

# Employment Rights Bill: everything SMEs need to know



So, the government have kept their promise and published draft legislation within 100 days for the Employment Rights Bill.

It displays a very skeleton version of their original Plan to Make Work Pay, however the government insist that further reforms will follow. The Bill still represents a huge shift in employment law: workers gain additional rights whilst businesses gain additional costs and admin.

Many of the reforms proposed are likely to go through consultation processes, alongside the legislative stages, so we don't expect these changes to be imminent. However your business should start preparing now, so you don't get caught out.

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# Unfair dismissals

## What is this proposed reform?

One of the big reforms is changes to unfair dismissal rights.

Currently, employees do not get protection from unfair dismissal until they have completed two years of continuous service. The government want to change this.

They plan to make unfair dismissal a day one right for all employees. They will also be running a consultation on the length of statutory probation periods. Their preference is nine months. These would have less requirements for employers to meet if they are looking to dismiss someone who isn't right for the job, though there would still be processes to go through.

## What does this mean for you?

The two-year rule currently offers employers some protection when hiring new staff, giving a longer period to assess them. Once this law is enacted, this will no longer be possible. The probation periods should go some way to alleviating this, however it will still require significant due process to be followed to ensure that dismissals are just. We will find out more about this once the consultation is carried out.

The good news is, the government has said that this change will not be in place before autumn 2026, so there is plenty of time to prepare.





# Zero-hour workers

## What is this proposed reform?

Probably the most high-profile change. The government has been vocal about banning what they refer to as 'exploitative' zero-hour contracts, and this is how they plan to do it – though the devil will very much be in the detail.

Employers will be mandated to make an offer of permanent, guaranteed hours following a qualifying reference period. Employees can choose to refuse this and remain on a zero-hour contract if they wish. There is likely to be a few exceptions, such as if the zero-hour contract is only in place for a temporary occurrence, for example an event.

Workers will also be entitled to 'reasonable notice' of a change or cancellation of shifts, as well as the right to be paid should reasonable notice not to be given. We await clarification of what reasonable notice is. The government has also confirmed that it will separately enter into consultations to decide if these rules should be applied to agency workers as well.

## What does this mean for you?

If you use zero-hour contracts, then this will have a big impact on you. It is likely that you will no longer be able to use this form of contract for longer than twelve weeks, so you will need to plan alternatives. These may include short term contracts, or offering contracts with hours reconciled over longer periods, rather than guaranteed weekly hours. Get expert HR support before drawing these up.

Whilst we don't have an implementation date, it is vital that your workforce planning starts now.





# Flexible working

## What is this proposed reform?

In their **Plan to Make Work Pay**, Labour promised to make flexible working the default. We now know what that means.

Employees will be able to work flexibly from day one of employment, and employers will require a reasonable business reason to refuse it. The definition of 'reasonable' has not been given but may be on the grounds of burden of additional costs, detrimental effect on the ability to meet customer demand, inability to re-organise work or recruit additional staff, impact on quality of performance, insufficient work during period the employee proposes and planned structural changes. All refusals will have to be in writing.

## What does this mean for you?

You may or may not already be offering flexible working. You may or may not have reasonable grounds to refuse it if you do not currently offer it. Either way, your flexible working policies need to be up to scratch and we will keep you informed of further developments.





# Parental and bereavement rights

## What is this proposed reform?

The government wants to make big changes to parental and bereavement rights, as part of their family-friendly agenda.

They have proposed that all parental and paternity leave rights are available from the first day of employment, rather than waiting for 26 weeks. They also want all employees to be able to access bereavement leave, rather than just parents. Thirdly, they are keen to implement more protection – for a specific period of time – from redundancy and dismissal for pregnant women and mothers returning to work. We don't yet know what this period of time will be.

## What does this mean for you?

More policy reviews, and more policy updates.

You will need to ensure that your family policies get updated in line with these changes, to keep you compliant.

You will also need to ensure you are very carefully following the correct procedures with disciplinaries, redundancies and dismissals, should your employee be pregnant or returning post-childbirth.





## Sick pay

### What is this proposed reform?

The government plan to make statutory sick pay (SSP) available from day one, replacing the current three-day waiting period.

They will also remove the lower earning limits that currently exist. At the moment, employees earning less than £123 will not be entitled to SSP. This is going to change, making it available to all employees. They will be consulting on what the rate should be for those earning under the current limit.

### What does this mean for you?

Absence management will become more challenging, with staff being able to claim SSP straight away. Ensuring you have the policies, processes and procedures in place to manage this will be crucial to ensuring there is not too many lost hours. Given that SSP is not reclaimable, it will add to the ever-increasing financial burden being placed upon small and medium sized enterprise. You will need to adjust to the cost implications of this.

Review how you manage absences currently, make sure it is fit for purpose and explore ways to reduce the likelihood of employees taking advantage of this change.





## Other changes

### What is this proposed reform?

Some other changes mentioned by the government, which we don't have too much information on currently, could also have an impact.

Trade union laws are going to be amended, or repealed, to make it simpler for people to join unions and allow them to access workplaces more easily.

The government will also be amalgamating the different enforcement bodies to create one: the Fair Work Agency. The full remit of this is not currently known – we will know more once all the above measures are consulted on and implemented.

The government have also pushed for the Low Pay Commission to take account of cost of living when setting the minimum wage, whilst also removing age bands so everyone gets the same rate.

### What does this mean for you?

If you pay minimum wage, expect your costs to increase. Make sure you consider it when managing your workforce budgets.

As for the other two, we will learn more about what they mean as the legislation passes through parliament and consultations.





## What should you do now?

You need to get prepared. Yes, there is a lot to be consulted on and debated on and things will change, but a lot of the above will come into law, one way or the other.

Policies and handbooks need reviewing. Processes and procedures amended. Contracts may need changing. Your management team will need additional training to ensure they remain compliant.

It's a big job, but it needs doing. Futureproof your business today.

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