

# The Employment Rights Bill- What You Need to Know

On 10<sup>th</sup> October 2024, the Government published the highly anticipated Employment Rights Bill. The Bill is set to make some fundamental changes to employment law as we know it, with 28 proposed law reforms as well as an accompanying “Next Steps” document outlining plans for the future.

## What’s Changing?

The new Bill marks the most substantial transformation of UK employment law in years, tackling issues such as workplace discrimination, zero-hours contracts, “fire and rehire” practices, sexual harassment, and statutory sick pay. While many consider these changes long overdue, some businesses are worried about the costs involved, particularly their potential impact on smaller enterprises. It is no surprise that employers are eager to learn how these reforms will affect their organisations, but with the Bill now undergoing extensive Parliamentary review, it will likely be some time before we see the effects of the proposed reforms.

For now, employers will want to be prepared for what lies ahead.

## Key Reforms

**Unfair Dismissal Rights from Day One:** Employees will be protected from unfair dismissal from the first day of employment, eliminating the current two-year requirement. The government will also consult on a new statutory probation period for assessing new hires, expected to be 9 months. More is set to be revealed in 2025 about how this statutory probation period will correspond with the Acas Code of Practice.

**Ending Exploitative Zero-Hours Contracts:** It is important to note that only “exploitative” zero-hours contracts are set to be banned. Employers will be expected to provide guaranteed hours to those who consistently work during a specific period, however, workers will be able to remain on zero-hours contracts if they prefer. Employees are also set to receive reasonable notice regarding shifts, as well as payment for shifts that are cancelled or modified at short notice.

**Enhancing Flexible Working:** Flexible working will be the default wherever it is practical. The reasons for rejecting a flexible working request remain the same, but when a request is denied, the employer will need to prove why it was reasonable to do so.

**Improving Statutory Sick Pay:** The Bill proposes removing the current three-day waiting period for sick pay, and lowering the earnings threshold so that SSP is available to all employees.

**Protection From Sexual Harassment:** Starting 26<sup>th</sup> October 2024, employers have a proactive duty to take ‘all reasonable steps’ to prevent sexual harassment of their employees. Future regulations are set to define what ‘all reasonable steps’ will entail. For now, it is reasonable to assume that employers will be expected to provide regular training, promote a culture of zero-tolerance, and implement clear policies. Protection against third-party harassment will also be reinstated in the Equality Act 2010 (after its 2013 repeal). Disclosures of sexual harassment will also be treated in line with whistleblowing as ‘protected disclosures’.

**Prohibiting 'Fire and Rehire' Practices:** It will be automatically unfair to dismiss a worker who is unwilling to accept a change to their employment terms. The option to fire and rehire will remain available in certain circumstances, such as where it is necessary to preserve the viability of a business. However, it is sensible to view fire and rehire practices only as a last resort.

**Immediate Entitlements for Leave:** Workers will be entitled to paternity leave; unpaid parental leave; and bereavement leave from their first day on the job.

**Protections for New Mothers:** New mothers will be afforded stronger protections against dismissal, making it unlawful to dismiss a woman whilst pregnant, on maternity leave, or within six months of her return to work- except for in exceptional circumstances.

**Addressing Gender Pay Gap and Menopause:** Employers with 250 or more staff will be required to publish action plans detailing how to address their gender pay gaps as well as how they will support employees going through menopause, facing penalties if they fail to do so.

**Changes to Redundancy Procedures:** The Bill eliminates the need for redundancies to occur at a single establishment in order to trigger collective consultation requirements. This means multi-site employers will need to closely track redundancy numbers and conduct more collective consultations. The ‘Next Steps’ document also outlines plans to remove the cap on protective awards for failure to enforce an adequate consultation process.

**Supporting Trade Unions:** Employers will have a duty to provide staff with a written statement highlighting their right to join a trade union. This should be provided at the same time as their contract of employment, with regular reminders also being given. The Bill also aims to lessen restriction on trade union recognition, lowering the threshold for a union to be recognised to a simple majority of those voting. The organisation of industrial action is also set to be simplified, with postal ballots being replaced with electronic and workplace ballots. There are also set to be increased protections against dismissal for union reps. While it may seem like a lot is set to change, it’s important to remember that a substantial difference isn’t expected to be felt in already unionised sectors.

**Establishment of the “Fair Work Agency”:** The Fair Work Agency is intended to be a one-stop-shop for employers seeking advice, and employees seeking support. The agency is

set to simplify things for workers by integrating the powers of the several existing enforcement bodies into a single authority.

### **What's Next?**

A key takeaway to remember is that the Bill's Parliamentary process will be lengthy! It is set to face a good deal of scrutiny, meaning that we can expect to be waiting a considerable amount of time before seeing any tangible changes.

While we do not have an exact guarantee of when changes will come into force, we can predict that many provisions will not be finalised until sometime in 2026.

So don't panic! With proposals likely to be modified during upcoming consultations, the best thing to do right now is to allow the Parliamentary process to unfold and keep an eye out for significant updates. If you have any questions about the Bill or its impact on your business, you can reach out to the expert team at Bhayani Law on 0333 888 1360. To stay informed about key updates and changes, you can subscribe to our newsletter [here](#).