

Ready for Change?

Update on employment law

12 September 2024

What are we going to cover?

- Overview of what we're expecting under the new law
- Employment tribunal trends
- Wellbeing –some tips from Imogen

Trowers Tuesday results - What are your key priorities for 2024?



King's speech

King's Speech on 17 July

Two Bills relevant to employment for the 2024-25 parliamentary session

Employment Rights Bill

Equality (Race and Disability) Bill

Employment Rights Bill introduced 12 October and begins passage through Parliament

(will provide main legislative changes with detail provided in Statutory Instruments (**SIs**) once consultation has taken place)

12 weeks public consultation on various measures provided for in the Bill

Government response to the consultation published within 12 weeks

SIs made and then laid (usually no more than a few days afterwards)

Subject to Parliamentary scrutiny

40-day objection period

(in practice SI may come into force before this period ends)

By convention SI will not come into force until a minimum of 21 calendar days after they have been laid

How we think new law will be brought into force

Employment Rights Bill (1)

Employment Rights Bill

- Will deliver the promises set out in Labour's New Deal for Working People
- To be introduced in the first 100 days of Labour coming to power (by 12 October 2024)

Employment Rights Bill (2)

Ban on exploitative zero hours contracts

- The term "exploitative" is key to this
- Reported that after 12 weeks people with regular hours will be allowed to move away from a zero-hours contract
- Workers will be entitled to opt to stay on a zero-hours contract with minimum standards

Employment Rights Bill (3)

An end to "fire and rehire"

- Statutory Code of Practice on Dismissal and Re-engagement brought into force on 18 July
- No stand-alone claim for breach of its provisions, but must be taken into account by employment tribunals
- Tribunal can uplift compensation by up to 25% if an employer unreasonable fails to follow it
- The government will replace the Code with a strengthened version as soon as it has brought forward the Employment Rights Bill

Employment Rights Bill (4)

Day one rights

- Basic day one rights for all workers
 - Unfair dismissal
 - Parental leave
 - Sick pay
- Won't prevent fair dismissal
- Employers will be able to operate probationary periods with fair and transparent rules and processes to avoid people on their probationary period being fired without good cause

Employment Rights Bill (5)

Statutory sick pay to be strengthened

- Lower earnings limit to be removed
- Waiting period for eligibility to be removed

Employment Rights Bill (6)

Flexible working will be the default from day one unless "not reasonably practicable"

Maternity protections to be strengthened

- Will be unlawful to dismiss a woman for six months after her return to work except in specific circumstances

Employment Rights Bill (7)

A single enforcement body, the Fair Work Agency, will be established

- Concept arose out of the Taylor Review of Modern Working Practices in 2017
- Will have strong powers to inspect workplaces and act against exploitation, including discriminatory practices against migrant workers

Employment Rights Bill (8)

A Fair Pay Agreement (FPA) will be established in the adult social care sector

- New Deal for Social Care Workers to ensure better conditions, training and progression
- Will consult widely on the design of the FPA and will monitor the implementation
- Will assess to what extent FPAs could benefit from being rolled out to other sectors

Employment Rights Bill (9)

Trade unions

- The Strikes (Minimum Service Levels) Act 2023 will be repealed (this was confirmed by a DBT press release on 6 August)
- Union recognition and the law around statutory recognition thresholds will be simplified
- A new reasonable right to access workplaces will be introduced
- There will be a duty on employers to inform all new employees of their right to join a union
- There will be new rights and protections for trade union representatives

Draft Equality (Race and Disability) Bill

- Full right to equal pay for ethnic minorities and disabled people
- The introduction of mandatory ethnicity and disability pay reporting for employers with 250 or more employees



Minimum wage changes in 2025

Delivering a genuine living wage	Other wage commitments
Government wrote to the Chair of the Low Pay Commission (LPC) on 30 July to update its remit and required it to take account of the cost of living and expected inflation up to March 2026, and not fall below two-thirds of median hourly earnings when setting recommendations for NMW/NLW.	Removal of the age bands
Asked the LPC to recommend an increased national living wage (NLW) rate to apply from April 2025	NMW regulations on travel time in sectors with multiple working sites will be enforced
Asked the LPC to recommend a NMW rate for 18 to 20-year-olds to apply from April 2025 to narrow the gap with the NLW	

Other promises from A new Deal for Working People

TUPE

Existing rights and protections for staff impacted by TUPE will be strengthened

Commitment to "bring about the biggest wave of insourcing of public services in a generation"

Will reinstate and strengthen the last Labour government's two-tier code to end the two tier workforce



Other promises from A new Deal for Working People

Employment status	Redundancy and collective consultation
A single status of worker will be introduced and there will be a transition towards a simpler two-part framework for employment status	Right to collective consultation to be determined by the number of people impacted across the business rather than in one workplace
Accessible and authoritative information will be given to people on their employment status and attendant rights	
Self-employed individuals will get the right to a written contract	

Other promises from A New Deal for Working People

New Procurement Bill

Want to encourage insourcing of public services

Extend the Freedom of Information Act to contractors of public services

In contracting out services public bodies must carry out public interest test to see if work can not be done more effectively in house

Will ensure social value part of contract design - will value employment practices and TU recognition as part of procurement

Create a new Fair Work Standard recognising the best employers

Other promises from A New Deal for Working People

Carer's Leave

Will be reviewed and the benefits of introducing paid carers' leave will be examined

Bereavement Leave

Will be introduced for all workers (no mention of it just being limited to the death of a child or a stillbirth)



Other promises from A New Deal for Working People

AI	
We have signed a treaty about responsible use of AI with USA and EU (September 2024)	Commitment to working with workers, trade unions, employers and experts to examine what AI means for work
	Any proposals by employer to introduce surveillance technologies will be subject to consultation with trade unions/elected staff reps

Other promises from A New Deal for Working People

Hospitality workers and tips

Hospitality workers will receive their tips in full

Employment (Allocation of Tips) Act 2023 and Code of Practice come into force on 1 October

Unpaid internships

To be banned except where part of an education or training course



Other promises from A New Deal for Working People

Gender pay gap	Menopause
Large firms will be required to develop, publish and implement action plans to close their gender pay gaps	Employers with more than 250 staff will have to produce Menopause Action Plans
Outsourced workers will be include in gender pay gap and gender pay ratio reporting	Government will publish guidance for employers on measures to consider in relation to the menopause

Other promises from A New Deal for Working People

Socioeconomic duty

The socioeconomic duty under the Equality Act will be enacted

LGBT+ and gender recognition

All existing strands of hate crime will be an aggravated offence

The existing gender recognition law will be simplified and reformed

The government will continue to support the single-sex exemptions in the Equality Act



Other promises from A New Deal for Working People

Terminal illness	Employment tribunals
Will encourage employers and trade unions to negotiate signing up to the Dying at Work Charter which promotes best practice in relation to those workers diagnosed with terminal illness	Will further digitise employment tribunals
	Will increase the time limit within which employees are able to bring a tribunal claim from three months to six months

Other promises from A New Deal for Working People

Right to switch off

Will follow existing models already in place in Ireland

Government is considering an approach where a Code of Practice on the right to switch off is introduced

Under existing plans any failure to follow this could be taken into account when compensation is being awarded in a tribunal claim

Other promises from A New Deal for Working People

Blacklisting

Regulations will be updated to outlaw the use of predictive technologies for blacklisting

Loophole allowing employers to bypass laws through third party contractors will end

Employment tribunals will have the power to order the seizure and destruction of any list to prevent blacklisting happening again



Other promises from A New Deal for Working People

Sexual harassment	Collective grievances
Will strengthen the legal duty for employers to take all reasonable steps to stop sexual harassment before it starts	Employees will be able to raise collective grievances via Acas to ensure that "bad or illegal" practices won't be able to continue without being properly dealt with
Government has committed to extend the duty to encompass third party harassment	
The Worker Protection (Amendment of the Equality Act 2010) Act 2023 come into force in 26 October 2024	

Other promises from A New Deal for Working People

Health and Safety

Guidance will be modernised

Government will work with employers, trade unions and other stakeholders to support worker wellbeing and long-term physical and mental health (fit note consultation closed in July 2024).

Existing regulations and guidance will be reviewed to see whether it is adequate to support those experiencing long Covid symptoms



And finally...

Supporting people into work

- A national jobs and careers service will reform employment support
- Funding will be devolved to enable local areas to support more disabled people and those with health conditions into work
- There will be a youth guarantee of access to training, an apprenticeship, or support to find work for all 18-to 21-year olds

Business immigration

- The points-based system will be reformed
- The long-term reliance on overseas workers in some parts of the economy will end and there will be workforce and training plans for sectors such as health and social care and construction
- Employers who flout the rules won't be able to hire overseas workers

Skills and training

- The Apprenticeships Levy will be reformed and a flexible Growth and Skills Levy will be created

How we can help you

- Sign up for our updates – especially hrlaw and our tracker
- Sign up for webinars – Trowers Tuesday and other events
- We can offer training on the new law to your executive team and staff
- We can help you with our Skillboosters and Toolkits
- Link in with us!

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