
EMPLOYMENT LAW – LABOUR’S CHANGES

OCTOBER 2024



EMPLOYMENT RIGHTS BILL (BECOMES ACT 2025)

- Consultation 2025
- Take effect Autumn 2026
- Not to be confused with the ERA 1996!
- Next steps to make work pay

UNFAIR DISMISSAL

- Day 1 Rights
- Qualifying period removed
- “Initial Period of Employment”
- i.e. probationary period of 9 months “government preference”
- Light Touch only if reason related to;
 - conduct or capability
 - statutory ban
 - SOSR related to employee
- BUT – S98 (4) still applies redundancy or business reorganisation (but SRP not affected)
- Paragraph 30 next steps document minimum steps for light touch – very much like previous statutory dismissal procedure

UNFAIR DISMISSAL CONTD...

- **What to do now? Nothing yet but after law changes?**
- **Repeal qualifying 2-year period for written reasons for dismissal**
- **Only applies to employees (not workers as suggested)**
- **Promise to consult in future single worker status**
- **No effect on using agency (be employees of agency so their risk goes up)**
- **Lawful to have longer probation period – longer notice/less perks?**

PROTECTION FROM THIRD PARTY HARASSMENT

- Employment Rights Bill clause 16
 - Currently since 26/10/24, “reasonable steps to prevent third party harassment” s40 EquA
 - Employer must not permit third party to harass in course of employment
- New bill direct liability on employers if they fail to take ALL reasonable steps and all harassment not just sexual
- S109 EquA already has “reasonable steps defence”

PROTECTION FROM THIRD PARTY HARASSMENT CONTD...

- Practical Risk Reduction
 - i. Clear Anti-Harassment Policy
 - ii. Training for Employees and Managers
 - iii. Zero-Tolerance Approach
 - iv. Acting on Employee Suggestions
 - v. Effective Reporting Mechanisms
 - vi. Monitor High-Risk Situations
 - vii. Contractual Clauses with Third Parties
 - viii. Supportive Environment
 - ix. Swift Investigation and Response
 - x. Regular Review and Risk Assessments
 - xi. Employee Assistance Programmes

FAMILY FRIENDLY AND FLEXIBLE WORKING

- Currently 8 reasons to refuse flexible working (can be verbal)
- In future; can claim for failing to agree contract variation
- Must explain why ground applies
- No change to penalty still 8 weeks pay and can still do verbally (not very wise) and still only twice a year
- This does not match the rhetoric of flexible working by default
- Bereavement Leave – no current right (except for bereaved parents of under 18 – 2 weeks statutory bereavement pay)
- Employment Rights Bill Clause 14 extends to all bereaved – 1 week unpaid except if deceased is child under 18 (2 weeks bereavement pay)
- Will be automatically unfair to dismiss for taking bereavement leave

FAMILY FRIENDLY AND FLEXIBLE WORKING CONTD...

- Enhanced protection for pregnant and new mums – just to say government has power to make regulations to make it automatically unfair to dismiss (currently only redundancy if not offered suitable alternative)
- Gender Pay Gap/Menopause Reporting – no specifics but power to make regulations - applies to employers with over 250 employees e.g. to require an equality action plan to correct gender pay gap

ZERO HOUR WORKINGS – CLAUSES 1-4

- Over a million people on Zero Hours
- New rules are very complicated
- Right to guaranteed hours
- Reasonable notice of shift
- Reasonable notice for shift being cancelled and compensation if not given
- All of this will apply to agency workers too

ENDING FIRE AND REHIRE

- Presently you can negotiate a contract change and if not agreed, dismiss and then re-employ on very similar terms
- In 2 years time this will be OVER. It will be automatically unfair to dismiss (Clause 22) if it is because an employee refused to agree a contract variation or to facilitate re-employing them or someone else to carry out substantively the same duties
- Change shift pattern
- Small amount of wriggle room if reason for variation; **eliminate, prevent, significantly reduce financial difficulties causing immediate future endangerment to the business i.e. about to collapse**

HOW TO MANAGE THIS

- Rely on variation clauses – but tribunals only permit for minor changes
- Dismiss employees who won't agree to changes and hire agency workers because as drafted bars employing “another person”.

OTHER CHANGES

- Remove “at one establishment” when judging 20 people within 90 days
- Reversing all conservative changes to union laws in favour of unions
- SSP – Currently need to be off 3 days. Changing to 1 day and lower earnings threshold removed. Now £116.75 – will be either £116.75 or if lower percentage of earnings
- Written statement of particulars – needs a written statement to say workers have the right to join a union
- Extended definition of protected disclosure, (needed for whistleblowing) – to include sexual harassment (and possibly bullying and harassment)

FUTURE CHANGES

- Review parental and carers leave
- Consider single worker status
- TUPE review (won't happen)
- Review neurodiversity awareness
- Long Covid

Any questions?

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