



## Employment Rights Bill: Part 3

### Other key changes

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# What will we talk about?

- Updates:
  - 9 April changes
  - 1 July changes
- The remaining key changes being introduced under the Employment Rights Bill!

# Changes to sponsorship for care providers from 9 April


- Sponsorship threshold increase to £25,000 p/a or £12.82 p/h, whichever is higher
- Requirement to attempt to recruit from within the UK before recruiting from overseas:
  - Providers are required to show that they have tried to recruit from the pool of displaced workers already within the country before sponsoring.
  - There are two exceptions to this:
    - the worker was last granted permission as a Skilled Worker and sponsored under the 6135 or 6136 SOC codes – this applies whether the worker is changing sponsor or continuing with the same sponsor; or
    - the worker is already legally working for you as a care worker or senior care worker, and has been working for you in that role, with permission on another immigration route, for at least the 3-month period before the date of their application.

(Paragraph SK4.29 of the Workers and Temporary Workers guidance)

- To recruit directly from overseas, providers will confirmation from the relevant regional or sub-regional partnership that they have made genuine efforts to recruit from the existing pool of workers in the UK.

# Changes to sponsorship for care providers from 1 July

- New entrants to Care Worker and Senior Carer Worker roles (under SOC codes 6135 and 6136) will no longer be eligible for sponsorship.
- Visa applications for those already working under those codes prior to 22 July 2025 will still be permitted during a transition period until 22 July 2028. This means that it will be still possible for those already working as Care Workers and Senior Care Workers to move to a new sponsor or to apply to renew their visa during that period.
- During the transition period, it will also be possible to sponsor workers as Care Workers and Senior Care Workers when they are switching from other visa routes, such as a student or graduate visa. However, there will be a requirement for the individual to must have been legally employed by a care provider for at least 3 months before a certificate of sponsorship can be assigned to them.

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- From 22 July 2028, the government intends to remove SOC Codes 6135 and 6136 from the Immigration Salary List or Temporary Shortage List, meaning the relaxed requirements for sponsorship under these routes (notably the significant reduction in the minimum salary threshold from £41,700 to £25,000 per year) will no longer apply.
  - Due to these changes, there will no longer be a requirement for care providers to engage with the pool of displaced workers, which was a requirement announced on 9 April 2025, before being able to assign a certificate of sponsorship for a Care Worker or Senior Care Worker.

# Immigration

- Employers who repeatedly breach visa rules, or commit serious employment breaches, will be barred from hiring overseas workers for at least two years.
- The maximum time that sponsor licence action plans, which restrict employers from sponsoring migrant visas, can apply will be increased from three to 12 months.
- The cooling-off period, before a sponsor whose licence has been revoked can reapply for a new licence, will be increased to at least two years.

# Statutory Sick Pay (SSP)

- SSP will be payable from Day 1, rather than the fourth day.
- Removal of lower earnings limit:
  - No minimum earnings level required
  - Employees will be entitled to the flat weekly rate of SSP or 80% of their normal weekly earnings, whichever is lower
  - Prescribed weekly flat rate has not yet been announced

# Non-disclosure Agreements (NDAs)

- New clause 22A introduces a significant change to the enforceability of confidentiality clauses
- Applies to any provision in a contract between an employer and a worker that attempts to prevent the worker from making allegations or disclosures about harassment or discrimination
- Those provisions are automatically void under the new rules
- This includes settlement agreements (potentially making them less worthwhile)
- Practical steps: Review the confidentiality wording in contracts, template settlement agreements and policies. Any clause attempting to silence disclosures about equality breaches will be unenforceable (as well as financially and reputationally risky).
- Does not cover allegations of a failure to make reasonable adjustments



# Enhanced Maternity Dismissal Protection

- Applies: During maternity leave and for 6 months after – unlawful to dismiss other than in specific circumstances
  - Specific circumstances have not yet been announced
- Eligibility:
  - Pregnant (upon notification/after 6 April 2024) \*
  - Taking maternity/adoption leave (on/from 6 April 2024) \*ends 18 months after date baby born/adoption starts
  - Taking shared parental leave
  - Taking neonatal care leave
- Priority for suitable alternative vacancies in redundancy situations – risk of automatic unfair dismissal and pregnancy and maternity discrimination
- Use criteria to determine in competing redundancy protection situation



# Paternity Leave and Unpaid Parental Leave

- Paternity leave will become a Day 1 right for eligible employees
- Notice requirements will still apply – before the 15th week before the Expected Week of Childbirth
- Paternity leave will also now be able to be taken after a period of shared parental leave

# Neonatal Care Leave and Pay

- New right 6 April 2025
- Day 1 right
- Up to 12 weeks' leave for parents of babies in neonatal care for at least 7 consecutive days up to 28 days of age
- Paid leave for eligible employees – parents, civil partners, partners, adopting, parents in surrogacy
- Added on to other booked leave
- Neonatal pay provided 26 weeks of continuous service, earnings of at least £125 a week.
- Protection from redundancy if 6 consecutive weeks of leave taken, lasts for 18 months from birth/surrogacy/adoption placement

# Carer's Leave

- Day one right - unpaid 5 days per year
- Caring for a dependent child, parent, spouse, partner with:
  - Illness or injury likely to need care for at least 3 months
  - Disability
  - Care need related to old age
- Minimum notice requirements – 4 days' notice 1.5 to 2 days off
- No evidence required or need to request in writing
- Employer cannot refuse, but move days if serious disruption *must* explain and agree date within a month
- Employee entitled to return to same job, same terms and conditions
- Employee cannot suffer a detriment or be dismissed

# Bereavement Leave

- Existing right: Two weeks' parental bereavement leave following the death of a child under 18 or a stillbirth
- This will be extended to cover a wider group of persons:
  - the relationships with a person who has died that will qualify an employee to take bereavement leave will be clarified later
  - where the person who has died is not a child, the minimum period of leave will be one week
  - a bereaved person will be entitled to leave in respect of each person who has died, if more than one
- This will be a Day 1 right

# Working Time Records

Employers will need to keep adequate records to demonstrate compliance with:

- Entitlement to annual leave
- Entitlement to additional annual leave
- Entitlement to annual leave of irregular hours and part-year workers
- Entitlement to pay for annual leave
- The requirement to make a payment in lieu of holiday outstanding on termination of employment, including any holiday carried forward from a previous leave year
- The requirement to make a payment to irregular hours workers and part-year workers in lieu of holiday outstanding on termination of employment

# Zero Hours Contracts

- New obligation on employers to offer “guaranteed hours contracts” to qualifying workers
  - Applies to workers who, over a specified reference period, regularly work more hours than those guaranteed in their contracts
  - Effectively makes it illegal to offer zero or minimal guaranteed hours while expecting workers to fulfil a higher workload
  - Intended to protect workers from the uncertainties of zero hours contracts, and ensure those who consistently work a regular pattern have this reflected in their contract
- Right to notice of shifts
  - Intended to give greater certainty about working hours
  - “Reasonable notice” is not yet defined
  - Employers should put in place systems to ensure minimum notice (when specified) is automatically provided
- Compensation for cancelled or curtailed shifts
  - Workers will be entitled to compensation if their shifts are cancelled at short notice or if their hours are curtailed.
  - The level of compensation and definition of “short notice” has not yet been announced.

# School Support Staff & Adult Social Care Staff Negotiating Bodies

- Essentially unionisation by the back door
- Secretary of State will have the power to create an Adult Social Care Negotiating Body for England
- The Body's remit will include negotiating
  - Remuneration;
  - terms and conditions of employment; and
  - any other specified matters relating to employment



# Employment Rights Bill: What else is new new?

- Collective Redundancy – Woolworth’s rule amended – now redundancies across whole business (figure to be determined) or 20 at one establishment
- Equality Action Plans and Outsourcing – gender equality reporting will require evidenced plans to help women and include outsourced roles
- Fire & Rehire – automatically unfair unless you can leap some very tall hurdles regarding financial viability
- Flexible Working – reasons remain the same for refusal, but new consultation process and a need to explain the reasons for refusal thoroughly
- Umbrella Companies – will now have to provide similar rights to employment agencies
- Fair Work Agency

# Employment Rights Bill: What else is new new?

- Trade Union Rights – removal of requirements around strike ballots for 50% turnout
- Trade Union Rights – more paid time for union activities
- Trade Union Rights – no right to dismiss for long-term industrial action
- Trade Union Rights – right of access - we want to come in, and you might not be able to stop us.....
- Trade Union Rights – statement of trade union rights – s.1 statement requirement
- Trade Union Rights – simplified recognition process – membership of 2% - 10% will be enough
- Trade Union Rights – no longer required to ballot in respect of maintaining political funds (I wonder why.....)
- Trade Union Rights – simplified ballot requirements for industrial action

# Employment Rights Bill: Timeline

- Immediate (awaiting Royal Assent):
  - Repeal of the Strikes (Minimum Service Levels) Act 2023 and major parts of the Trade Union Act 2016
  - New protections preventing dismissal for participating in industrial action
- April 2026:
  - Protective award for collective redundancies – doubling maximum period
  - 'Day 1' paternity and unpaid parental leave
  - Establishment of a Fair Work Agency
  - Statutory Sick Pay (removal of lower earnings limit and waiting period)
  - Simplified trade union recognition and digital/workplace balloting systems

# Employment Rights Bill: Timeline

- October 2026:
  - Ban on fire-and-rehire
  - Launch of a Fair Pay Agreement Negotiating Body for adult social care
  - Employer duty to take 'all reasonable steps' to prevent sexual harassment
  - Expanded trade union rights
- 2027:
  - Mandatory gender pay gap and menopause action plans (voluntary from April 2026)
  - Rights for pregnant workers
  - Bereavement leave
  - Protections against zero hour contract abuse
  - Umbrella company regulation
  - 'Day 1' unfair dismissal rights Consultations will begin this summer and continue into early 2026.

# Employment Rights Bill: What's missing?

- The right to switch-off – still apparently part of the plans, but perhaps goes against the agenda and talk of being a hub for technology and communications
- Ethnicity and disability pay gap reporting – it will come, but definitions and categorisations appear to be causing some issues with discrimination legislation as we have to label people to fit them in the tick box on the form.....
- Single status – no employees, no contractors, no consultants, just workers (all entitled to the same rights and all paying taxes and NI)

# Practical steps

- Review policies
- Train managers on
  - redundancy protections
  - Prepare for neonatal leave requests
  - Policies and procedures
- Add carer's leave to absence policies
- Consider your usage of zero hours contracts and only using them for short-term arrangements / changing workers regularly

# Any Questions?



# Employment law, Business Immigration and HR Legal Support:

- Sponsorship licences and business immigration support
- Day-to-day employment issues
- Dismissals
- Employment contracts and service agreements
- Restrictive covenants, confidentiality and intellectual property
- Employment status
- Restructuring, reorganisation and redundancy
- Mergers, acquisitions, insourcing and outsourcing (TUPE)
- Changing terms and conditions of employment
- Employment tribunal claims
- Discrimination and equal pay issues
- Whistleblowing
- Settlement agreements and pre-termination discussions
- Retainer service and 'TLC' insurance
- Data Protection (GDPR and subject access requests)
- Disciplinary and grievance investigations
- Policies and Procedures
- Employment law and HR training



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# Care Legal Support:

- Advice on compliance with the regulations and registration
- Challenging inspection reports and ratings
- Defending regulatory enforcement action (CQC/Ofsted)
- Criminal investigations and prosecutions (e.g. by police, CQC, etc)
- Safeguarding investigations
- Coroner's inquests
- Funding disputes and unpaid care fees
- Court of Protection cases
- Regulatory due diligence
- Sales, acquisitions and refinancing
- Transactional and commercial services
- Employment issues
- Requirements for charities
- Property services, planning and development
- Restructuring

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