

SUMMARY & CHECKLIST:

Employment Rights Bill

Following publication of the Employment Rights Bill on 10 October 2024, a wide range of employment law changes are coming.

Executive summary

Although the full timetable for implementation has not yet been published, the majority of the provisions are not expected to take effect until 2026. The key highlights are summarised below along with an outline (where applicable) of immediate actions required to prepare.

1. Day one right to unfair dismissal

From autumn 2026 an additional nine million employees with less than two years' service will gain immediate protection against unfair dismissal, which will apply from day one of their employment.

During the statutory probationary period (likely to be up to nine months), it will be easier to dismiss – details to be finalised following a government consultation in 2025. Ensuring that terms relating to probationary periods are clear becomes key. Thorough processes for managing performance during probationary periods and training for managers are vital to ensure probationary reviews are conducted effectively.

2. Ending 'exploitative' zero hours contracts

Once an employee has been working a consistent number of hours under a zero hours or minimum hours contract, the employer will be required to offer them a guaranteed hours contract reflecting the previous pattern they've worked. If you're currently using zero hours contracts, you'll want to plan to phase them out so far as possible, limiting them to only those employees/workers who genuinely work an unpredictable number of hours.

3. SSP from day one

Removal of waiting days for statutory sick pay and removal of the lower earnings limit, ensuring immediate access to SSP for all employees. You'll need to be ready to update your payroll systems accordingly as well as managing sickness absence (more) proactively within your business.

4. Ending 'fire and rehire'

It will be automatically unfair to dismiss an employee for refusing a contract variation, except to avoid the collapse of your business. You'll want to review your contracts to ensure they provide you with maximum possible flexibility to make reasonable changes to terms and conditions (e.g start and finish times, location and hours of work) without needing to secure employee agreement.

5. Flexible working as the default

It will be assumed that the job can be done flexibly, unless the employer sets out in advance the reasons why flexible working can't be accommodated (using the current grounds such as detrimental effect on ability to meet customer demand). In advance of the changes taking effect, you'll want to review all of your roles and decide which can and can't be done flexibly.

6. Protection from third party harassment

As well as protecting your employees from harassment from other employees, you'll also have a duty to protect them from harassment by third parties (such as customers and suppliers). This makes training (especially for your managers) even more important. You'll also want to consider creating a 'code of conduct' for any third parties your employees interact with.

7. Collective redundancy consultation

The 20 employee threshold for these obligations to kick in will apply to the whole business rather than just one site as currently. This will make the requirement to collectively consult much easier to trigger than currently. You'll want to plan to get any significant redundancy or reorganisation projects completed before these changes take effect.

8. Paternity, parental and bereavement leave

Paid paternity leave (2 weeks) and unpaid parental leave (up to 18 weeks) will become day one rights. One week's bereavement leave will be available to anyone who loses a close relative or family member (details of the required relationship to follow).

9. Gender pay gap/menopause

Businesses with over 250 employees will be required to have an action plan on gender pay gap reporting and supporting employees going through the menopause. If this applies to your business, you'll want to get going on drafting the appropriate plans.

10. Pregnancy and maternity

Protection against dismissal whilst an employee is pregnant or returning from maternity leave will be significantly enhanced. The details will be subject to a government consultation in 2025.

11. Right to join a trade union

All new contracts will need to flag up an employee's right to join a trade union. Review your current employee engagement machinery to ensure that employees already feel they have a line of communication to the business.

Checklist of actions to prepare for the incoming changes

- ☐ Review probationary period clauses including duration and right to extend.
- ☐ Ensure robust process for diarising probationary period review dates and end dates to avoid employees automatically passing (and gaining additional unfair dismissal rights).
- ☐ Upskill managers through toolkits, training and coaching on how to effectively manage probationary periods and their importance and how to set clear expectations and drive performance.
- ☐ Review performance and disciplinary policies to ensure that clear processes are in place for those who pass their probationary periods.
- ☐ Review use of zero hours and minimum hours contracts and phase out except where hours are genuinely unpredictable.
- ☐ Review enhanced sick pay terms offered, if any, and whether they should be amended in readiness for increased SSP costs.
- ☐ Ensure back to work meetings take place after a period of sickness absence and that sickness absence triggers are clearly publicised and enforced.
- ☐ Review contracts of employment to ensure they provide maximum flexibility to make reasonable changes to terms and conditions without having to secure employee agreement.
- ☐ Review all roles in the business to establish which can and cannot be done flexibly (e.g part-time, with remote working etc). For those roles that cannot be done flexibly, draft reasons why not based on the current statutory grounds.

- ☐ Ensure all employees (and especially managers) receive training on preventing harassment. Consider drafting a code of conduct for third parties such as customers and suppliers.
- ☐ Consider whether there is any significant workforce changes proposed (e.g restructures/ redundancies) and plan to implement before day one rights to unfair dismissal and changes to collective redundancy rules kick in.
- ☐ If you have over 250 employees, start work on drafting gender pay gap and menopause action plans.
- ☐ Review your mechanisms for collective dialogue with employees.

Equal Pay Risk Review

High profile equal pay claims have been in the headlines for a number of years. More and more 'no win, no fee' firms are canvassing for employees to collectively join claims they're bringing against major retailers. Our review will help you understand your potential exposure and how to mitigate the risk.

Scan this QR code to schedule a 'Equal Pay Risk Review' with Halborns legal experts.

Find out more [here](#).

