



New government Employment law changes at a glance

There is always a lot of change with a new government and here is a look at some of the key changes on the horizon for employers.

At the heart of the Labour Party manifesto was a New Deal for Working People so there were no surprises that the King's Speech on 17 July 2024 saw two new employment bills announced – an Employment Rights Bill and a new draft Equality (Race and Disability) Bill.

The Employment Rights Bill will bring a number of changes although full details are yet to be announced.

Day one rights

There will be a right for employees to not be unfairly dismissed from their first day of employment. Employers will be able to dismiss an employee for failing to pass their probation period but only after there has been a fair and transparent process.

This means employers will need to spend more time on the hiring process to make sure they have chosen the right candidate for the role.

Employers might look to use agency workers to fill gaps in the short term or use of fixed-term contracts.

End to fire and rehire

The new Government has also said it will stamp out the practice of 'fire and rehire' by providing 'effective remedies' in the Employment Rights Bill. Further details are awaited but it is expected the new proposals will require employers to have more than a 'substantial reason' for changing employment terms.

Redundancy consultation

The government is expected to change the law which requires collective consultation for redundancies reaching a certain threshold across a whole business not just individual locations. This changes would bring the UK in line with many countries in the European Union. Currently the threshold is 20 redundancies within a 90-day period.

TUPE rights

The government is planning on strengthening the rights and protections for workers who have been transferred under TUPE although at present there are no further details.

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New government

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Zero-hours contracts

The government is planning to scrap zero hours contracts which it says are 'exploitative'. There will be a new right to a contract which reflects the hours regularly worked which may be based on a 12-week reference period.

The move to average hours contracts could mean there is a reduction in flexibility for both the employer and employee and individual businesses will need to find what works for them.

Notice for work changes

There will also be new laws introduced to force employers to give workers reasonable notice of the times they are needed for work and compensation if they have cancelled shifts.

Flexible working

Employees will have the right to request flexible working from day one under The Employment Rights Bill. Further details are expected but the move could help working parents who could benefit during holiday periods.

Right to switch off

Whilst not specifically mentioned in the King's Speech, the government is expected to bring forward legislation to allow workers the 'right to switch off'. Workplace policies will be encouraged to enable this.

National Living Wage

The government will remove the 18-20 age band so that workers aged over 18 are all paid the same wage. It will also ban unpaid internships unless it is part of an established training or education programme. Both measures will help younger workers.

Workers who receive tips predominantly in the hospitality sector will receive them in full from 1 October 2024 under the Tips Act.

Draft Equality (Race and Disability) Bill

The government plans to extend the right to make equal pay claims for black, Asian and minority ethnic and disabled workers but it is expected there will be further consultation on this.

Statutory reporting

Under the Equality (Race and Disability) Bill companies with at least 250 employees will need to report on the ethnicity pay gap. There will also be compulsory disability pay gap reporting. Gender Pay Gap reporting will be extended to include outsourced workers. Further detail on the practicalities of all is expected.

Sexual harassment duties

From October 2024, all employers will have a new duty to take 'reasonable steps' to protect employees from sexual harassment. It is expected this will

be extended to require employers to take 'all reasonable steps' to stop sexual harassment including that by customers/third parties. It is anticipated that allegations of sexual harassment will be treated in the same way as whistleblowing which means the dismissed worker could claim 'interim relief' protecting their salary if a link between their dismissal and the harassment allegation is made.

Trade union representation

The Employment Rights Bill will give greater rights to trade unions to access workplaces in a more regulated and responsible manner. This may also include greater rights of access ahead of a statutory ballot and a new digital right for a union to get in touch with remote workers.

There are also plans for unions to be granted recognition by a majority of votes in a ballot making it easier for them to secure statutory recognition.

Greater protection for new parents

Women who are pregnant and have informed their employer or whose due date was less than 18 months ago now have greater rights if selected for redundancy. Since 6 April they have had the right to suitable alternative employment. Further measures in The Employment Rights Bill prevents their dismissal if returning from maternity leave for six months after their return, except in specific circumstances (not yet defined).

There are plans to review parental leave which may also make it a day one right for employees.

Bereavement leave

There are plans for this to be a statutory entitlement for all workers in the future.

Sick pay

The Employment Rights Bill will allow statutory sick pay to be paid from day one of sickness (currently day four) and there will be a new lower limit of earnings to qualify.

The government is also considering encouraging employers to sign up to the Dying to Work charter for employees with a terminal illness.

Apprentices

The apprenticeship levy will be reformed and there will be a youth guarantee to access training, an apprenticeship or support to find work for 18-21-year-olds.

Workplace surveillance

Employers will be required in the future to consult worker representatives before surveillance technology can be introduced.

To review how your business might be affected by any of these changes, get in touch with **Amanda Finn** a.finn@gullands.com

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Succession planning for the future

Every business owner needs to consider what will happen when the time comes for passing on their business and ensuring this transition is well planned and thought-out is important for the future success of the organisation.

It can be both a daunting and sensitive process, especially if it is a business you have built up yourself and if there are more than one natural successor or non-family business partners. Therefore, what are the key legal considerations to think about?

For a limited company, you should have a Shareholders' Agreement in place, which sets out what happens to your shares and those of other shareholders when leaving the business. It is likely that there will be provisions giving any other shareholders the entitlement to buy the shares first, so this will need to be addressed

and changed, if you would prefer the shares to pass otherwise. It is important for shareholders and directors to get on with each other as serious differences of opinion or shareholder disputes can damage or destroy a business. For this reason, the right for other shareholders to buy is generally included. If shares are to pass otherwise, please consider whether any incoming shareholders will be able to run the business harmoniously with the existing shareholders.

For a partnership, you should have a Partnership Agreement in place. This will generally provide for the remaining partners to buy you out if you wish to leave. It will not allow for an incoming partner without the consent of the remaining partners. An alternative arrangement would need to be agreed upon.

Good communication about future plans is important for helping to avoid disputes and it is essential not to shy away from what might be difficult conversations to reach an outcome which is satisfactory for all.

Think about the value of your business and whether you are looking to receive a payment for your ownership or whether you are planning to gift it as there may be tax considerations. Other options could include setting up a trust and putting your rights into that. Any such arrangements will be subject to the Articles of Association and any Shareholders' Agreement, in respect of a company, or a partnership agreement in respect of a partnership.

Consider if you will you leave the business completely or if you will have a phased exit, perhaps moving into a consulting role. Leaving suddenly can leave a huge vacuum, which it could be hard for the business to recover from.

Everyone wants to leave a lasting legacy, so don't be afraid to seek outside help to plan and navigate your departure to ensure the future success of the business.

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Rights for Minority Shareholders

As a minority shareholder in a business how do you protect your rights especially if there is a disagreement with other shareholders?

It is important to have a shareholder agreement in place and this should specifically cover how minority shareholders will be protected if a range of issues arise. This should include a provision for a minority shareholder's shares to be purchased by the remaining shareholders and also for a fair price, in the event that a disagreement is too great to resolve.

If there is no shareholder agreement in place the Companies Act 2006 does offer some protection. Any shareholder can (with or without a shareholder agreement) petition the Court for Unfair Prejudice pursuant to Section 994 of the Companies Act 2006.

It is important to demonstrate that the conduct which has been complained of must be causing prejudice or harm and it must be unfair. This could include failure to pay dividends, failure to disclose accounting information, exclusion from management and serious mismanagement and diverting business to another company where the minority has no shareholding.

For a successful ruling, it needs to be demonstrated that there is an adverse effect on the minority shareholder/s and that this isn't in accordance with the Articles of Association or any Shareholders Agreement. Typically, a Court may require the company not to do the act/s complained of, require them to do an act/s they have not done or provide for the purchase of shares from the shareholder/s.

The Court does however have other powers as well which could include authorising civil proceedings on behalf of a company and regulating the conduct of the company's affairs in the future.

Before taking any action, it is important to take legal advice to discuss the options open to you.

CONTACT

If you would like any additional information on any of the subjects discussed in this newsletter please do not hesitate to contact us.



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Quick reference section

Statutory minimum notice periods:

An employer must give at least:

- One week's notice to an employee who has been employed for one month or more, but less than two years.
- One week's notice for each **complete** year of service for those employed for more than two years.
- Once an employee has more than 12 year's service, the notice period does not extend beyond 12 weeks.

National Minimum Wage

April 24

Apprentices	£6.40
16-17	£6.40
18-20	£8.60
National living wage 21+	£11.44

Statutory Sick Pay

Per week £116.75 (from April 2024)

Statutory Shared Parental/Maternity/Paternity/Adoption Pay (basic rate)

£184.03 (from April 2024)

Statutory Holiday

5.6 weeks for a full time employee. This can include bank and public holidays.

Redundancy Calculation

- 0.5 week's pay for each full year of service when age is less than 22.
- 1 week's pay for each full year of service where age during year is 22 or above, but less than 41.
- 1.5 week's pay for each full year of service where age during year is 41 and over.

Calculation is capped at 20 years. Maximum week's pay is capped under the Statutory Scheme for dismissals after 6th April 2024 at £700.



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