



Employment Rights Bill

Insights and commentary

7 October 2025

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People

140

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Female Partnership

£120m

Revenue (2023)

#42

UK Law.com

*excluding partners

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Legal 500 UK 2025 Top Tier

Memberships

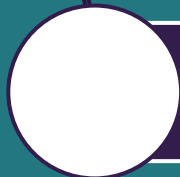
Food & Drink Federation

Taste Buds Collective

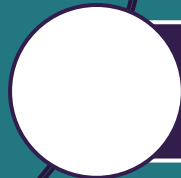
Employment Rights Bill



What are the proposed changes?



What is the likely impact on the food and drink industry?



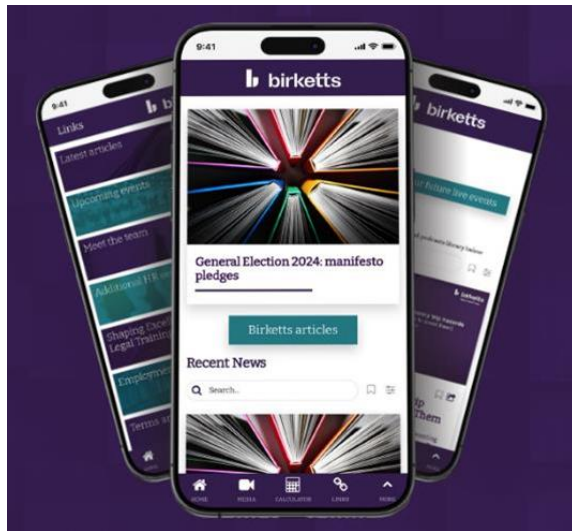
What should you do now to prepare?

Employment App

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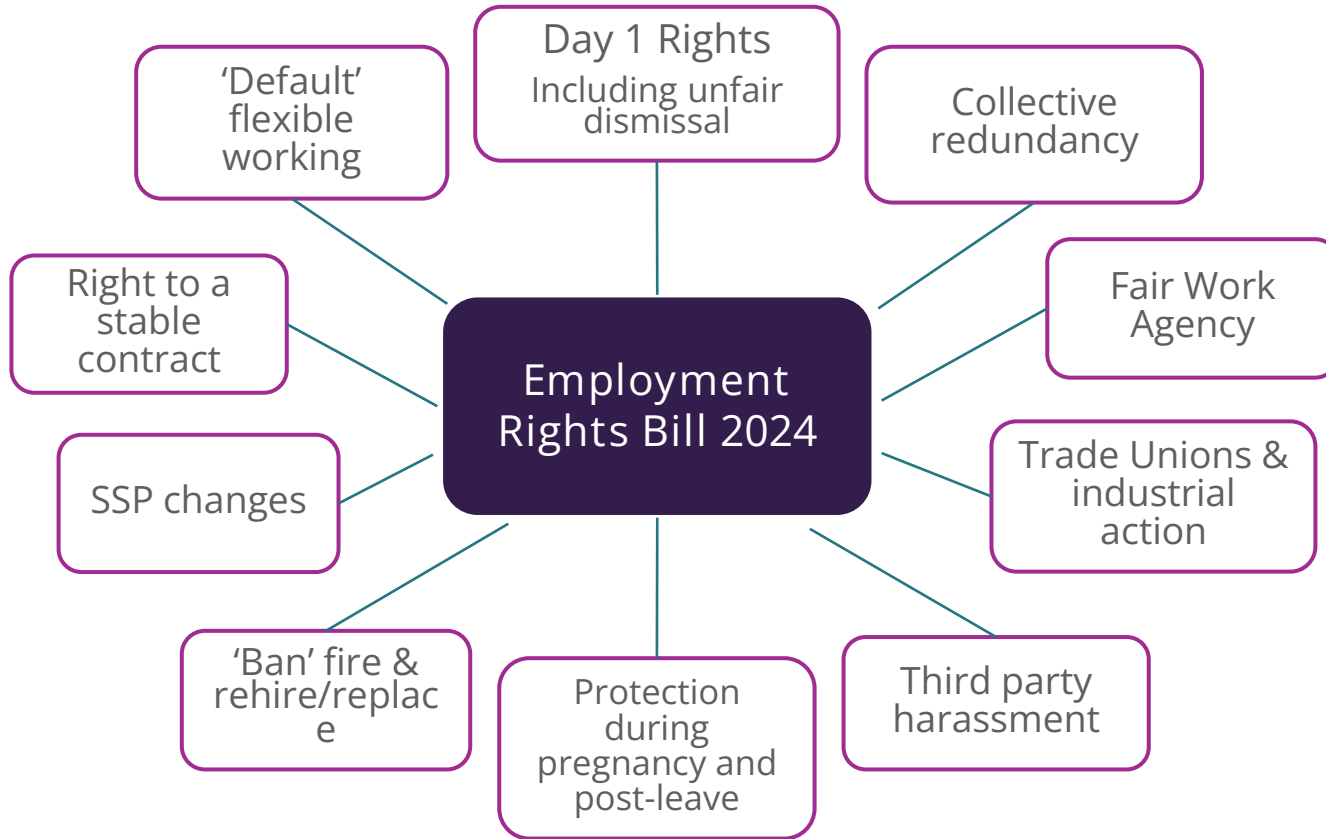
App Store (Apple)



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Daily impact for all employers

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Unfair dismissal – day one right, harder to dismiss

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees need 2 years' service to bring an ordinary unfair dismissal claim.</p> <p>Whilst there may be a contractual probationary period, employers generally have 2 years to safely dismiss an employee if the relationship doesn't work (providing there is no discrimination or automatic unfair reason)</p>	<p>No minimum service requirement for ordinary unfair dismissal claims.</p> <p>A statutory probation period ('initial period of employment') will apply for the first 9 months of employment.</p> <p>Within this period, a fair reason is still required – poor performance, misconduct, capability, SOSR will have a "light touch" procedure.</p> <p>Redundancy will likely still require the full process.</p>	High	High	2027 Further consultation required	<p>Continue to assess those with less than 2 years' service.</p> <p>Ensure robust recruitment practices.</p> <p>Proactively manage the probation period.</p> <p>Update contractual probation period to align with the likely statutory probation period</p>

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Right to guaranteed hours

Current position

Employers can freely employ/engage staff on a zero-hours basis with no obligation to offer them guaranteed hours providing they do not require exclusivity from the individual.

Proposed change

- Workers (including agency workers) will be given:
1. A right to be provided with information on their rights during an 'initial information period' (broadly, the first 2 weeks).
 2. A right to be offered a guaranteed hours contract where certain thresholds of hours worked are met (TBC) over a specific reference period (likely 12 weeks).
 3. Right to reasonable notice of being required to work a shift or changes to shifts.
 4. Right to reasonable notice of shift cancellation and compensation.

Under an amendment to the Bill, these rights can now be opted out of under a relevant collective agreement with a trade union.

Level of impact

High if you employ/engage zero hours/low hours workers and operate shifts.

High impact for manufacturing plants that use zero hours/ shift work labour.

Note 'limited term' contracts will be permitted (if reasonable)

Frequency of impact

High – depending on the reference period and frequency of shift times issued/ cancelled.

Date of change

2027
Further consultation required

Actions to take

A big change but should not catch genuine temporary workers if the reference period is long enough or 'limited term' exception applies.

Model the number of shift cancellations that have taken place over the past 12 months. Improve processes where possible to reduce these occurring in the future.

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Harassment by third parties - introduced

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employers are vicariously liable for acts of harassment committed by other employees 'in the course of employment'.</p> <p>No liability for third party harassment towards employees.</p>	<p>Unless the employer can show they took all <u>reasonable steps</u> to prevent the harassment, they will be liable for harassment from third parties towards employees.</p> <p>This includes unwanted contact relating to age, disability, sex, race, religion or belief, sexual orientation, gender re-assignment, sexual harassment (including conduct of a sexual nature and less favourable treatment for submitting to or rejecting unwanted conduct of a sexual nature).</p>	High	Low – bulk of the workforce in a food/drink manufacturing setting unlikely to be in contact with third parties	October 2026	<p>Undertake risk assessments. Review current policies and provide training for all staff/managers.</p> <p>Building on the changes that employers should be taking following the introduction of the duty to prevent sexual harassment on 26 October 2024. Increased awareness, risk assessments, recording of incidents and effective resolution is crucial.</p>

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Sexual harassment – strengthened duty to prevent

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Since 26 October 2024, employers have a duty to take 'reasonable steps' to prevent sexual harassment occurring within their workforce and from third parties towards their employees.	'Reasonable steps' is replaced with 'all reasonable steps', bringing it in line with other legislative provisions and increasing the obligation on employers to show the duty is discharged.	High – if employer is not already compliant	High – particularly for employers with lots of interacting employees e.g. production lines	October 2026 Secondary legislation required	Employers should ensure they are compliant with the new duty now. It is unlikely (subject to further guidance) that there will be substantial changes to make when this comes into force, provided employers are already compliant.
		Low – (providing employer already compliant) it is a tweak to existing provisions. Difficult to see the practical difference between 'reasonable steps' and 'all reasonable steps' given the guidance.			

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Sexual harassment - whistleblowing protection

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Sexual harassment is not expressly included as a 'qualifying disclosure', which means it's unlikely to attract whistleblowing protection.	Sexual harassment disclosures are added as a potential 'qualifying disclosure' for whistleblowing protection. Applies to detriment and dismissal.	Medium	Low	Unknown – likely 2026	<p>This will give employees a further legal mechanism through which a sexual harassment claim can be pursued.</p> <p>It enhances existing legal protection rather than introducing something completely new.</p>

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Flexible working

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees already have a day 1 right to request flexible working and an employer must deal with the request in a reasonable manner.</p> <p>Employers can refuse the request for one or more prescribed reasons.</p> <p>Employers do not have to show a reasonable decision is made (although there are often discrimination risks if refusing a request in certain circumstances).</p>	<p>The same statutory process will apply but in addition the employer will have to show they are reasonable in refusing the request and will have to state their grounds for refusing (probably in writing).</p>	<p>Medium – on the basis that it heightens discrimination risk in certain circumstances e.g. women working part time / from home to manage caring responsibilities</p>	<p>Low. It is unlikely to result in more requests to work flexibly but note that workplaces are under pressure to embrace this culture.</p>	<p>2027</p>	<p>Review and amend flexible working policies.</p> <p>Consider the culture shift/change to working more flexibly.</p> <p>You need to justify saying no – amend any template letters to prompt this to be captured.</p>

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Statutory Sick Pay (SSP) – first day of absence

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>No SSP paid for the first three 'waiting days' of absence.</p> <p>No SSP paid at all for those who earn less than the 'lower earnings limit'. This is currently set at £123 per week.</p>	<p>SSP paid from first day of absence.</p> <p>All employees entitled to SSP regardless of earnings. Rate of SSP is currently £118.75 per week (from 1 April 2025). If pay is lower, SSP will be payable at 80% of the employee's normal weekly earnings.</p> <p>Current consultation on level of SSP for low earners.</p>	Low	Medium	April 2026	<p>Absence policies and payroll systems will require amendment.</p> <p>Employers encouraged to financially model what the increased cost would be.</p>

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Working time records – do you keep these?

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Employers must keep certain records to prove compliance with WTR 1998, including that workers are not working more than the 48-hour weekly maximum and limits for young workers and night workers are not breached.	<p>New obligations for employers to keep adequate records to demonstrate compliance with statutory annual leave and pay entitlements. Records to be maintained for 6 years.</p> <p>Failure to do so will be punishable by fine.</p>	Low – provided statutory holiday entitlements are already met and records maintained	High – applies to all workers	No yet confirmed – likely 2026	Ensure full holiday records are maintained to ensure straightforward compliance when it takes effect.

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Employment Tribunal time limits

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Most tribunal claims have a time limit of 3 months from the date of termination or from the act complained of, subject to the tribunal's discretion to extend the time limit in certain circumstances.	The current 3-month time limit is extended to 6 months across the board.	Medium	Medium. Possible it may increase the number of claims overall (but also provides more time for conciliation and settlement)	October 2026	Continue to ensure procedures are robust and good records maintained to be in the best position to defend any claims. Business planning may need to account for longer period of risk following terminations.

Event based impact for employers

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Fire and rehire/replace - outlawed

Current position

Provided a fair process is followed, employers can give notice of dismissal to employees and offer them immediate re-engagement on new terms, allowing the employer to force a change in contractual terms.

Employees can choose not to accept the offer of reinstatement, but they usually do. There is a statutory Code of Practice to safeguard against abuse by employers and the bar for the dismissal to be held fair is high – employers need a strong business case.

Proposed change

Dismissal where the employer seeks to vary the contract and the employee does not agree, or where the employer is seeking to employ or engage another person or re-engage the employee under a varied contract of employment to carry out 'substantially the same role' will be automatically unfair.

This will apply to 'restricted variations', which includes changes to pay, pensions, hours of work and holiday entitlement. The only exception is where the business is in extreme financial constraints i.e. carrying on business as a going concern is at risk.

The maximum protective award will be doubled from 90 to 180 days' pay for a failure to collectively consult.

Level of impact

High

Frequency of impact

Low

Date of change

October 2026

Further consultation required

Actions to take

Review template contracts of employment for future recruits.

Review contracts of employment of existing employees and seek to negotiate changes/removal of undesirable clauses with the option of dismissal and re-engagement if necessary (subject to current statutory Code of Practice) prior to 2026.

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Pregnancy and family leave

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Enhanced protection for redundancy during pregnancy through to six months after return from maternity and other statutory family leave. Right of 'first refusal' for alternative employment.	Enhanced protection against all forms of dismissal (not limited to redundancy) during pregnancy and six months after return from maternity and other statutory family leave.	High	Low – not usually a regular or universal occurrence.	2027 Further consultation required	Be aware of enhanced protection. Most employers are already wary of dismissing anyone pregnant/on maternity leave, so in practice there is unlikely to be a substantial need for change day to day.

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Paternity Leave – day one right

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for statutory paternity leave, a parent must have 26 weeks' continuous service.	Parents will now be eligible for paternity leave from the first day of their employment.	Low	Low	April 2026	<p>Employers to review family friendly policies.</p> <p>Managers to be made aware of the change.</p>

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Parental Leave – day one right

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for paternity leave, a parent must have one year's continuous service.	Parents will now be eligible for parental leave from the first day of their employment.	Low	Medium	April 2026	<p>Employers to review family friendly policies.</p> <p>Managers to be made aware of the change.</p>

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Bereavement Leave – extended

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees whose child dies (including stillbirth after 24 weeks of pregnancy) can take a period of up to two weeks (in blocks of at least a week) of parental bereavement leave in the 56 weeks following their loss.</p> <p>The time off is paid at the same weekly rate as statutory maternity pay.</p>	<p>The right to bereavement leave is extended – this entitlement now not only applies to those who have lost a child but those who have lost a ‘loved one’.</p> <p>Those who have lost a ‘loved one’ will be entitled to take at least one week of leave (pay only where it is loss of a child).</p> <p>Regulations will set out exactly what a ‘loved one’ is.</p> <p>The existing provision for parental bereavement leave will remain unchanged and will sit alongside this new right.</p>	Low	Low	Spring 2025 at the earliest	<p>Employers to review family friendly policies.</p> <p>Managers to be made aware of the new right.</p> <p>Most employers enhance this to full pay and allow a longer period of leave.</p>

Greater protection – low chance of daily impact

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Trade Unions

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Minimum service levels during industrial action in key public services.	Legislation repealed – MSLs will no longer apply.	Low – national industrial action largely subsided.	Low – industrial action usually uncommon.	Immediate on Royal Assent	None
Stringent statutory trade union recognition procedure and strict rules on strike ballots, including minimum 50% membership turnout (plus 40% in favour in key public services).	<ul style="list-style-type: none"> Employers to provide all employees with statement setting out their right to join a TU from day one. TU can request an 'access to workplace' agreement. TU recognition made easier – removal of 40% support threshold at recognition ballot. Strengthened protections against unfair practices. Simplification of industrial action ballots – simple majority vote. Protection against detriment for participating in lawful industrial action. 10-day minimum notice of industrial action (down from 14). Mandates for industrial action to increase from 6 to 12 months. 	Medium – where there is already TU recognition or potential for TU recognition	Medium – where relations with TU are difficult.	Implemented in stages 2025/2026	<p>Carry out a 'TU Audit'.</p> <p>Are you at risk of compulsory TU recognition and if so, how is this best managed – consider voluntary recognition?</p>

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Equality action plans

Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Best practice only	<p>Applicable to all employers with 250+ employees.</p> <p>Contents and frequency yet to be determined but will include steps to address gender pay gap and support provided during menopause.</p>	Medium – likely to be codifying what any progressive employer already does.	Low – likely to be reviewed annually	2027 (voluntary from April 2026)	Start to formulate what you are already doing in the equality, diversity and inclusion space including gender pay gap and menopause support.

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What's not in the Bill?



Government also published '*Next Steps to Make Work Pay*' (10 October 2024)

Further proposals include:

- Employment status – consultation on moving towards single 'worker' status
- Right to switch off – statutory Code of Practice to protect employees out of hours
- Review of current parental and carers' leave

Equality (Race and Disability) Bill

Equality (Race and Disability) Bill

- Will introduce new right to equal pay for ethnic minorities and disabled people
- Mandatory ethnicity and disability pay reporting for large employers
 - 250+ employees only
 - Likely to be more complex than gender pay reporting
- No date/timeframe for publication
- Consultation closed June 2025

“Building on the success of the gender pay gap reporting, mandatory ethnicity and disability pay reporting for large employers will expose pay disparity, encouraging employers to take action and coupled with additional equal pay protections allow those who are being underpaid, with greater legal certainty to make a claim.”

King’s Speech Briefing Note, 17 July 2024





Any questions?

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