

The Employment Rights Bill – Looking Forward

Winckworth
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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

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

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Zero-Hour Contracts



Current Law

- 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



What's Changing

- 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?)

Action Points

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

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Umbrella companies

A photograph of a person from behind, holding a black umbrella, standing on a rainy city street at night. The street is wet and reflects the blurred lights of cars and buildings in the background, creating a bokeh effect. The person is wearing a dark jacket. The overall mood is atmospheric and urban.



Current Law

- 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)



What's Changing

- 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

Action Points

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

Single status of worker





Current Law

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

- Employees
- Workers
- Self-employed



What's Changing

- 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

Action Points

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





Current Law

- 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



What's Changing

- 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**

Action Points

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

Expansion of bereavement leave





Current Law

- 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 bereavement leave
- This was introduced in April 2020 and employees are generally entitled to **two weeks of leave and pay** if certain criteria are met

A lit candle with a bright flame, positioned on the left side of the slide. The background is a solid dark blue. The candle is yellow and has a small flame.

What's Changing

- 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**

Action Points

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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Enhanced Flexible Working Rights





Current Law

- 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



What's Changing

- 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

Action Points

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



A close-up photograph of two stacks of gold-colored coins, likely 1 Euro coins, held vertically by human fingers. The coins are stacked one on top of the other, and the fingers are visible at the top and bottom of the stacks. The background is a soft, out-of-focus orange-brown color.

Current Law

- 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



What's Changing

- 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**

Action Points

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

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Day one unfair dismissal rights





Current Law

- 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

A close-up photograph of a person's hands, wearing a light-colored long-sleeved shirt, packing a brown cardboard box. A red object is visible inside the box. The box is sitting on a white surface with some papers and a small orange object nearby.

What's Changing

- 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 not 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*)

Action Points

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?

THANK YOU

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