The Employment Rights Bill – Looking Forward

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Background

Looking further ahead:

- Identifying key changes expected to be implemented in 2027
- Look out for forthcoming consultations, further changes and detailed regulations and guidance

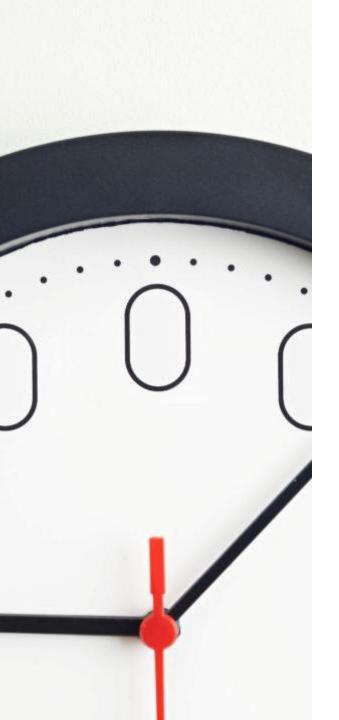
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As mentioned earlier, we will be covering the following changes in this session:

- **1** Zero-hours contracts
- 2 Umbrella companies
- 3 Single status of worker
- 4 Enhanced rights for pregnant workers and maternity leave returners
- 5 Statutory bereavement leave

- 6 Enhanced flexible working rights
- **7** Gender pay gap reporting and menopause support
- 8 Day one unfair dismissal rights





- Currently, zero-hour contracts are permitted but they cannot include clauses preventing employees from working somewhere else
- There is currently no explicit right to have a more predictable working pattern, or to notice of shifts



- Zero / 'low' hours workers (and agency workers) will have the right to:
 - an offer of a contract of guaranteed hours, reflecting 'reference period'
 - reasonable notice of time, day and hours for shifts
- Requirement to offer contractual, guaranteed hours after the end of every reference period, if hours exceed the minimum hours set in contract
- Anticipated that initial reference period will be 12 weeks
- Pay protection for agency workers offered a guaranteed hours contract
- Right to 'reasonable' notice (TBC) of any change to or cancellation of a shift, with compensation for shifts cancelled on 'short notice' (TBC)
- Opt-outs & exceptions likely, eg: offer can be fixed-term (not perm) if that's "reasonable"; short-term labour needs (& seasonal work?)

Identify existing zero or 'low' hours workers (await clarification of what 'low' means)

Start monitoring hours worked over a 12-week reference period

Review and implement systems to track hours, anticipate needs and shifts, and circumstances of possible change Look out for consultation and detailed government guidance, then:

- Anticipate 'exceptions', and plan accordingly
 - Support managers to understand & consistently apply rules





- Existing regulation (Employment Agencies Act 1973 and Conduct of Employment Agencies and Employment Businesses Regulations 2003) for employment agencies and employment businesses
- But an "employment business" is typically an agency employing temps and sending them to client companies, under the control of someone else
- Therefore, gap opened for unregulated intermediary "umbrella companies": recruitment agency finds a temp role with a client, but worker is employed and paid by an umbrella company (not on the agency's payroll)



- The definition of employment agencies to be expanded to also capture 'umbrella companies', allowing enforcement within the scope of existing regulatory frameworks
- Key objectives: clarity & to address financial detriments for workers
- Definitions and scope of regulation remains subject to consultation, but likely to fall within scope of Fair Work Agency once established
- What next: The Roadmap suggests consultation will take place later this year, with the measures then taking effect in 2027

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Audit and understand labour supply chain

Prepare to assess if suppliers meet current and upcoming regulatory requirements

Assess
agreements
with suppliers,
to add clear
compliance
terms and
indemnities

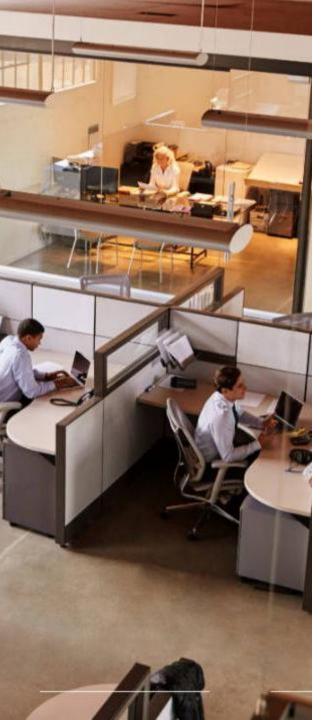
Introduce
ongoing
monitoring to
ensure
continued
compliance
and fair
treatment of
workers

Technical guidance expected for affected businesses

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Single status of worker





Three tiers, with different statutory rights (and tax treatment):

- Employees
- Workers
- Self-employed



- The Government has proposed replacing the current three-tier system (employees, workers, self-employed) with a 'simpler' (?) two category framework:
- 1. employees / workers (no distinction); and
- 2. genuinely self-employed

Not part of the Employment Rights Bill

Consultation and further detail awaited

Mainly a case of 'watch this space'

Assess how you currently identify and differentiate between those who work for you, and why. Never a bad idea to audit employment status from time to time

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Pregnancy/maternity leave protections



- Since April 2024 pregnant employees have had the right to be
 offered suitable alternative employment (where available) from
 the point they inform their employer of their pregnancy
- This protection also applies for up to 18 months post birth



- From 2027 it will become **unlawful to dismiss** a pregnant employee or an employee returning from maternity leave within 6 months of their return, except in limited circumstances (such as gross misconduct or illegality)
- This enhanced right will apply to any dismissal, rather than just redundancy
- A consultation, seeking views on changes to this area, was published on
 23 October and will close on 15 January 2026

Review risk assessments, policies and guidance in place to identify any gaps now

Provide
managers with
updated training
on the new
provisions to help
mitigate
discrimination
risk

Implement a system whereby key dates and protected periods for each employee are logged and flagged in HR systems



- Only employees who experience the loss of a child under the age of 18
 or a still birth after 24 weeks of pregnancy are entitled to be reavement
 leave
- This was introduced in April 2020 and employees are generally entitled to two weeks of leave and pay if certain criteria are met



- From 2027 bereavement leave will be extended to cover early pregnancy loss before 24 weeks which will include losses resulting from miscarriage, ectopic pregnancy and unsuccessful embryo transfer during IVF treatment
- Mothers and their partners who experience loss will be entitled to one week of unpaid leave
- The Bill also seeks to give the government power to introduce a day 1
 right to at least one week of bereavement leave for employees where they
 lose a dependent. Regulations will specify the definition of dependent
- A consultation, seeking views on changes to this area, was published on
 23 October and will close on 15 January 2026

Create guidance and resources for managers to help them respond compassionately and consistently to bereavement situations

Implement a clear, confidential process for requesting leave

Update existing compassionate and bereavement leave policies

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- From April 2024, employees have had the right to make a statutory flexible working request from day one of employment and they are entitled to make two requests in any 12-month period
- Employers are required to consult with an employee before making a decision on the request and can only reject the request if there is a genuine business reason for doing so



- From 2027, employers will not be allowed to refuse a request unless they state the reasons and explain in writing why they believe their refusal is reasonable
- The existing eight grounds of refusal will remain the same
- Before refusing a request, the employer will need to consult with the employee first
- Tribunals will be able to consider whether an employer's decision to refuse a request was reasonable

Review flexible working policies

Implement a system for flexible working requests (if one is not in place already)

Training for managers

Trial periods (if possible) if a request has been made



Gender pay gap reporting and menopause support



- Employers with **more than 250** employees must publish annual gender pay gap reports
- However, employers are not currently required to publish actions plans outlining steps to address the gender pay gap
- Approximately only **half** of reporting employers currently publish such plans



- New regulations will require employers with more than 250 employees to publish gender pay gap action plans outlining how they are tackling their gender pay gap
- From April 2026, employers will be encouraged to adopt this policy on a voluntary basis, and it will become mandatory in 2027
- Action plans must also include details on how the employer proposes to support workers going through the menopause

Review gender pay data collection and analysis to identify gaps

Seek input from employees

Utilise the voluntary reporting system in 2026 to establish and refine an effective system

Training for managers to help recognise and support menopause related issues





- Qualifying period of two years: only employees who have been continuously employed for two years or more can claim *ordinary* unfair dismissal
- Exceptions for certain matters including discrimination, whistleblowing, asserting certain statutory rights etc



- Removal of the two-year qualifying period
- All employees will have unfair dismissal protection from day one of employment
- Protection will not apply where the employee has signed a contract but not yet started, other than in certain circumstances
- There will be a statutory "initial period of employment" ('IPE') (nine months?), during which employer can terminate (or serve up to three months' notice to terminate), but only by reason of: capability; conduct; illegality; or some other substantial reason (if that reason is '...related to the employee')
- But even then, employer must follow a 'lighter touch' dismissal process in doing so (watch out for regulations as to what this will mandate)
- Note that this *lighter touch* option is <u>not</u> expected to cover redundancy, so expect to follow a full consultation (but NB, no change to two-year threshold for right to statutory redundancy *payment*)

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Ensure thorough pre-employment checks and recruitment processes

Review probation clauses in contracts and employee handbooks and implement structured probation review points (e.g. 2 weeks, 1 month, 3 months, 6 months)

Create clear performance standards and KPIs and diarise to dovetail with IPE

Consider shorter notice periods and PILON clauses, during first year. Beware of fixed terms – still a dismissal Monitor regulations carefully, as much remains to be clarified.

Expect more litigation.

Train managers on constructive feedback, performance improvement plans, and documentation.

Consider interplay between absences, grievances and IPE reviews. Review policies? SOLICITORS AND PARLIAMENTARY AGENTS Arbor 255 Blackfriars Road, London, SE1 9AX DX 156810 London Bridge 6 020 7593 5000 020 7593 5099 www.wslaw.co.uk



THANK YOU

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