Baker McKenzie.

Client Alert

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United Kingdom: Employment Rights Bill – current status and next steps

In brief

It's now almost ten months since the government published the draft Employment Rights Bill, its flagship legislation intended to implement key aspects of its employment rights and industrial relations policies. In the interim, we have seen the first tranche of consultation exercises on specific aspects of the Bill, with several more announced. The iterative nature of the process has made it challenging for employers to keep track of the Bill's progress and the steps that are needed to prepare for full implementation.

Contents

This article includes a reminder of the Bill's key provisions and explains their current status and timelines, as well as what organisations could or should be doing now to prepare. For completeness, we also mention some recent developments from the House of Lords that, ultimately, are highly unlikely to progress, as they do not align with government policy.

Key takeaways

The key policy measures in the Bill, and their broad parameters, mostly remain the same as when it was first published in October 2024. However, some further detail has been added and, in March 2025, there was a significant change to the government's position on "establishments" and collective redundancy consultation.

The House of Lords has also altered a couple of significant aspects of the Bill as a result of non-government proposals, but the House of Commons will likely reverse those changes, in line with government policy.

In terms of timescales:

- The Bill still has to complete its passage through Parliament, following the summer break. The final stage in the Lords (third reading) is scheduled on 3 September 2025. The Bill will then revert to the Commons for consideration of the Lords' amendments. There may be some "ping pong" between the two chambers over amendments, but the Commons / government view is highly likely to prevail. We anticipate that the Bill will receive Royal Assent in the autumn.
- Consultations on various aspects of the Bill are due to take place over the coming months. These are likely to concern details of new rights and obligations, as opposed to the underlying policy.
- Much of this detail, once decided on, will be put into regulations.
- The coming into force of new rights and obligations under the Bill will be staggered; some won't come into force until some time in 2027. This will allow time for the consultations, future regulations, and for businesses to prepare.

Because so much of the detail of the rights and obligations in the Bill are yet to be confirmed, there is only so much that organisations can do to prepare at this time. We have included our suggestions below.

In more detail

In the following table we provide a headline reminder of the Bill's provisions, along with timelines and potential action points. Please see the end of the article for links to more detailed summaries that we have published.

In the table, *** next to an item indicates where the House of Lords has changed that particular aspect of the Bill, but where the Commons is likely to reverse the change. Our summary therefore retains the government's intended policy but we have also included a section at the end briefly explaining the Lords' amendment.

Summary	Timelines	Action points
Strike action – simplifying process		
Period for notice of industrial action will reduce to 10 days, down from the current 14. (The government originally proposed reducing it to seven days, but later changed to 10 days.) Simplification of information requirements in ballot and industrial action notices. Removing 50% turnout threshold for valid industrial action ballot. *** Extension of the strike mandate period to 12 months, from the current 6. Introducing electronic and workplace balloting.	In force: two months after Royal Assent For electronic and workplace balloting: • Consultation: autumn 2025 • In force: April 2026	Review industrial relations strategies, if necessary.
Collective redundancy consultation – increased penalty for breaches		
Employers are liable to pay a protective award for breaches of the consultation requirements in a collective redundancy situation. This award will increase from 90 days' pay per employee to 180 days' pay.	In force: April 2026	Financial risk assessments of collective redundancy processes will need to take this increase into account.
Paternity leave and unpaid parental leave – day one rights		
Will become day one rights. It remains unclear, however, whether statutory paternity pay will also become a day one right, or still require 26 weeks' service. The entitlements to leave and pay are dealt with in different pieces of legislation and the Bill currently doesn't address the pay entitlement.	In force: April 2026	Review and update internal policies in time for April.
Trade unions – increased protections in statutory recognition / derecognition process		
There is existing protection from unfair practices during a statutory trade union recognition or derecognition process. The Bill will extend the period of protection and simplify the claim process. It also curtails potential ways that an employer might seek to thwart recognition. (Such as mass recruitment into the bargaining unit or reaching a voluntary recognition agreement with a non-independent trade union following receipt of an application by an independent union.)	Consultation: autumn 2025 In force: April 2026	Review industrial relations strategies, if necessary.
Statutory sick pay – from day one of sickness		
SSP will be payable from day one of sickness at a rate of the lower of either the annually fixed flat weekly rate or 80% of weekly earnings. The current flat rate of SSP is GBP 118.75.	In force: April 2026	Update template contracts of employment and relevant policies. Ensure absence-recording and payroll systems will be able to process the change.
Fair Work Agency created		
A Fair Work Agency to be created, taking over existing state enforcement powers in areas such as national minimum wage enforcement. It will also have a new remit in relation to holiday pay compliance, which will include a new obligation on employers to keep adequate records demonstrating compliance.	In force: April 2026 For holiday records, date is TBC	Start reviewing systems to ensure that the organisation will be able to demonstrate compliance with statutory holiday entitlements. Review holiday pay compliance proactively where there has been historic non-compliance and consider a remedial strategy.
Trade unions – increased rights of access		
The Bill will give trade unions a new right of access to the workplace, both physical and digital. Regulations will define what is meant by digital access.	Consultation: autumn 2025 In force: October 2026	Review industrial relations strategies, if necessary.

Summary	Timelines	Action points
The purpose of the right of access will be to meet, support, represent, recruit or organise workers, but this will not include organising industrial action. The Central Arbitration Committee will be able to impose penalties for non-compliance.		
"Fire and rehire": unlawful, with limited exceptions		
It will be automatically unfair to dismiss an employee for the sole or principal reason that they did not agree to a "restricted variation" of their employment contract. This covers key things like pay and hours. Protection won't apply in certain financial survival situations but would still need to show that a dismissal was fair. Similar rules apply to replacing someone who has refused to switch from employment to a non-employment model of working. The government considered giving employees the right to claim interim relief for breaches of this right, but this was dropped.	Consultation: autumn 2025 In force: October 2026	Complete planned contract variation processes in which dismissal and re-engagement is a possibility, before October 2026. Proactively consider alternatives to fire and rehire where "restricted variations" are contemplated. Note that, even under current rules, such processes can be complex and potentially engage collective consultation obligations.
Duty to prevent sexual harassment – requirement to take all reasonable steps		
The current duty to take reasonable steps to prevent sexual harassment of employees in the workplace will be "upgraded" to a duty to take all reasonable steps.	In force: October 2026	Review operation of processes that were put in place after introduction of existing duty in October 2024. Ensure they cover all steps that could be considered reasonable. Check that your risk assessment remains fit for purpose. You may wish to audit complaints received since the introduction of the existing duty in October 2024 to identify if there are any themes and whether additional preventative steps are needed.
Protection from third-party harassment		
Employees will gain protection from third-party harassment in relation to all protected characteristics under the Equality Act 2010. (Except marriage and civil partnership status and pregnancy / maternity, which are dealt with differently, in line with existing harassment protections.) Employers will have a defence if they can show they took all reasonable steps to prevent the harassment.	In force: October 2026	Review and update policies and staff training as necessary. Ensure commercial terms with suppliers and contractors make appropriate provision. As set out above, it may be necessary to revisit risk assessments to the extent that they did not already address third party harassment, whether in relation to sexual harassment or the broader categories that will be protected from October 2026.
Unfair dismissal: a day-one right		
All employees to have protection from unfair dismissal from day one of employment.*** Lesser level of protection during statutory probationary period, although a potentially fair reason will still be required (conduct, capability, illegality or "some other substantial reason"). Details of required process are TBC (but might just be a meeting) as is length of probationary period (but 9 months is suggested). The special probationary period rules will not apply to redundancy dismissals; the full protection from unfair dismissal will apply from day one in such cases.	Consultation: summer / autumn 2025 In force: 2027 (month not specified)	Actively manage poor performance and conduct issues for employees in their first two years of employment. This is already long-standing, good ER practice, but the long lead time for this aspect of the Bill gives employers an opportunity to deal with matters in a reduced risk environment. Once the details of the probationary period rules are known, review template contracts of employment and relevant policies to ensure that they align with the required process. Management training might also be required to ensure that managers are aware of the level of process and oversight that will accompany any probationary period.
Protections for zero-hours and agency workers: guaranteed hours and minimum shift notifications		
Right to receive a guaranteed hours offer (GHO).*** Applies to zero hours or low hours workers. Many details remain	Consultation: autumn 2025	Review usage of shift employees to have clear picture of their working patterns, in order to be

<table>
<tr><th>Summary</th><th>Timelines</th><th>Action points</th></tr>
<tr><td>TBC, including thresholds and reference period to trigger the right, and what constitutes low hours.
GHO must usually be for a permanent contract; fixed term permitted where, broadly speaking, it is reasonable.
Shift notifications: worker is entitled to minimum notice of shifts, as well as notice of any changes or cancellation. What constitutes short notice is TBC ***
There will be an associated regime of payments for short notice.
For agency workers:
• GHO obligation falls on the end hirer; effectively a temp to perm offer.
• There will be some ability to limit the pay offered under a GHO to the levels of comparable direct hires.
• Existing rules on transfer fees and extended hire periods remain. (Although unclear how extended hire periods will work in relation to GHOs.)
• Both agency and end hirer jointly responsible for shift notifications but liability for payment to fall on agency. Commercial recoupment provisions between agency and end hirer to be permitted.
These new rights can be excluded under a collective agreement with an independent trade union.</td><td>In force: 2027 (month not specified)</td><td>able to identify employees likely to be entitled to a GHO, once the threshold details of new right are confirmed.
Conduct similar audit of agency worker usage and whether it will be desirable to scale this back in the light of the GHO requirements.
Ascertain what temp-to-perm fees the company is liable for under commercial terms with agencies.
In due course, review any relevant contractual terms or policies about shift notifications.
Consider whether it would be possible or desirable to negotiate a collective agreement excluding these new rights. Such considerations should form part of overall industrial relations strategy.</td></tr>
<tr><td colspan="3">Collective redundancy consultation – changes to thresholds</td></tr>
<tr><td>The obligation to collectively consult will be triggered if the employer proposes to dismiss as redundant:
• 20 or more employees at an establishment (i.e., the current test); OR
• A threshold number of employees across the business, regardless of establishment. The threshold is TBC. It could be a specific number or a percentage of the workforce, for example.
The original proposal was to scrap the current test completely, but this was changed in March 2025.</td><td>Consultation: winter 2025 / early 2026
In force: 2027 (month not specified)</td><td>Ensure systems can track proposed dismissals across all establishments in order to flag if thresholds will be crossed (once the thresholds have been confirmed).</td></tr>
<tr><td colspan="3">Flexible working – strengthening employee rights</td></tr>
<tr><td>The Bill will require employers to justify a decision to refuse a request for flexible working.</td><td>Consultation: winter 2025 / early 2026
In force: 2027 (month not specified)</td><td>Provide updated training / guidance to managers.
Update template letters where necessary, to ensure they contain prompts to include explanation for refusal.</td></tr>
<tr><td colspan="3">New rights for pregnant workers</td></tr>
<tr><td>We think that this will be a set of procedural safeguards for dismissals, such as the provision of notices and information.
The government originally talked about a ban on dismissing pregnant employees, although an outright ban always seemed unlikely. In March 2025, the Bill was amended to include a power to make regulations about procedural matters, which seems to indicate the direction of travel here. The proposed consultation should make matters clearer.</td><td>Consultation: autumn 2025
In force: 2027 (month not specified)</td><td>No action yet.
In due course, review policies.</td></tr>
<tr><td colspan="3">Bereavement leave – expanded rights</td></tr>
<tr><td>The existing right to parental bereavement leave will be expanded to a wider category of relationships as well as to cases of pregnancy loss.</td><td>Consultation: autumn 2025
In force: 2027 (month not specified)</td><td>No action yet.
In due course, review policies.</td></tr>
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Summary	Timelines	Action points
Bereavement leave in respect of a child will be at least two weeks (like the existing entitlement); in other cases it will be at least one week.		
Non-disclosure agreements and discrimination / harassment – to be banned		
NDAs will be void insofar as they purport to prevent the making of allegations or disclosures about unlawful discrimination or harassment, or an employer's response to such allegations or disclosures.	TBC	No action yet. In due course, template settlement agreements and employment contracts may need to be reviewed.

*** Non-government amendments to Bill ***

The House of Lords has voted in favour of a number of non-government amendments. These are unlikely to survive but we mention them here for completeness.

- Unfair dismissal: the Lords amended the Bill so that this would not become a day-one right, but would instead require six months' service (down from the current two years). Special rules on statutory probationary periods would remain.
- GHOs: the Lords voted to change this to a right to request guaranteed hours, rather than an obligation to offer them.
- Short notice of shift changes: the Lords amended the Bill to state that this means 48 hours rather than leaving it to future regulations. The rationale for this was to give employers clarity now in order to help them prepare.
- Industrial action: the Lords voted to keep the current turnout requirement of at least 50% of membership for a valid vote to take strike action.
- Whistleblowing: the Lords would require employers to take reasonable steps to investigate whistleblowing. This would only apply to employers: with 50+ employees; with annual turnover of GBP 10m or more; in the financial services sector; or with vulnerabilities to money laundering or terrorist financing.
- Right to be accompanied in disciplinary / grievance hearings: the Lords would extend the categories of companion to "certified professional companions".

Further reading

The following articles have further detail and comment:

- Employment Rights Bill key provisions (October 2024)
- Government publishes consultation outcomes and amendments to Employment Rights Bill (March 2025)
- Working with unions bulletin, March 2025
- Updated timescales for Employment Rights Bill (July 2025)
- Important proposed amendments to Employment Rights Bill (July 2025)

There are also other government initiatives that are being dealt with separately. For example, see:

- Government publishes consultation on ethnicity and disability pay reporting (March 2025)
- UK government publishes new rules on umbrella companies (July 2025)
- Review of family-related leave and pay entitlements — A call for evidence (July 2025)
- Government publishes call for evidence on unpaid internships and volunteers (July 2025)

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