

11 May 2023

Retained EU Law (Revocation and Reform) Bill



Introductions



Meet the Presenters and Technical Support

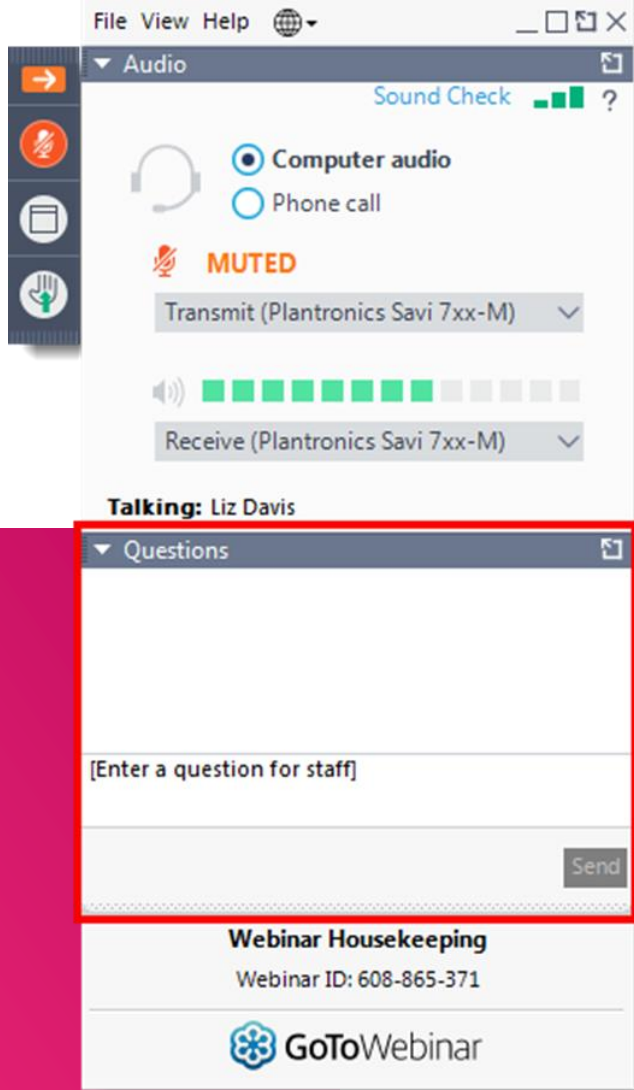
	<p>Sue Watson Head of Client Services</p> 	
<p>Victoria Templeton ↑ HR Knowledge Manager</p>		<p>Rebecca Johnson ↑ Marketing Manager</p>





How to ask questions





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Time for Questions

Your Participation

Please continue to submit your text questions and comments using the Questions panel



11 May 2023

Retained EU Law (Revocation and Reform) Bill



Agenda

- **What is Retained EU Law (Revocation and Reform) Bill?**
- Latest update – 11 May 2023
- Our impact assessment on employment
- Q & A



What is the 'Retained
EU Law (Revocation
and Reform) Bill'?





What is the Retained EU Law (Revocation and Reform) Bill?

- EU law would no longer have authority in UK law
- A Bill that will contain a list of EU laws that will be revoked. Any law not on that list will remain
- Impact of the Bill unclear at this stage as it depends on what the Government scrap, amend or retain (assimilated law)



What is the Retained EU Law (Revocation and Reform) Bill?

- Potential for significant changes to UK employment law
- The UK however has a long standing history of providing enhanced employment protections compared to other western countries
- As part of the parliamentary process, the Government have commented that it does not intend to make significant changes. It is unclear what 'significant changes' means



What is the Retained EU Law (Revocation and Reform) Bill?

- Current Bill contains a sunset clause - expiry date within a Bill but would allow for an extension but no later than 23 June 2026
- This means that UK law derived from EU law including case law, would be abolished from 31 December 2023 – **unless** the Government decides to amend or reaffirm each piece as law moving forwards.
- Over 3,700 pieces of legislation to be assessed and a decision made to either retain, amend or revoke by 31 December 2023!
- **Breaking News announced 10/5/23:** Amendment is to be put forward in the House of Lords to remove this clause



UK Legislation derived from EU Legislation and case law



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Latest update: 11 May 2023

Parliamentary process update

- The Bill is at the latter stages of the parliament process
- House of Lords - report stage
- Date just confirmed – from 15 May
- Detailed examination with further amendments voted on
- Remaining stages
 - 3rd and final reading
 - Any amendments agreed
 - HoC and HoL agree final version
 - Royal Assent = become law



Latest update: 11 May 2023

- **10 May 2023** Government confirmed the removal of the sunset clause and will be put forward as an amendment
- There are over 3,700 pieces of EU legislation that needs considering
- Under the Bill and this new amendment, all retained EU law will now stay unless a decision is taken to revoke or change.
- The Bill had received criticism that decisions taken on UK legislation will be rushed.

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TUPE

- Businesses have used TUPE since 1981
- Provides continuity of employment following a business transfer/service provision change
- Significant piece of employment legislation
- Very unlikely it would be scrapped
- Some changes have been announced 10 May 2023



EU Law	UK Law	Get rid	Amend	Do nothing
European Acquired Rights Directive	The Transfer of Undertakings (Protection of Employment) Regulations		✓	

TUPE

- The legal requirement to consult under TUPE is different to other consultation requirements such as redundancy
- This is an area that will be simplified and amended, as indicated in Government announcement 10 May 2023



EU Law	UK Law	Get rid	Amend	Do nothing
European Acquired Rights Directive	The Transfer of Undertakings (Protection of Employment) Regulations		✓	

TUPE

- There is already an exemption where consultation isn't required for businesses employing fewer than 10 employees
- Announcement to remove the requirement to consult with elected representatives when there are fewer than 50 employees in the business and fewer than 10 transferees.



EU Law	UK Law	Get rid	Amend	Do nothing
European Acquired Rights Directive	The Transfer of Undertakings (Protection of Employment) Regulations		✓	

Working Time Regulations

- Stems from the Working Time Directive, setting rules on working hours, rest breaks and annual leave
- Health and safety legislation centered on working hours, rest/breaks and holiday
- Been in operation since 1998
- To protect the health and safety of workers



EU Law	UK Law	Get rid	Amend	Do nothing
European Working Time Directive	Working Time Regulations 1998		✓	
Various significant case rulings				

Working Time Regulations

- Significant piece of employment legislation, with several European case rulings
- Very unlikely it would be scrapped
- Some changes have been announced 10 May 2023



EU Law	UK Law	Get rid	Amend	Do nothing
European Working Time Directive Various significant case rulings	Working Time Regulations 1998		✓	

Government announcement 10 May 2023

“Reducing Working Time Regulations reporting burdens

The Working Time Regulations, which are derived from retained EU legislation, provide a number of valuable worker protections. However, these regulations place disproportionate burdens on business, specifically in relation to recording working hours and other administrative requirements, and we intend to reform them this year. We will be consulting on proposals to improve how these regulations work without affecting the rights that really matter to workers.“

From policy paper “Smarter regulation to grow the economy”

Government announcement 10 May 2023

“Reducing Working Time Regulations reporting burdens

1. Removing retained EU case law that impose time-consuming and disproportionate requirements on business for working hour records to be kept for almost all members of the workforce. This will cut red tape for businesses and help them save £1 billion per year while protecting the rights of workers
2. Reducing the administrative burden and complexity of calculating holiday pay. We propose introducing rolled-up holiday pay, so that workers can receive their holiday pay with every payslip, and merging the current two separate leave entitlements into one pot of statutory annual leave, while maintaining the same amount of statutory leave entitlement overall

From policy paper “Smarter regulation to grow the economy”

Working Time Regulations

Holiday Pay

- 2014 European Court held holiday pay should include commission
- Workers would be deterred from taking leave because of detrimental impact on pay if it was not included
- Lock v British Gas
- Reverse this ruling?

Holiday Carry Over

- European Court of Justice ruled workers were prevented from taking annual leave during sickness provided they were permitted to carry over the leave into the next holiday year
- Schultz-Hoff v Deutsche Rentenversicherung Bund and Stringer and others v HMRC
- Reverse this ruling?

Harpur Trust v Brazel

- Calculating a week's pay is defined for irregular hours workers is defined in the Employment Rights Act.
- This Bill won't impact on the ruling of this case.

Rest breaks

- European Court of Justice 2015 case ruling
- Mobile workers (also known as peripatetic) have time at the start and end of the day counted as working time must time spent at the start and end of the day
- 'Federacion de Servicios Privados del sindicato Comisiones obreras v Tyco Integrated Security SL

Maximum 48 hour week

- Seen as 'red tape' for businesses
- Administrative burden
- Time intensive to administer
- Focus on the UK economy
- Raise productivity leaves
- Reasonable chance this rule could go entirely.

Agency Workers

- Stem from the European Agency Workers Directive,
- They give agency workers equal basic employment conditions to those who are recruited directly by the employer after 12 weeks.
- Been in operation since 2010
- Considered as 'red tape', complex and not popular by business
- Significant changes anticipated if not repealed.



As of Thursday, 11 May 2023

EU Law	UK Law	Get rid	Amend	Do nothing
European Agency Workers Directive	Agency Workers Regulations 2010		✓	

Discrimination

As of Thursday, 11 May 2023

- Existing laws derive from both EU and UK legislation
- EU Legislation introduced age and religious belief as a protected characteristic
- Extremely unlikely changes will be made to the protected characteristics
- Other discrimination laws – Part Time and Fixed Term Workers
- Speculation that a cap on compensation payments could be introduced.



	EU Law	UK Law	Get rid	Amend	Do nothing
	Race Equality Directive Framework Employment Directive against discrimination at work on grounds of religion or belief, disability, age or sexual orientation	Agency Workers Regulations 2010	✓	✓	

Parental Rights

As of Thursday, 11 May 2023

- Many of our laws stem from EU laws
- Extremely unlikely these would be allowed to end post 31 December 2023
- Equal Pay for Equal Work, Article 157 of the Treaty on the Functioning of the European Union (TFUE).
- UK equal pay claims currently rely on this Article of this Treaty.



EU Law	UK Law	Get rid	Amend	Do nothing
The Parental Leave Directive Pregnant Workers Directive Directive on work-life balance for parents and carers	The Maternity and Parental Leave Regulations 1999 The Shared Parental Leave Regulations 2014			✓





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- Managing Performance
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- Managing Disciplinary
- Employment Law
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