

Brexit – Employment Law Implications

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Outline

1. UK laws not governed by EU law
2. EU derived workers' rights
3. Impact of Brexit on employment law
4. Impact of Brexit on immigration law
5. Legal effect of Brexit – the process

UK laws unaffected by EU

- Unfair dismissal
- National Minimum Wage
- The right to strike
- Some 'family friendly' rights – such as shared parental leave
- Some discrimination laws such as race, sex and disability pre-date EU law
- No effect on cases to the European Court of Human Rights (ECtHR). UK member of Council of Europe, along with Russia

EU Derived Workers' Rights

- Equal Treatment Framework Directive 2000 – protection from discrimination (protected under Equality Act 2010)
- Pregnancy, maternity and parental leave
- Equal Pay
- TUPE
- Part-time & fixed term workers regs
- Agency Workers regs
- Working Time regs
- Health & Safety
- Data Protection at work (Data Protection Act)

Brexit Impact – UK laws vulnerable to change

- Collective consultation
- Working Time
- Some parts of TUPE
- Agency Workers regs
- Discrimination law – uncapped compensation?

Brexit Impact – Immigration

- Until the UK ceases to be member of the EU, employee rights and freedom of movement within the EU will remain
- Options post Brexit:
 - UK negotiates to maintain freedom of movement rights within the EU as a whole; or
 - UK negotiates with particular countries to maintain freedom of movement rights; or
 - No agreement on freedom of movement and EU workers required to apply for visas. Australian Style ‘points system’
 - Cost? Skills gaps? What about EU nationals already here?

Legal Effect of Brexit

- No immediate change – withdrawal process from European Communities Act 1972, two years' notice required
- Government would have unconstrained freedom of action in those areas currently governed by EU law
- Extent to which Government wishes to repeal, amend or retain EU derived workers' rights will depend on the political agenda
- UK would no longer need to abide by ECJ's decisions. Supreme Court final arbiter.

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ANSWERS QUESTIONS
ON BREXIT &
EMPLOYMENT RIGHTS
#ASKBREXIT**



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