


Non-compete clauses - proposed changes to employment contracts

 17 May 2023

In our "[Smarter Regulation](#)" update, we included the Government's proposed approach to regulating the use of non-compete clauses. The Government has now published its [response](#) to the previous consultation which closed in February 2021, setting out some further information about the reform proposals.

There weren't a huge number of responses to the previous consultation – just over 100 – but the majority (60%) supported the inclusion of a maximum limit on non-compete clauses. Of the limits proposed, 3-months was the least favoured approach but despite this, this is the period that the Government is proceeding with.

The limit will be applied to non-compete clauses contained in both employment and limb (b) worker contracts but will not be extended out to other forms of contract nor other types of restriction such as non-dealing.

The response is clear that where non-compete clauses are less than three months, they will still be subject to the current common law principles on enforceability – there will be no presumption that a non-compete clause for less than three months will be enforceable. The response does not, however, confirm whether a non-compete clause which is longer than three months will be automatically void or simply capped at three months (assuming it is otherwise enforceable).

No specific timescales have been provided for the change - legislation will be introduced "when parliamentary time allows" for England, Scotland and Wales.

If you'd like to discuss how your business can prepare for these proposed changes and the potential options available for protecting your legitimate interests, please do get in touch.

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