



Employment Law update:

Understanding the impact of the Employment Rights Bill

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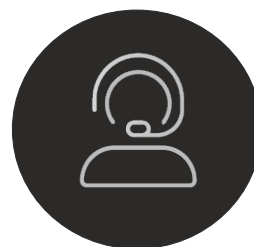
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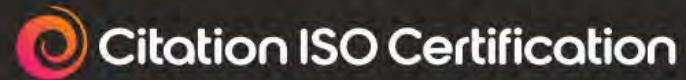
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In October, the new Employment Rights Bill set out the biggest upgrade to workers' rights in a generation

The Bill sets out over 28 key employment law reforms over 158 pages of legislation

Since October there have been over 200 amendments, and it now stands at a massive 310 pages



Unfair dismissal rights from day one

- The 2-year service requirement will be removed
- Likely to come in Autumn 2026
- Probation periods will still be allowed (3- 9 months) but they will be limited in time and employers will need both:
 - a fair reason to dismiss **and**
 - a fair procedure





What employers need to do

- Employers should review:
 - Recruitment practices
 - Induction processes
 - Probation processes
 - Contracts
- Train managers on the new processes – important to have a consistent approach.
- Consider your retention strategy





Statutory Sick Pay

- Abolishes the requirement that earnings should be above the Lower Earnings Limit, meaning that all eligible employees will be entitled to SSP, regardless of their earnings.
- Those earning less than LEL will receive the lower of 80% average weekly earnings or SSP .
- Removes the 3-day waiting period, making SSP payable from the first day of sickness absence.





What employers need to do

- Sickness is absence is already one of the top HR problems for employers - **15%** of all Citation advice given.
- Employers should generally review their absence management processes:
 - Self-certificates
 - Return to work interviews
 - Welfare measures - e.g. EAP, World Mental Health Day initiatives etc.
 - Is it appropriate to discipline?
 - Discrimination risks





Zero hours contracts

Three key changes:

1. Right to a contract giving guaranteed hours
2. Right to reasonable notice of shifts
3. Right to reasonable notice of cancelled, moved and shortened shifts





Right to guaranteed hours

- Employers **MUST** offer a 'guaranteed hours' contract to workers once they've completed a certain amount of work over a specified period.
- It will apply to those working under a zero-hours contract or under a contract which gives them less hours than the specified maximum.
- The right will apply to agency workers and it will be the responsibility of the hirer to make the offer.





Right to reasonable notice of shifts

- The Bill introduces a duty on employers to give reasonable notice of a shift
- This includes the number of hours and/or the day/ time of the shift
- Reasonable notice is not defined but will not be longer than 7 days
- For agency workers, it will be the joint responsibility of the hirer and the agency to provide reasonable notice (how this happens in practice will be for the two parties to agree)





Right to reasonable notice for cancelled, moved and shortened shifts

- Introduces a right to reasonable notice of cancelled, moved or shortened agreed qualifying shift. The same definition of 'reasonable notice' will apply.
- If the employer fails to give reasonable notice in these circumstances, they will have to pay compensation. Agency will have to pay the compensation (but can recoup from hirer if their contract stipulates this).
- Will not be more than they would have earned during all or part of shift and tribunals will have discretion on how much to award.





What employers need to do

- Keep up to date on the developments in this area - e.g. look out for the '*certain amount of hours over a specified period*' definition being confirmed.
- Prepare by:
 - reviewing current work structure
 - consider changes required and the risks of change
 - consider how currently give notice of shifts/variation
 - reviewing management of shifts





Tribunal time limits

The Amendment paper includes a proposal to increase the time limit to bring an employment tribunal claim.



Time limit will be increased from 3 months to 6 months.





Flexible working

There has been no change proposed to the existing 8 grounds on which an employer can refuse flexible working.

However, an employer should only refuse a request if:

1. They believe it should be refused on one of those grounds **and**
2. It is reasonable for them to refuse it on those grounds.

When refusing a request, the employer must state the grounds for refusal explaining why it is reasonable to refuse the application.

The Secretary of State may specify particular steps to be followed when consulting with an employee before refusing a request.



The Worker Protection Act 2023

- Came into force on **26 Oct 2024**.
- Creates a new, proactive duty to take "reasonable steps" to prevent sexual harassment occurring
- Breach incurs up to 25% increase in damages
- Intention is to shift the focus on preventing harassment happening in the first place
- Equality & Human Rights Commission updated guidance includes preventing sexual harassment by third parties





Harassment in the new Bill

1. Changes the duty on employers to take **all** reasonable steps to prevent sexual harassment.
2. Extends the current law concerning all types of harassment to include harassment by third parties.
3. What should employers do now?
 - Risk assessment
 - Policies
 - Training
 - Appropriate and consistent enforcement



Fire and rehire

- A **Statutory Code of Practice** came into force in July 2024. Sets out detailed steps that employers should take when seeking to make changes to contractual terms e.g. providing information and exploring alternatives.
- **The Employment Rights Bill** effectively bans the practice unless there is genuinely a risk to the survival of the business, leaving no alternative, and a proper process is followed.
- In all other circumstances it will be **unfair to dismiss** someone for refusing a change of terms, or to immediately re-engage (or replace) them for the same duties but on different terms.



Changes to Parental, Paternity and Bereavement leave

Parental Leave will become a day one right (currently need to have one year's service).

Paternity Leave will become a day one right (currently available to employees with 26 weeks' service by the qualifying week (the 15th week before the baby is due)).

Bereavement Leave will be extended beyond just parents offering others who suffer bereavement (at least one week). Those entitled to leave for more than one person will be entitled to a period of leave for each person. The exact nature of the relationship will be set out in the regulations.



The Fair Work Agency

- Creates a new single labour market enforcement body which will bring all labour market enforcement within one organisation.
- Wide powers to require people to provide information and its enforcement officers will have the power to enter business premises and have access to and retain documents/ computer files.
- Will have the ability to issue underpayment notices for NMW, SSP and holiday pay (with a financial penalty) - enforceable through court.
- Can bring a tribunal claim on behalf of workers who don't want to bring a claim themselves.
- Will be able to provide legal assistance to workers in bringing tribunal claims.





Union Reforms

A significant part of the Bill is devoted to Trade Union reforms. These include:

1. Repealing restrictive trade union legislation introduced by the Conservative government.
2. Introducing a new requirement for employers to provide all workers with a written statement of their right to join a trade union.
3. Granting union officials the right to access workplaces for meeting, representing, recruiting or organising workers and enabling collective bargaining governed by "access agreements".
4. Relaxing the rules on ballots for union recognition (currently at least 10% must be members - reducing to between 2% and 10%).
5. Changing the requirements for a successful recognition ballot to a majority of the actual votes cast to be in favour rather than at least 40% of the whole group eligible to vote.
6. Simplifying the ballot for industrial action so that only majority support will be needed.



Neonatal Care Leave and Pay Regulations 2025 - 6 April 25

Right to leave

Day one right to take up to 12 weeks' leave for employees where a neonate (child which is 28 days old or younger) is admitted to hospital for care for a continuous period of seven days or more. Entitlement is one week of leave for each week the child is receiving neonatal care. The leave must be taken within 68 weeks of the child's birth,

Right to pay

Right to statutory neonatal pay where the employee meets service and minimum earnings criteria (expected to be 26 weeks and Lower Earnings Limit which is currently £123 per week).



Questions





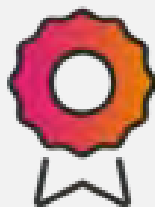
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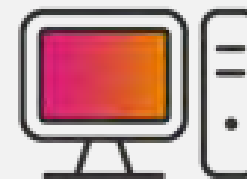
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