

Employment Rights Bill

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Employment Rights Bill - Agenda



- Introduction
- Protection against insecure hours of work
- Unfair dismissal: a day one right
- Fire and rehire and collective redundancy reform
- Collective labour law reforms
- Flexible working
- Discussion and Q&A

Introduction

Employment Rights Bill



- The [Employment Rights Bill](#) was delivered to Parliament on 10 October 2024
- This follows Labour's pledge to deliver the Bill within 100 days
- Provides the headline proposals but much of the detail to be captured in future Regulations
- The Bill has just passed the 2nd reading in the House of Commons

Employment Rights Bill



- The government also published a policy document to accompany the new Bill: [Next Steps to Make Work Pay](#)
- Key themes:
 - Extending employment rights (unfair dismissal, unpaid parental leave, paternity leave) to take effect from day one of employment
 - Increasing the right to work flexibly in a fair way by banning zero-hour contracts and making flexible working the default position
 - Strengthening the role of trade unions
 - Reforming statutory sick pay

Employment Rights Bill



- Some aspects of the Bill will be subject to further consultation:
 - Zero hours contracts
 - Collective redundancy and fire and rehire
 - Trade union
 - SSP
- Employers can participate in these consultations which close on 2 December (4 December for SSP)

Protection against insecure hours of work

Protection against insecure hours of work



- [Next Steps to Make Work Pay](#)
- Kickstart economic growth
- End one-sided flexibility
- Baseline level of security and predictability
- “...a rising tide of insecurity that has accompanied low growth, low productivity and low pay”
- Bill’s provisions are “...daunting in their detail, length and complexity”
- Consultations

Protection against insecure hours of work



- Right to guaranteed hours
- Reasonable notice of shift changes
- Payments for cancelled, moved or curtailed shifts

Right to guaranteed hours



- Right to guaranteed hours
- Qualifying workers
- On zero or low hours pw
- If regularly work more than these hours
- Right to move to guaranteed hours contracts
- Detail to come in future Regulations

Reasonable notice of shift change



- Reasonable notice of shift changes
- Change: different time, new shift, cancellation
- Not just zero hours workers
- What is 'reasonable' will depend upon all the circumstances of a case
- Detail also to come in future Regulations

Payments for cancelled, moved or curtailed shifts



- Require employers to make a payment of a “specified” amount to a worker when it cancels, moves or curtails a “qualifying shift” at “short notice”
- “Specified circumstances” in which the duty will not apply at all
- Detail also to come in future Regulations

Unfair dismissal

A day one right

Unfair dismissal: a 'day one right'



- Will take effect no sooner than Autumn 2026
- The Bill will remove the 2-year qualifying period
- An 'initial period of employment' (IPE)
 - Essentially, a statutory probationary period (proposed 9 months but may change)
 - Dismissals still need to be for one of the potentially fair reasons during the IPE (except redundancy dismissals)
 - It is presumed that fairness will be assessed with a 'lighter touch' during this period, but await full details in future regulations

Unfair dismissal: a 'day one right'



- How much process will be required during the IPE?
- In the government's ['Make Work Pay'](#) policy document an idea of the shortened fair dismissal process during the IPE/probationary period is given:

“As a starting point, the Government is inclined to suggest it should consist of holding a meeting with the employee to explain the concerns about their performance (at which the employee could choose to be accompanied by a trade union representative or a colleague). The Government will consult extensively, including on how it interacts with Acas’ Code of Practice on Disciplinary and Grievance procedures.”

Unfair dismissal: a 'day one right'



- Impact on employment practices:
 - More focus on recruitment processes to assess suitability/capability;
 - Performance management during the probationary period;
 - Clear contractual provision on probationary period;
 - Following the disciplinary procedure for all employees;
 - Ensuring adequate records are kept relating to performance or conduct concerns, even informal;
 - Management training may be required.

Fire and rehire and collective redundancy reform

Fire and rehire reform



Fire and rehire



- Employer 'imposes' T&C changes on employee
- Currently legal if employer has reasonable grounds
- New law: automatically unfair
- Exception: employer has to restructure to remain viable
- Contractual variation clauses

Collective redundancies



- 20 or more employees at one establishment / 90 days or less = 30 days CC
- 100 or more employees at one establishment / 90 days or less = 45 days CC
- Consult with employees individually, and reps collectively
- New laws remove words “*at one establishment*”
- Bigger employers beware!

Collective redundancies



- Up to 90 days ‘protective award’ for non-compliance
- P&O breached all CC obligations
- Discussion on increasing the cap

Collective labour law reforms

Collective labour law reforms



- The government intend to strengthen the legislative framework which underpins trade union laws as part of their pledge to strengthen worker rights
- Strikes (Minimum Service Levels) Act 2023 will be repealed
- Trade Union Act 2016 will be repealed including the turnout thresholds in strike ballots imposed
 - Currently 50% of eligible members of the TU must vote in the ballot for it to be effective, this requirement will be removed

Collective labour law reforms



- New legal rights:
 - Right to statement of trade union rights;
 - Right for unions to enter workplaces to facilitate collective bargaining (policy document indicates there will be clear rules but no detail yet);
 - New bargaining institutions such as sectoral agreements in adult social care

Flexible working

Flexible working



- Currently two requests in 12-month period
- Refusal must be on [statutory grounds](#):
 - 1) the burden of additional costs,
 - 2) detrimental effect on ability to meet customer demand,
 - 3) inability to re-organise work among existing staff,
 - 4) inability to recruit additional staff,
 - 5) detrimental impact on quality,
 - 6) detrimental impact on performance,
 - 7) insufficiency of work during the periods the employee proposes to work,
 - 8) planned structural changes
- New (modest) change: refusal must also be **reasonable**
- 'Default position'?

Summary



- Tackling bad work
- Govt trying to reverse productivity slowdown
- Incentivising workers to work
- Not race to the bottom on standards
- Trade unions largely supportive
- Costs to UK businesses of £5bn pa
- Biggest change to employment law in a generation

Any Questions?