

As we approach 29 March 2019 and its uncertainty, we are increasingly being asked by our clients what will happen to employment law after 29 March 2019.

The answer is that the majority of employee and worker rights will not change after Brexit as existing EU employee and worker rights will be converted into UK domestic legislation under the European Union (Withdrawal) Act 2018 (the Withdrawal Act).

Also under the Withdrawal Act the meaning of the EU derived laws will have to be decided by tribunals and courts in accordance with existing ECJ case law as at Brexit. The Withdrawal Act also provides that tribunals and courts can have regard to relevant decisions made by the ECJ after Brexit in connection with relevant legislation. In other words, for existing legislation as at Brexit there will be no change.

However, if the draft Withdrawal Agreement is adopted and there is a transition period, Brexit in practice for employment law purposes will take effect at the end of the transition period. The principles set out above will apply at the end of the transition period which again in simple terms means that most of the EU legislation will remain applicable in the UK unless specifically altered by UK legislation.

The only area where there is potential for change is the area of European Works Councils if the UK leaves the EU with no deal on 29 March 2019. The position at the current time is not clear, therefore we recommend that you take advice concerning any European Works Council that may operate in your business before 29 March 2019.

It is not possible for us at the current time to answer the second question often posed to us, namely will there be changes to legislation such as the TUPE regulations or the Working Time Regulations which often attract negative comments from employers? We can only suggest you subscribe to our free updating services to keep abreast of future changes and developments in employment law that may occur after Brexit.