. The new provisions include:

- Allowing employees to take unpaid parental leave at any time in the 24 months following the birth or placement of a child. Previously, each could draw 12 months consecutively, with a maximum entitlement of 24 months per employed couple per birth. When one parent took less than their entitlement, the other parent could request an extension of their leave by an amount of time equal to the unused balance of the couple's combined entitlement of 24 months.
- Allowing qualifying employees to request an extension to their period of unpaid leave up to a total of 24 months each, regardless of the amount of leave the other parent has taken.
- Repealing constraining provisions related to employee couples, to allow them to take their entitlement to unpaid parental leave simultaneously. Previously, when both parents were entitled to unpaid parental leave, they could only take up to eight weeks of their entitlement simultaneously. This leave had to be taken within 12 months of the birth or adoption of the child and could be drawn in segments by the partner who was not the primary caretaker.
- Increasing flexible unpaid parental leave from 30 days to 100 days, with flexible unpaid parental leave able to be in multiples of one or more days.
- Allowing pregnant employees access to flexible unpaid parental leave in the six weeks prior to the expected birth of their child. Previously, an employee's entitlement to continuous unpaid parental leave ended on the first day that they took flexible unpaid parental leave. This meant that if an employee planned to take continuous unpaid parental leave, they had to do so prior to taking any flexible unpaid parental leave.

Employer Actions

Starting 1 July 2023, employers must comply with the amended unpaid parental leave provisions of the Fair Work Act 2009.

Additionally, employers will need to revise their leave policies to reflect their employees' new statutory entitlements.

Employers may also wish to update their communication materials to inform employees of their new entitlements.

Underlying legislation

The Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023 (Act no. 43, 2023) received Royal Assent, and published in the Federal Register of Legislation on 30 June 2023, its Schedule 2 provisions related to unpaid parental leave come into effect 1 July 2023.

Increased frequency of superannuation contribution payments proposed

Published 7 July 2023

On 2 May 2023, the Australian government proposed that starting 1 July 2026, employers would be required to pay their employees' superannuation contribution on their payday as opposed to quarterly.

The proposal is part of the [Federal Budget 2023 - 2024](#).

Frequency of contribution payments

Currently, employers must pay their employees' superannuation contributions on or before specified [quarterly due dates](#). The proposed changes would require employers to pay their employees' superannuation contributions on their payday.

The proposed changes would start from 1 July 2026, giving employers sufficient time to prepare. The proposal is part of the government's commitment to strengthening the superannuation system making it more equitable, sustainable, and provide better outcomes for all Australians.

Increasing the frequency of superannuation contributions would not only increase members' overall retirement savings but would simplify employers' payroll management and result in lower accumulation of financial liabilities. However, the change may have cashflow implications, and would benefit from advanced planning.

Superannuation contributions made on employees' payday would make their tracking of payments and savings much easier.

Frequency of penalties

Currently, employers who fail to pay an employee's superannuation contributions in full quarterly, are subject to a [superannuation guarantee charge \(SGC\)](#). This charge would also apply starting 1 July 2026 to employers who fail to pay an employee's superannuation contributions in full on the employees' payday.

High-income threshold increased by 3.4% affecting guarantee of annual earnings

Published 12 July 2023

Effective 1 July 2023, the high-income threshold increases from AUD 162,000 to AUD 167,500. Therefore, the maximum compensation that can be awarded by the Fair Work Commission also increases, since the maximum compensation is the lower of the employee's remuneration over the 26-week period prior to termination and 50% of the high-income threshold.

Guarantee of annual earnings

The increased high-income threshold affects guarantees of annual earnings under the [Fair Work Act 2009](#).

High income employees are employees who have been given an annual earnings guarantee. Guarantees of annual earnings are agreements between employers and employees covered by modern awards under which the employer engages to pay the employee the amount of the high-income threshold over a period of 12 months or more. In return for its commitment, the employer can avoid compliance with the provisions of the applicable modern award, although employees will in practice remain covered by the applicable modern award and able to claim an unfair termination with the Fair Work Commission.

The high-income threshold operates as a limit to an employee's eligibility to be protected from unfair termination under the terms of the Fair Work Act. Its amount increases annually on 1 July, as prescribed by the [Fair Work Regulations 2009](#).

Employees earning above the high-income threshold who are not covered by a modern award or company agreement are unable to claim an unfair termination with the Fair Work Commission. In other words, if an employee is not covered by a modern award or a company agreement their annual earnings must be less than the high-income threshold to be able to claim unfair termination with the Fair Work Commission.

Canada

Duration of leave for the death or disappearance of a child increased by 50%

Published 10 July 2023

On June 22, 2023, [Bill C-47, Budget Implementation Act, 2023, No. 1](#) received royal assent and was enacted. Among its numerous provisions, Division 15 of Part 4 of the Act amends the [Canada Labour Code](#) to increase the maximum duration of the leave entitlement related to the death or disappearance of a child.

Additionally, the Act also abolished an exception to a parent's eligibility for this leave in cases where the child was 14 years of age or older at the time of the crime and was a party to the crime that caused the child's death.

The amendments apply to employers and employees in [federally regulated industries and workplaces](#).

The leave is not employer-paid. Affected employees may be eligible for cash benefits under the Canadian Benefit for Parents of Young Victims of Crime program. Benefits and eligibility under this federal program are detailed below for information.

Leave for the death or disappearance of a child

Increased entitlement

Effective 22 June 2023, affected employees are entitled to a leave of absence from employment of up to 156 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime. This compares to previously 104 weeks.

The leave ends 156 weeks after the day on which the death or disappearance, as the case may be, occurs.

The aggregate duration of leave that may be taken by employees in respect of the same death or disappearance of a child, or the same children who die or disappear as a result of the same event, must not exceed 156 weeks.

Leave eligibility

Employees eligible for this leave must:

- Be a parent of the child;
- Have custody of the child or, in Quebec, have parental authority over the child;
- Be the guardian of the child or, in Quebec, the tutor or curator to the person of the child;
- Have decision-making responsibility, as defined in the Divorce Act, in respect of the child, or
- Be the individual with whom the child is placed for the purposes of adoption under the laws governing adoption in the province in which the individual resides.

As indicated above, the Act abolished the eligibility exception that applied in cases where the child was 14 years of age or older at the time of the crime and was a party to the crime that caused the child's death.

However, an employee is not entitled to a leave of absence if they are charged with the crime.

Employment protection

The employment protection provisions of the Canada Labour Code remain unchanged, in that, employers must reinstate a returning employee to their previous or a comparable position in the same location and with the same pay and benefits.

Employers can postpone an employee's return to work request for a period of up to four weeks after being informed by the employee. However, the employer must inform the employee of its decision and any delay will be considered as part of the leave.

If the employer reduces the wages and benefits of a group of employees as part of a reorganization plan during the employee's leave period, and the employee is reinstated in that group they will receive no more than the wages and benefits that would have been received had they been working during the reorganization. Conversely, if the employer increases the wages and benefits for the employee's group during their leave of absence, the employee will be entitled to the increases upon their return to work.

Government cash benefits during the leave

A parent or legal guardian taking leave from work and suffering loss of income to cope with the death or disappearance of your child (or children), may be eligible for federal income support. To apply for benefits, employees must submit an [employment form](#) completed and signed by their employer.

Cash benefit amounts

The benefit provides eligible parents with payments of CAD 500 per week. This is paid every two weeks, for a maximum of 35 weeks over a period of three years.

Benefit recipients may decide to stop receiving the benefit at any time and restart receipt of the benefit later within the three-year timeframe following the incident.

Cash benefit eligibility

To be eligible for cash benefits during a leave related to the death or disappearance of a child the employee must:

- be legally responsible for the child or children involved in the incident;
- have earned at least CAD 5,000 in the previous calendar year, or in the 52 weeks prior to the incident;
- be on leave from employment or only working up to 50 % of their regular work week, up to a maximum of 20 hours per week;
- have a valid social insurance number;
- not be receiving any type of Employment Insurance (EI) benefits or Quebec Parental Insurance Plan (QPIP) benefits; and

- not have been charged with committing a probable Criminal Code offence that led to the death or disappearance of the child.

Additionally, the incident must meet the following criteria:

- the child is deceased or missing as a result of a probable Criminal Code offence that occurred in Canada on or after September 30, 2018; and
- the child was under the age of 25 years of age at the time of the incident; and
- in the case of a missing child, the child must have been missing for over a week.

Employer Actions

Effective 22 June 2023, employers operating in federally regulated industries must comply with the increase in the maximum duration of the employment-protected leave entitlement related to the death or disappearance of a child, which is now up to 156 weeks.

Although the leave is not employer-paid, affected employees may be eligible for cash benefits under the Canadian Benefit for Parents of Young Victims of Crime program, for which the employee must submit an employment form completed and signed by their employer.

Resources

[Canadian Benefit for Parents of Young Victims of Crime](#)

Chile

Legislation introduces gradual reduction in working hours and other family-friendly provisions

Published 21 July 2023

New legislation introduces a reduction in weekly working hours phased over a period of five years and other family-friendly flexibilities.

More specifically, the key amendments include the introduction of:

- A phased reduction in working hours from currently 45 hours to 40 hours per week,
- Flexibility in the number of workdays per week,
- The possibility of compensating overtime work with annual leave days, and
- The possibility to delay workday start time for parents and caregivers.

The above changes were introduced by Law No. 21561 amending the Labor Code with the purpose of reducing working hours ([Ley No. 21561 Modifica el Código del Trabajo con el objeto de reducir la jornada laboral](#)), which was published in the Official Journal (*Diario Oficial de la República de Chile*) on 26 April 2023.

Phased reduction in working hours

The law provides for a gradual reduction in average weekly working hours without a reduction in pay from currently 45 hours to:

- 44 hours per week, effective 27 April 2023,
- 42 hours per week, effective 27 April 2025, and
- 40 hours per week, effective 27 April 2027.

Weekly work hours averaged over four weeks

Effective 27 April 2027, the average 40 weekly working hours may be distributed over cycles of up to four weeks, with a limit of 45 hours per week, provided there is a prior agreement with the employee (or a trade union, if applicable). The 45-hour weekly limit may not occur for 2 continuous weeks in each cycle.

Exceptions apply

Workers who provide services as managers, administrators, attorneys with administrative powers and all those who work without an immediate superior due to the nature of the work performed will be exempt from the limitation of working hours. In case of controversy and at the request of any of the parties, the respective Labor Inspector will decide if that particular work is exempt from the statutory limitations outlined above. The Labor Inspector's decision may be appealed before the competent judge within five days.

Number of workdays per week

Effective 27 April 2027, the weekly working hours may be spread over no less than four days (currently, no less than five days) and no more than six days. As such, legislation now recognizes the possibility of four-day workweeks.

Overtime work in exchange for annual leave

Effective 27 April 2023, while the daily overtime limit of two hours remains unchanged, the possibility of compensating overtime with a limited number of annual leave days is introduced by the new law.

Overtime may exceed the average maximum limit of 40 hours per week by two hours. Time worked in excess of ordinary hours may (with employee consent) be compensated with additional annual leave days. Compensation for overtime with additional annual leave days is governed by the same surcharge that corresponds to the statutory overtime pay. That is, for each overtime hour worked by the employee there will be an hour and a half of annual leave entitlement.

The employer and employee may agree to up to five additional annual leave days per year in compensation for overtime work. The additional annual leave days are to be used by the employee within six months following the cycle in which the overtime originated and must be requested by the employee 48 hours in advance.

Provided there is prior agreement between the employer and the employee, time worked in excess of ordinary working hours may be compensated in cash. Any unused leave obtained in compensation for overtime must be paid at a rate of 150% of pay.

Upon termination of an employment agreement, any unused annual leave days obtained as compensation for overtime work is subject to payment in lieu.

Delayed workday start time for parents and caregivers

Effective 27 April 2024, mothers, fathers, or individuals with the personal care responsibility of children up to the age of 12 years are entitled to a two-hour time band during which they may anticipate or delay the start of their workday by up to one hour. The delayed start of workday then determines the end time of the workday.

If both parents are employees, either of them, at the discretion of the mother, can use this entitlement.

An employer can only refuse a shift in the employee's daily work hours if:

- the schedule of business operations does not allow the workday to be anticipated or postponed, or
- the nature of the employee's work does not allow the workday to be anticipated or postponed (e.g., emergency services, shift work, or client services).

Employer Actions

Employers must adjust working hours of employees who are not exempt to comply with the gradual decrease in the average maximum statutory working hours.

The law stipulates that its provisions related to the reduction in working time will be understood as incorporated into individual contracts, collective labor agreements, and internal regulations, without their adaptation being necessary. Therefore, the terms of employment contracts (in particular) will not need to be revised.

Employers should prepare for the possibility of compensating overtime work with additional annual leave by revising their internal policies and procedures and inform their employees of the new compensation option for overtime work.

Finally, employers must start preparing for the new entitlement of parents and caregivers of children under the age of 12 years, to delay their workday start time by up to two hours. This provision of the law comes into effect on 27 April 2024. Employers are advised to inform their concerned employees of their new entitlement to this flexibility in workday hours.

Indonesia

Employers must comply with new workplace sexual violence requirements

Published 6 July 2023

On 1 June 2023, the Ministry of Manpower announced the promulgation of Decree Number 88 of 2023 as an effort to prevent and address violence, and sexual harassment in the workplace. The Decree includes guidelines providing technical instructions to employers for regulating the prevention and treatment of sexual violence in the workplace via company policies or collective agreements.

Key provisions of the Decree are detailed below. These include employers' obligation to implement a designated taskforce and take remedial actions that include compensating victims of sexual violence. Employers are also empowered with the ability to sanction perpetrators and even terminate their employment.

Employer obligations

The guidelines require that employers:

- create a designated taskforce composed of management, employee, and trade union representatives, with a minimum of three members;
- make adequate working facilities and infrastructure available to prevent sexual violence in the workplace. For example, by providing work and rest areas with adequate lighting, placement of surveillance cameras, or segregation of lavatories;
- implement training on sexual violence for taskforce members who receive and address complaints; and
- raise awareness via communications in writing, photos, videos, pamphlets, or social media.

Furthermore, employers are responsible to ensure that victims are not subject to retaliation, and do not suffer losses, such as a demotion or a promotion refusal.

The Decree also provides for remedial actions by the employer, which include:

- The return of any sick leave or annual leave entitlements taken by victims of sexual violence;
- Provision of additional sick leave if the victim needs counseling;
- Eliminating negative performance evaluations that resulted from being subjected to sexual violence from the employee's records;
- Reinstating the employee if they were terminated as a result of the impact of sexual violence;
- Revisiting any decisions that were detrimental to the victim and/or complaining party to ensure that the decision was not an act of retaliation; and
- Compensating the employee, for example for related medical expenses.

Independent of applicable statutory penalties, employers may sanction perpetrators via any of the following measures:

- Written warning,
- Transfer of the perpetrator to another organizational unit,
- Reducing the perpetrators authority,
- Temporary suspension of employment, or
- Termination.

Employer Actions

Employers are advised to meet their obligations under the provisions of Decree No. 88, and to review and update their policies, regulations, and collective agreements, as needed,

Background and underlying legislation

Following the Law Number 12 of 2022 concerning Crimes of Sexual Violence ([Undang-undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual](#)), which created specific offences for sexual violence in response to increasing reports of sexual violence in general, the Ministry of Manpower (MOM) has now addressed the need to update the 2011 guidelines on sexual harassment in the workplace with Decree Number 88 of 2023 concerning Guidelines for the Prevention and Handling of Sexual Violence in the Workplace ([Keputusan Menaker Nomor 88 Tahun 2023 tentang Pedoman Pencegahan dan Penanganan Kekerasan Seksual di Tempat Kerja](#)), issued on 29 May 2023.

United Arab Emirates

Scope of Emiratization expanded to include smaller employers in certain sectors

Published 13 July 2023

On 11 July 2023, in a [press release](#) the Ministry of Human Resources and Emiratization (MoHRE) announced an extension of the scope of the Emiratization policy to include certain private sector employers with 20 to 49 employees.

Companies that remain to be selected by MoHRE will be required to hire at least one UAE national in 2024 and another in 2025. In addition, if one of their UAE national employees separates from the company, they will be required to replace that employee with a UAE national within two months of the former employee's separation.

Prior to this decision, the government's Emiratization policy only concerned employers with 50 or more employees.

Employees concerned

Companies and sole proprietorships with 20 to 49 employees in the following sectors are potentially affected by the expanded policy:

- Information and communications
- Financial and insurance activities
- Real estate
- Professional and technical activities
- Administrative and support services
- Arts and entertainment
- Mining and quarrying
- Transformative industries
- Education
- Healthcare and social services
- Construction
- Wholesale and retail
- Transportation and warehousing
- Hospitality and residency services

The press release states that MoHRE will select companies that must meet these Emiratization targets based on a set of criteria, such as, types of jobs, work environment, geographic location.

Penalties for non-compliance

Non-compliance with the new Emiratization requirements is subject to penalties.

Employers with 20 to 49 employees who fail to recruit at least one Emirati employee in 2024 will be subject to a fine of AED 96,000, that will be imposed in 2025. The penalty imposed in 2026 escalates to AED 108,000 for employers who fail to recruit an additional Emirati employee in 2025.

Higher penalties apply to employers with 50 or more employees. As a reminder, on 4 May 2023, MoHRE announced in a press release, that employers that circumvent the Emiratization targets will be subject to a fine of up to AED 500,000.

Employer Actions

Employers are urged to stay ahead of the Emiratization trend and be proactive in adhering to government policy requirements.

Employers are encouraged to register with Nafis — the Emirati Salary Support Scheme, providing government support for salaries and employee benefits of Emirati nationals aiming to work in the private sector. In addition to allowing employers to explore government Emiratization incentives, Nafis provides employers with opportunities in finding suitable Emirati candidates to fill job vacancies (See Resources Section below).

Background

The Emiratization process initially started from 6 June 2022, when MoHRE issued Ministerial Decision 279 of 2022 requiring private sector employers with 50 or more employees to meet a first 2% increase in Emirati employees in skilled positions between 1 May 2022 and 31 December 2022, with the target Emiratization percentage gradually increasing by 2% annually, until reaching the desired rate of 10% by 2026.

In February 2023, MoHRE announced an update to the Emiratization policy, requiring employers to increase their Emiratization percentage in skilled jobs by 1% every six months to achieve the 2% annual target through 2026.

United Kingdom

Government publishes ethnicity pay reporting guidance

Published 16 July 2023

On 17 April 2023, the government published [Ethnicity pay reporting: guidance for employers](#).

The guidance proposes ethnicity pay gap (EPG) tracking, calculating, and reporting processes that mimic those mandated in 2017 for gender pay gap (GPG) reporting.

More specifically, the Guidance notes the importance of taking an evidence-based approach towards employer actions and includes advice on:

- Collecting ethnicity pay data,
- Data-related matters such as confidentiality, aggregating ethnic groups and the location of employees,
- Step-by-step instructions on how to calculate the value of EPG indicators,
- Reporting the findings, and
- Additional analysis to understand any indicated disparities.

Ethnic categorization

In terms of ethnicity categorization, the Guidance recommends that the Government Statistical Service (GSS) [Ethnicity harmonised standard](#) be used for gathering employee ethnicity data. The GSS standards use five ethnic groupings. These are:

- White
- Mixed/Multiple ethnic groups
- Asian/Asian British
- Black/African/Caribbean/Black British, or other
- Other ethnicity (Arab or any other ethnic group)

It is worth noting that the Office for National Statistics recognizes that identification as a member of any ethnic group is self-defined and subjectively meaningful to the individual concerned.

Compliance with GDPR

According to the Information Commissioner's Office, under General Data Protection Rules (GDPR) an employee's ethnicity is considered as Special Category Data. Accordingly, employers who collect ethnicity data must ensure their employees are provided with information on how their self-reported ethnicity data will be used, and how it will be protected and secure, including how their data would be anonymized in any analysis and/or reporting.

The Information Commissioner's Office provides guidance on lawful processing of Special Category Data (See Resources section below).

Indicators of ethnicity pay gap

Key indicators recommended by the guidance are:

- Percentage of each ethnic group in each hourly pay quarter (quartile),
- Average EPG using hourly pay,
- Median EPG using hourly pay,
- Percentages of employees in different ethnic groups, and
- Percentage of employees who chose not to disclose their ethnicity.

Other proposed indicators to also measure the bonus pay gap are:

- Percentage of each ethnic group receiving a bonus,
- Average EPG for bonuses, and
- Median EPG for bonuses.

The Guidance notes that it does not recommend looking at any one of these indicators in isolation.

Reporting EPG findings

The Guidance reminds employers that the results of an EPG analysis should be explained with care, clarifying why a pay disparity might be present and what the employer is doing or intends to do to address any gaps and possibly publish an action plan.

Given the complexity of EPG reporting, employers are advised to present all calculated indicators and a supporting narrative for any pay disparities.

Additionally, employers are advised to:

- Avoid making definitive assertions on any EPG, without a rigorous underlying analysis.
- Provide wider workforce data, so they can provide a clearer picture of any pay discrepancies.
- Producing EPG reports annually in a consistent way to show how any disparities are evolving.

Background

Ever since gender pay gap reporting became mandatory as of 6 April 2017, the government had been considering mandating EPG reporting as well. A 2018 public consultation indicated the possibility of legislation mandating EPG reporting.

On 31 March 2021, [The report of the Commission on Race and Ethnic Disparities](#) including recommendations was published. The Commission had been tasked to review race and ethnic disparities in various areas, including in the area of employment.

As part of its recommendations, the Commission called on the government to develop resources that should include guidance and evidence-based approaches that are effective in advancing fairness in the workplace.

On 17 March 2022, the government published its response to the Commission's recommendation in a policy paper – [Inclusive Britain: government response to the Commission on Race and Ethnic Disparities](#). The paper outlined the government's action plan, which included the publication by Department of Business, Energy and Industrial Strategy (BEIS) of guidance to employers on voluntary EPG reporting.

Resources

[Ethnicity pay reporting: guidance for employers](#), which includes:

- [Understanding and reporting data](#)
- [Preparing payroll data](#)
- [Calculating the recommended ethnicity pay indicators](#)

[Information Commissioner's Office: Guidance on Special Category Data](#)

Duration of redundancy protection related to maternity, adoption, or shared parental leave extended

Published 19 July 2023

Effective 24 July 2023, under the provisions of the [Protection from Redundancy \(Pregnancy and Family Leave\) Act 2023](#), employees expecting a child are entitled to enhanced protection from redundancy during pregnancy, and new parents receive extended protections when returning from maternity, adoption or shared parental leave.

If a redundancy situation arises during an employee's maternity leave, adoption, or shared parental leave, the Act extends the duration of an employee's employment protection to start at the time the employee notifies their employer that they would be the primary care giver of an expected child or that they would take shared parental leave, and last up to 18 months after that child's birth, or reception in the case of adoption.

Previously, the period of protection was limited to the duration of leave, offering no protection once the employee returned to work. Specifically, under the redundancy during maternity leave provisions of the [Maternity and Parental Leave etc. Regulations 1999](#), an employer was obligated to offer an employee on maternity leave, adoption leave, or shared parental leave, another suitable position (if available) within the company or group upon their return to work (before the end of their employment under their existing contract), prioritizing them over any other employee being considered for redundancy, and this during the full duration of the leave. Otherwise, the termination of an employee on such leaves was automatically considered as unfair.

Employer Actions

Employers must ensure that their HR departments are aware of the new provisions when implementing a redundancy process that involves employees on maternity leave, adoption leave, or shared parental leave.

It is worth noting that the provisions of the Act do not amend the employment protection provisions, but the duration of employment protection. In other words, the new provisions do not imply that protected employees be excluded from a redundancy selection process. It is the duration of employment protection that is extended if the employee's position is determined as being redundant and the employer is seeking an alternative position.

Government announces plans to amend paternity leave legislation

Published 16 July 2023

On 29 June 2023, in response to public consultations on parental leave and pay, the Department for Business and Trade published the government's [Parental Leave and Pay, Good Work Plan: Proposals to Support Families](#), indicating plans to amend paternity leave and pay legislation. The planned amendments would provide eligible employees increased flexibility.

The planned amendments would:

- Allow fathers or partners to split their leave entitlement into two periods of one week. Currently, eligible employees are entitled to take paternity leave at the statutory rate of pay in a one-week or a two-week continuous period within the first eight weeks of birth or adoption of a child. In this context, a week corresponds to the number of days that the employee normally works in a week;
- Allow fathers or partners to take their leave and pay at any point in the first year after the birth or adoption of their child, instead of only within the first eight weeks as is currently the case; and
- Adjust the way eligible employees are to give notice of leave and pay to their employer. The new measure would require that an employee give a notice to their employer 15 weeks prior to the expected week of childbirth, and then a four weeks' notice of the dates prior to each period of leave. Currently, eligible employees must provide one notice (that includes how much leave they wish to take, and the leave start date) 15 weeks prior to the child's expected due date. They can modify the indicated start date with a 28-day notice.

The government has not yet indicated a timeframe for the corresponding proposed legislation.

SAYE option plans become more attractive as their bonus rates will be automatically adjusted to Bank of England base rate changes

Published 19 July 2023

Effective 18 August 2023, a new mechanism applies for calculating the bonus rate paid to Save as You Earn (SAYE) participants. The new bonus rate calculation mechanism will apply to all new invitations to SAYE plans.

More specifically, the bonus rates will be calculated with reference to changes in the Bank of England (BoE) Bank Rate, also referred to as the base rate.

The new mechanism is expected to result in a bonus being paid to new participants for the first time since 2014, due to very low BoE base rates.

The change was published by Revenue and Customs in its [Employment Related Securities Bulletin 51 \(May 2023\)](#), published on 26 May 2023.

SAYE option plans

A SAYE option plan, also referred to as “sharesave”, is a key tax-favorable component of many employers’ total reward packages.

Under a SAYE option plan, participants are granted options over shares in their employer (or its parent company), and make monthly contributions based on a savings agreement of either three years or five years. Employees can save up to GBP 500 each month from their net pay. At the end of the agreement period, the savings are used to pay the option exercise price, which can be set at the beginning of the savings agreement at a discount of up to 20% of the share price.

SAYE plan legislation entitles participants to a tax-exempt bonus at the end of the agreed savings period. Currently, the bonus rate is set at the date the option is granted (i.e., at the beginning of the savings agreement). Under the new automatic bonus rate adjustment mechanism, bonus rates (for both the three-year and the five-year agreements) will change on the 15th day following a change in the BoE Bank Rate.

Employer Actions

With SAYE bonus rates at 0% since 2014, employers have not had to set SAYE bonus rates in quite some time. However,

However, given the new automatic SAYE bonus rate adjustment mechanism, employers with SAYE plan benefits must see that their plan administrators ensure that their plan rules are aligned with the new automatic bonus adjustment mechanism.

Employers are encouraged to update their employee communication materials to ensure that plan participants are informed and effectively take advantage of the change.

Resources

Details of how the bonus rate is calculated are spelled out in the [Save As You Earn \(SAYE\) bonus rates automatic mechanism](#).

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