

Employment Rights Bill latest: Government puts forward significant amendments to the Bill

Earlier this month, the Government published responses to various consultations on proposals in the Employment Rights Bill. At the same time, it published a paper setting out numerous amendments to the Employment Rights Bill. In this briefing, we round up the latest developments and what they mean for employers.

Collective redundancy consultation

You can read our detailed briefing on the latest amendments affecting collective redundancies [here](#).

Fire and rehire

The Bill proposed that it would become automatically unfair to dismiss an employee for failing to agree to a change to their terms and conditions of employment, or in order to re-engage them (or someone else) under varied terms and conditions of employment where the role was the same or substantially the same. You can read more about the initial proposals in our briefing [here](#).

Shortly after the Bill was published, the Government consulted

on extending the remedy of interim relief to employees who had fire and rehire dismissal claims. You can read more about the consultation in our briefing [here](#). In its [response](#), the Government has declined to extend interim relief to such dismissals. However, the Government has said that it will revise the [Statutory Code of Practice on Dismissal and Re-engagement](#) to reflect the new rights in the Bill. Importantly, where the Code is breached, a Tribunal may uplift compensation by up to 25%.

Zero and low hours workers

The Bill proposed two key changes, which would restrict the use of such zero and low hours contracts and penalise employers who abuse them. First, zero and low hours workers who have worked a certain number of hours regularly over a “reference period” would have a new statutory right to have those hours guaranteed in their contract. At the end of each reference period, the employer must make a guaranteed hours offer to any worker within scope. Second, employers would be required to give zero and low workers (and any other worker who does not have a set working pattern), reasonable notice of shifts, and changes or cancellations of shifts, with a right to compensation where late notice was given. You can read more about the initial proposals in our briefing [here](#).

In light of a concern that the proposals might drive employers to use agency workers to avoid the new rules, the Government opened a [consultation](#) considering whether the measures should be applied to agency workers engaged on zero or low hours contracts. In its [response](#), the Government has confirmed that the proposed measures will be extended to agency workers on zero or low hours contracts, although there are some nuances around how it will work in practice. The Bill has been

amended to capture the following changes:

- the obligation to offer a guaranteed hours contract must be made by the end user not the agency (save in certain scenarios to be spelt out in secondary legislation);
- the duty to provide reasonable notice of shifts, shift changes and cancellations falls on both the end user and agency; and
- where a guaranteed payment entitlement for short notice cancellation or changes to shifts is triggered, the payment is to be made by the agency (but it is envisaged that the agency and end user will be able to agree terms allowing the agency to recover a proportion of the payment from the end user to reflect its responsibility for the cancellation or change).

Separately, further amendments to the Bill introduce anti-avoidance measures designed to avoid the duty to make a guaranteed hours offer to a worker. Further, provision is made to allow employers to contract out of the zero and low hours measures in their entirety (for all workers, not just agency workers) by way of a collective agreement with a trade union.

Statutory sick pay (SSP)

The Bill proposed some small tweaks to the SSP regime. First,

the “waiting days” were to be removed, meaning that SSP will be payable from the first day of sickness, rather than from the fourth day as is currently the case. Second, the lower earnings limit for SSP – which currently sits at £123 per week – would be removed meaning that employees would become entitled to SSP regardless of income levels. You can read more about the initial proposals in our briefing [here](#).

A [consultation](#) was launched to consider what rate of SSP should be paid to employees earning below the lower earnings limit. In its [response](#), the Government has confirmed that the percentage rate will be 80% of normal weekly earnings. This means that employees will be paid SSP at the lower of either the standard SSP rate (currently £116.75 per week) or 80% of their normal weekly earnings. The Bill has been amended accordingly.

Trade unions

The Bill contained a number of provisions aimed at strengthening trade unions including:

- requiring employers to notify workers of their right to join a trade union in writing when they start employment and at other times;
- enhancing the rights of trade unions to access workplaces for the purpose of meeting, recruiting and organising workers and facilitating collective bargaining;

- simplifying the process for trade union recognition;
- repealing rules which impeded the financing of trade unions; and
- repealing or amending existing laws governing industrial action (for example, in relation to balloting, voting and the giving of notice of industrial action) with the aim of making it easier for trade unions to call such action.

On 21 October 2024, the Government published a [consultation](#) on ways to further strengthen the legislative framework underpinning trade unions. In its [response](#), the Government has promised significant further changes in this area and the Bill has been amended accordingly. The areas of change include:

- improving the process and transparency around trade union recognition;
- extending access provisions to cover digital access;
- introducing a fast-track route for achieving an access agreement where certain conditions are met, with penalties in place for non-compliance;
- simplifying the current information requirements on industrial action ballots;

- notice for industrial action to be reduced from 14 to 10 days;
- consultation on delivering e-balloting; and
- extending the expiry of a mandate for industrial action from 6 to 12 months.

Fair Work Agency

The Bill provided that the Secretary of State would assume responsibility for enforcing certain aspects of labour market legislation, by way of a “Fair Work Agency”. In terms of addressing non-compliance with the labour market laws within its remit, the Fair Work Agency would have the power to:

- obtain documents or information;
- enter business premises in order to obtain documents or information;
- remove and retain documents or information;
- request that “labour market enforcement undertakings” be provided; and
- apply to Court for a “labour market enforcement order” which prohibits or restricts certain actions or requires

certain actions to be taken (and which may last for up to two years).

You can read more about the initial proposals in our briefing [here](#). Now, the Government has proposed several amendments to the Bill which will strengthen the powers of the Fair Work Agency even further. These include:

- a power to enforce a new requirement for employers to maintain adequate records of holiday entitlement and pay for 6 years;
- a power to give notice to an employer to remedy an underpayment of a statutory payment (such as SSP or holiday pay) within 28 days and to pay a penalty of up to 200% of such underpayment (up to a maximum of £20,000 for each individual payment);
- a power to bring a claim in the Employment Tribunal in lieu of a worker (and the Tribunal may still make a financial award in favour of the worker);
- a power to provide or arrange for assistance to someone bringing an employment claim (this may include legal advice and representation); and
- a power to recover any enforcement costs from an employer in breach.

Umbrella companies

The Government has published a response to a [consultation](#) commenced back in 2023 concerning the regulation of umbrella companies. In its [response](#), the Government confirms that umbrella companies will be defined as an entity which is in the business of:

- employing a person with a view to them being supplied to a hirer; or
- paying for, receiving or forwarding payment for the services of a person with a view to them being supplied to a hirer.

This change will bring umbrella companies within the scope of the Employment Agencies Act 1973, meaning that workers employed by umbrella companies will gain comparable employment law rights and protections to workers employed directly by an agency.

Further, from April 2026, PAYE/NICs compliance will move from the umbrella company to the agency (or to the end user if there is no agency).

Other key changes to note

- It has been reported that the Government has dropped plans to introduce a right to disconnect. However, as this proposal was not covered in the original draft of the Bill, no changes have been made to the Bill itself.
- There have been reports that the Government will back a proposed non-Government amendment to the Bill which would introduce a right to two weeks' paid parental bereavement leave for those who suffer an early pregnancy loss (i.e. before 24 weeks).
- The amendment paper contains numerous other non-Government amendments which would introduce new rights and protections across a number of areas including family leave, equality law, flexible working, discipline and grievance, health and safety and whistleblowing. At this stage, it is unclear whether any of these will be taken forward.

Next steps

The Bill will continue on its passage through Parliament and will shortly move to be debated in the House of Lords, which will likely lead to further changes to the text of the Bill.

The expectation is that the Bill will pass later this year, although the implementation of many of the changes will be deferred and/or will depend on the introduction of separate regulations.

Although there is still some time before the Bill's reforms will take effect, the sheer volume of changes means employers would be wise to keep track of the Bill and take advice on implementation in good time.

[Employment Rights Bill: Amendment Paper, 4 March 2025](#)

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Amanda Steadman (AmandaSteadman@bdbf.co.uk) or your usual BDBF contact.