

## UK: Employment Rights Bill Recap

The UK Government has published their long awaited Employment Rights Bill (“Bill”), along with a “Next Steps to Make Work Pay” Plan (“Plan”). It is the first part of the planned overhaul of employment law and workers' rights across the country.

The Bill contained several key employment law reforms, although it did not go as far as initially expected, with some important proposals being left for the Plan.

There are significant changes on the horizon, but the Bill still needs to go through parliament. The Government has stated that the reforms (once approved) won't come into effect until 2026 at the earliest (with reforms to unfair dismissal taking effect no sooner than Autumn 2026).

Below we detail what was included within the Bill, and what was left out.

### Key changes in the Bill

- **Unfair dismissal protection from day 1:** there will no longer be a two-year qualifying period before being entitled to “ordinary” unfair dismissal rights. Employees will now have protection from unfair dismissal from the first day of employment. This is arguably the most significant change in the Bill. Eliminating the current two-year qualifying period marks a major shift, significantly narrowing the broad discretion businesses have had to dismiss employees within their first two years.
- **Introduction of a statutory probation period:** there will be an introduction of a statutory probationary period. It means that employers will now be required to have a fair reason for dismissing an employee, regardless of their length of service. However, having the new statutory probation period will allow for a more lenient dismissal process, which Employment Tribunals will consider fair. In the coming months, the Government plans to consult on the appropriate length for this statutory probation period, with a preference for nine months. Previously, there was no set maximum for probationary periods.
- **Ending fire and rehire practices:** going forward, terminating an employee's contract solely because they refuse to accept contract variations will now be considered automatic unfair dismissal, with one narrow exception—when the changes are necessary to prevent the company from financial collapse. While this will be welcomed by trade unions, which have long opposed fire and rehire practices, it will likely be seen as bad news for businesses, as it makes it much harder to remove longstanding contractual benefits.
- **Flexible Working:** any refusal of a flexible working request will now have to be reasonable, but the eight permitted business reasons for refusing a flexible working request remain in place. Equally, the penalty for employers remains 8 weeks' pay.
- **Third party harassment:** employers will now again be liable for third parties harassing employees, unless they had taken all reasonable steps to prevent it. This had previously been repealed in 2013.
- **Sexual Harassment:** the soon to be implemented duty to take reasonable steps to prevent sexual harassment will be extended such that employers will need to take all reasonable steps. Regulations may further specify what “all reasonable steps” means. If there is a disclosure relating to sexual harassment, this will now also benefit from whistleblowing protections.
- **Collective redundancy consultation:** employers must currently only collectively consult when they are considering making 20 or more people redundant from one establishment. Meaning that employers do not have to collectively consult where the redundancies are spread across different offices and there aren't 20 or more planned redundancies from one location. The Bill changes this and the obligation to consult collectively will be triggered if the business is considering 20 or more redundancies across the whole company.

## UK: Employment Rights Bill Recap

- **Parental Leave & Paternity Leave:** employees will be entitled to take such leave from day 1 of their employment. Currently, employees need to have 1 year of service to be entitled to unpaid parental leave and 26 weeks' service to be entitled to paternity leave.
- **Right to guaranteed hours of work:** under the Bill, an employer will have an obligation to offer a guaranteed hours contract that reflects the number of hours a worker usually works. Individuals on zero hours or minimum hours contracts can remain on them if they so choose, but the employer must at least offer them the guaranteed hours. The Bill also gives these workers the right to reasonable notice of a shift, and to reasonable notice of the cancellation of a shift. The changes will not currently apply to agency workers, but the Government has suggested it will consult separately to consider how the changes can be applied appropriately to agency workers.
- **Statutory Sick Pay (SSP) Reform:** The three day waiting period for SSP will be abolished, making it payable from the first day of sickness.
- **Trade union reforms:** The Bill considerably enhances the rights of trade unions by introducing measures that include granting reasonable access to workplaces, simplifying and streamlining the process for trade union recognition, imposing a new duty on employers to inform employees of their right to join a union, and easing the process for unions to call strikes.

### What is missing from the Bill?

- **'Right to Switch Off':** The right to switch off was something that the government had spoken about introducing. However, it was included in the Plan for future changes but not in the Bill.
- **Employment Status:** The government were planning on removing 'employee' as a recognised employment status, and moving towards two tiered system with individuals either being 'workers' or 'self-employed.' This has also been pushed back, due to the extensive consultation period that would be needed in order for it to work.
- **Additional omissions:** further changes that were discussed but not included in this initial phase are ethnicity and disability pay gap reporting, reviews on parental and carers leave, and changes to TUPE.

**This is a high level general update only. Legal advice should be obtained on specific circumstances.**