

Client Alert

Global Human Capital and Compliance

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For more information,
contact:

Tessa Cranfield
+44 20 7551 7567
tcranfield@kslaw.com

Marie Hoolihan
+44 20 7551 7587
mhoolihan@kslaw.com

Matthew Sharples
+44 20 3929 5317
msharples@kslaw.com

King & Spalding

London
8 Bishopsgate
London, EC2N 4BQ
United Kingdom
Tel. +44 20 7551 7500

The First 100 Days: Labour's Employment Agenda

Following the Labour Party's landslide victory in this month's general election, employers are braced for the biggest employment law shake-up in a generation, with multiple significant reforms proposed.

The King's Speech on 17 July 2024 outlined the new government's legislative agenda, including in relation to employment rights. The accompanying Prime Minister's [briefing notes](#) provided more detail on Labour's key legislative proposals, and offered some insight into what changes to expect, although no detail as to when. This month's alert summarises the anticipated legislation, including a new [Employment Rights Bill](#), a [draft Equality \(Race and Disability\) Bill](#) and [changes to the national minimum wage](#).

EMPLOYMENT RIGHTS BILL

The government has promised an Employment Rights Bill within its first 100 days (i.e., by 12 October 2024). This does not mean that new laws will be in place by this date, but rather that it is committing to commencing the legislative process quickly.

To become law, the Bill would need to be approved by both Houses of Parliament and many provisions will require consultation and/or secondary legislation to be passed. Some changes could apply by end 2024 while others are likely to take until at least 2026 to be effective.

The Bill will implement the many of the policies set out in Labour's "Plan to Make Work Pay", including:

- **Unfair dismissal rights from day one:** The Bill will implement the commitment to expand day one employment rights, most notably the protections against unfair dismissal, by removing the current two-year qualifying period. The King's Speech did not shed any further light on how the government will implement this approach, but it is clear that probationary periods will become crucial. Labour has said that dismissal will still be permitted on the current valid grounds or "during probationary



periods with fair and transparent rules and processes”. Employers can prepare for this change by ensuring probationary periods are included in employment contracts and that processes are in place to properly monitor and assess a new starter’s performance within a limited window. This is one of Labour’s key priorities but it seems unlikely that it could take effect until late 2025 at the earliest given the proposal will require a new ACAS Code of Practice, which will need to be consulted on.

- Expanding other ‘day one’ rights: The Bill will also expand other day one rights including statutory sick pay (by removing the three day waiting period), access to parental leave and making flexible working the ‘default’. It is not yet clear if the reference to making parental leave a ‘day one’ right refers to all family leave rights, including the right to 12 months’ maternity leave, which normally need around 6 months’ minimum service, or more limited family leave rights. While the changes to parental leave and sick leave could potentially be implemented quite quickly, with changes to leave arrangements traditionally being actioned in April, it is likely that it will take much longer to implement the change to flexible working as the default. This proposal would be a significant cultural shift and will likely require consultation and further guidance on the grounds an employer can rely upon to refuse such requests. Employers could start preparing for this change by reviewing their current flexible working arrangements and identifying where they may be more, or less, able to accommodate requests.
- Banning ‘exploitative’ zero-hour contracts: the government will restrict the use of zero-hour contracts (unless specifically requested by the worker) so that workers have a right to have a committed number of hours, based on their twelve-week past average. Workers will also be entitled to reasonable notice of any changes in shifts or working time, with compensation that is proportionate to the notice given. There is still no detail on the minimum number of hours that must be guaranteed or the grounds (if any) on which employers would be able to resist an average-hours contract. Moving employees to average-hours contracts could reduce flexibility (for both employers and employees) which in turn would increase employer costs and create resourcing challenges in sectors where seasonal demand fluctuates. To prepare for this change, employers in sectors which rely on flexible contracts should identify which of their functions rely on this flexibility, and consider what a 12-week average calculation would look like across the year. Alternative models may be needed.
- Ending the practice of ‘fire and rehire’: The new Bill will introduce unspecified “effective remedies” alongside a new strengthened Code of Practice. The government has however acknowledged that it is “important businesses can restructure to remain viable ... when there is genuinely no alternative” – which looks to be a high bar, where a company will otherwise be unable to survive.
- Strengthening protections for new mothers: The Bill will make it unlawful to dismiss a woman who has had a baby within six months of her return to work, except in very specific circumstances (which may include a genuine redundancy, as is currently the case for women on maternity leave). It is not clear whether this would be implemented ahead of the general review of the family leave framework which Labour has committed to undertake within its first year of government.
- Establishing a new single enforcement body: A new Single Enforcement Body, also known as the Fair Work Agency, will be established to strengthen the enforcement of workplace rights. The new body would have wide ranging powers to inspect and access workplaces. The government has indicated that this is one of their priorities but given the need for consultation about such a body’s remit and powers, as well as the need for funding, it is likely to be some time before it is up and running.



- **Strengthening trade union rights:** In addition to repealing recently enacted anti-strike laws (which we expect imminently), the government plans to remove “unnecessary restrictions” on trade union activity, ensure that industrial relations are based on good faith negotiation and bargaining, and remove the “high hurdle” of unions needing to demonstrate that over 50% of employees support their claim for recognition. No details have been given as to what an alternative threshold might be. The government will also introduce a new duty on employers to inform all new employees of their right to join a union on day one of their employment, and to inform all staff of this on a regular basis.
- **Establishing a Fair Pay Agreement in the adult social care sector:** The Bill will establish a Fair Pay Agreement in the adult social care sector. A review will be conducted to assess how and to what extent such agreements could benefit other sectors.

DRAFT EQUALITY (RACE AND DISABILITY) BILL

A draft Equality (Race and Disability) Bill was announced in the King's Speech 2024, to be led by the Government Equalities Office. To fulfill their commitment to “enshrine the full right to equal pay in law,” the government will introduce a statutory right to equal pay for ethnic minorities and disabled people, broadly mirroring the existing equal pay regime based on sex in the Equality Act 2010. This would include complex assessments of whether claimants are doing “like work” or work of “equal value” to an appropriate comparator, with claims backdated for up to six years prior to bringing a claim. Equal pay claims are notoriously complicated, with long running litigation and significant costs for both employers and employees.

The draft Bill will also implement mandatory ethnicity and disability pay reporting for large employers with more than 250 employees. Given that this has been described as a draft bill, it is likely that it will be subject to public consultation before being put to Parliament. No indication has been given on timing yet. Given the practical challenges as to how this would work, balancing privacy and other concerns, we expect this bill to face some opposition from employers and it is unlikely to take effect until towards the end of the government’s first four-year term.

WHAT MORE IS TO COME?

The background briefing notes to the King's Speech commit the government to delivering a national minimum wage that meets the cost of living and to removing the age bands that currently apply to 18-20 year olds for the minimum wage. It is likely that changes to the national minimum wage will take effect in April 2025, but changes to the age bands may take longer to allow businesses more time to implement any necessary changes to pay structures.

We await further information from the government on other changes to employment law promised in the “Plan to Make Work Pay”, such as introducing a single status of worker and the right to switch off/disconnect. These are likely to require extensive wider consultation with employers, and therefore we do not expect significant changes on these points for a minimum of 12 months.

The K&S London team hosted a Webinar covering potential changes to UK employment law following the general election on 11 July 2024. If you are interested in more insights about the upcoming changes, please contact TQuek@kslaw.com for a recording.



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