

Coronavirus Act 2020

On 25 March 2020 the Coronavirus Bill 2019-2021 received Royal Assent, setting out the emergency legislative changes to address issues that arising from COVID-19.

This legislation will remain in force for 2 years (subject to review). Not all measures came into effect immediately. The legislation allows the Government to switch on these new powers when they are needed, and, crucially, to switch them off again once they are no longer necessary.

We think the following provisions are particularly interesting to employees and workers:

- **Emergency Volunteer Leave (not yet in force):** a new entitlement to “Emergency Volunteer Leave” in blocks of 2, 3 or 4 weeks’, providing you have been certified by the appropriate authority to act as an emergency volunteer. There is no right to be paid during this type of leave, however, a UK-wide compensation fund will be established to compensate volunteers for loss of earnings and expenses to ensure you do not suffer financial disadvantage as a result. This measure is not yet in force and will only take effect once secondary legislation is passed from the Government.
- **Register of Regulated Healthcare Professionals:** Regulated bodies (such as the Nursing and Midwifery Council (NMC) and the Health and Care Professions Council (HCPC)) are now able to urgently register suitable employees as regulated healthcare professionals, such as nurses, midwives or paramedics. This may also include recently retired professionals and students who are near the end of their training.
- **Healthcare Returners:** Changes will be made to NHS pensions which prevents some retired NHS employees from returning to work for more than 16 hours per week, together with rules on abatements and draw-down of NHS pensions. This measure came into effect immediately and enables retired NHS employees to increase their commitment without having their pension benefits suspended.
- **Self-Isolation Support:** you should receive Statutory Sick Pay (SSP) from the first day (rather than the fourth day) that you are off work in compliance with the government’s instructions. This measure has retrospective effect from 13 March 2020.
- **Courts:** Wider availability of video and audio link in court proceedings to enable a wider range of proceedings to take place without the need for employees or employers to attend in person. This measure took effect from Monday 23 March 2020 and therefore all hearings in the employment tribunal were converted to a hearing by telephone or other electronic means. The application of this measure gives employment judges more options for avoiding adjournments and keeping business moving through the courts to help reduce delays in the administration of justice.

Other Legislative Changes we think are interesting:

- **Self-Isolation Support:**

The statutory definition of “incapacity” for the purposes of entitlement to Statutory Sick Pay is extended to cover those who self-isolate in accordance with government guidelines and, even for those self-isolating because a member of their household has symptoms.

Also, online isolation notes available from a government online service, can be used as evidence for your employer that you’ve had to self-isolate.

- **Holidays:**

Emergency legislation was passed which relaxed restrictions on carrying over 4 weeks statutory holiday entitlement derived from the Working Time Directive 2003. Now, if it was not “reasonably practicable” to take this type of holiday in the leave year “as a result of the effects of the coronavirus (including on the worker, the employer or the wider economy or society)” - it may be carried forward up to 2 years immediately following the year in which it was due.

Employers will only be able to require a worker not to take this carried-over leave on particular days where they have a “good reason” to do so.

What does “reasonably practicable” and “good reason” mean? Unfortunately, the legislation doesn’t define it, so it will depend on the various official sources of guidance (such as ACAS) and the particular facts of each case. It’s worth bearing in mind particularly when leaving employment, when you have a right to receive pay for your accrued but untaken holiday.

Last Updated: 7 April 2020

Nothing in this briefing is intended as legal advice. If you have any questions arising from the legislative changes we encourage you to seek legal advice on your particular situation. Call us on 029 2034 7484.