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Four government consultations on possible amendments to the Employment Rights Bill

Whether zero-hour contracts will become a thing of the past under the new Labour government

Join us for our Employment Law webinar on Tuesday 12 November – see page 4 for details

Government consultations on amendments to the Employment Rights Bill

As discussed in a [recent article](#), the Employment Rights Bill was published on 10 October 2024 and is currently progressing through parliament.

The Bill successfully passed its second reading on 21 October, during which four consultations on possible amendments to the Bill were introduced. [Sean McEntee](#) examines the detail of these consultations and highlights the importance for employers to consider their implications.

The Employment Rights Bill introduced 28 employment law reforms which are both significant for employers and potentially expensive, with the government's own analysis indicating the reforms will cost businesses up to [£5bn to implement](#).

In light of this, the government is eager for several reforms to undergo consultation prior to implementation. These consultations aim to shape potential amendments to the Bill as it moves through Parliament.

The four consultations are:

- **Consultation on the legislative framework for trade unions:** This [consultation](#) proposes removing the 10-year ballot requirement for



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political funds, extending the expiry of the strike mandate, and reducing the industrial action notice period for industrial action. It closes on 2 December 2024.

- **Consultation on zero-hour contracts:** The government is also consulting on zero-hour contracts, specifically on the right to guaranteed hours with a contract reflecting the number of hours regularly worked, as well as providing reasonable notice of shifts, with payment for shifts cancelled or curtailed at short notice. This [consultation](#) also closes on 2 December 2024.
- **Consultation on Collective Redundancy and Fire-and-Rehire Practices:** Views are being sought on strengthening remedies against the misuse of collective redundancy rules and fire and rehire. For collective redundancy, this includes proposals to increase the protective award a tribunal can grant from 90 to 180 days or eliminating the cap altogether. For fire and rehire, the government is seeking views on whether interim relief should be available to employees who bring an unfair dismissal claim. Interim relief would either mean reinstatement or compensation until the employee's case has its full tribunal hearing. The [consultation](#) closes on 2 December 2024.
- **Consultation on Statutory Sick Pay:** Finally, the government is also consulting on Statutory Sick Pay, focusing on the percentage replacement rate for those earning below the current rate of £116.75 a week. This [consultation](#) closes slightly later, on 4 December 2024.

The government has indicated that further consultations will occur in the coming months, including those related to zero-hour provisions more generally, and we will inform you when these consultations open.

We encourage our clients to consider which of these consultations may be relevant to their business or

organisation and to respond before the December deadlines.

These consultations offer a valuable opportunity to provide direct feedback to the government regarding any concerns or comments related to the proposed measures, or to feedback via employer organisations, such as the Federation of Small Businesses, or Chambers of Commerce, with the hope that the government will take into account the perspectives of SMEs before moving forward with implementation.

Will zero-hour contracts become a thing of the past?

The Employment Rights Bill, introduced to Parliament on 10 October 2024, outlines the Labour Government's proposed reforms aimed at enhancing workers' rights while benefiting businesses and delivering economic security.

Among these reforms is a move to end the use of 'exploitative' zero-hour contracts to address what the government describes as one-sided flexibility. [Rebecca Nally](#) explores the implications of this proposed change.

The move to end the use of zero-hour contracts follows research indicating that 84% of workers on such contracts would prefer guaranteed hours. Zero-hour contracts, often referred to as casual contracts, require employees to be prepared to work when called upon, without the guarantee of a set number of hours.

Despite the headlines, the proposed reforms will not end the use of zero-hour contracts entirely. Instead, workers on zero-hour or low hours contracts, will have the right to a guaranteed hours contract if they work regular hours over a specified reference period. However, details regarding the length of this reference period have yet to be confirmed.



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For a contract to guarantee hours to a worker, it must specify:

- a) Either
 - i) The specific days of the week and times when the employer is required to make work available to the worker for the offered number of hours, or
 - ii) A working pattern of days and times, based on which the employer is required to provide work for the offered number of hours
- b) The specified days and times, or the working pattern, must reflect the hours worked during the reference period.

In practice, this will require employers to carefully consider the hours they offer when recruiting or altering a worker's contract. However, the draft legislation also allows employers to issue guaranteed hours contracts on a limited-term basis, giving them the flexibility to offer short-term guaranteed hours and later revert to zero-hours contracts.

While this reform does not prevent the use of zero-hours contracts for those who wish to remain on them, it will provide stability and security of earnings for workers who seek more predictable hours.

The new legislation will also repeal the Workers (Predictable Terms and Conditions) Act 2023, which would have come into effect this year. The 2023 Act would have made it possible for workers to request predictable working patterns, provided they had 26 weeks of continuous service.

Further reforms related to zero-hours workers include:

1. The right to reasonable notice of a shift that the employer requests or requires the worker to work. However, no further detail on what constitutes "reasonable notice" has been provided yet.

2. The right to payment for cancelled, moved and curtailed shifts for zero-hours/irregular shift workers who were informed of the change at short notice. Again, further details of what constitutes "short notice" are pending.

Based on this information, there are a few factors that businesses should consider:

- **The cost of providing regular hours** to employees who were previously on zero-hour contracts, especially during quiet periods.
- **The need for regular reviews** with employees on low/zero-hour contracts to assess the feasibility of their contractual arrangements.
- **The organisation and communication of shifts** will become critical.

Zero hours contracts can be appealing to workers looking for independence and they offer flexibility for employers. However, their use has also been controversial, particularly due to the exploitation of workers, especially younger workers, who have suffered from instability and financial insecurity.

Overall, this proposed reform aims to strike a balance between the needs of businesses and workers. It ensures zero-hour contracts can still be used where workers are comfortable with the arrangement, while providing stability and guaranteed hours for those who are not.

These measures are not expected to come into force for a few years, following a period of consultation. For now, employers can continue to enjoy one-sided flexibility, but they should be prepared to tread more carefully when recruiting and offering shifts in the future.



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Employment law update webinar

Tuesday 12 November 2024
12.00 – 13.30

We are delighted to invite you to join [Ben Doherty](#), [Kate Wyatt](#) and [Daniel Gorry](#) as they discuss the reforms in the Labour Government's Employment Rights Bill and provide practical guidance on effectively preparing for these legislative changes.

How to book your place

This webinar will be held via Zoom and so to register your place please [click here](#).

Following registration you will receive a confirmation email which includes a link to join.

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