

Employment Rights Bill

Second Reading and Consultation documents

On Monday 21st October, the Government's Employment Rights Bill had its Second Reading in the House of Commons.

The Second Reading was preceded by the publication of the Bill's economic impact assessment. Despite a generally warm welcome from the sector and unions, the estimation that the policy would cost businesses £4.5bn a year was met with fierce criticism from business groups and dominated the headlines of leading news outlets on Tuesday.

The Department for Business and Trade has also published a number of consultations relating to proposals to repeal anti-trade union legislation and tackle one-sided flexibility. The key points from this week's updates on the Employment Bill are summarised below.

Impact Assessment

[Multiple impact assessments](#) have been carried out across the departments this Bill covers, and Angela Rayner has noted that the analysis shows the Bill to be a "pro-growth, pro-business and pro-worker".

Key points from the economic analysis and summary impact assessment are below:

- The Bill will primarily benefit low-paid workers, many of whom earn just above the National Minimum Wage. Approximately 10 million individuals work in low-paying sectors. Policies to ban zero hour contracts and making Unfair Dismissal and Unpaid Parental Leave Day One rights, are expected to benefit low-paid workers the most.
- The Bill is expected to bolster the bargaining power of trade unions, particularly in the public sector, where collective agreements predominantly dictate wages. Over time, this could lead to increased union membership in other industries, though the immediate effect will be more pronounced in the public sector.
- The impact assessment predicts there will be a potential increase in disputes and claims processed through Employment Tribunals and other conciliation services like ACAS, possibly raising cases by around 15%. This arises from the introduction of additional individual rights, which will require engagement with enforcement mechanisms to ensure compliance.
- The department believes that improvements to working conditions could lead to increased productivity and wider economic benefits by fostering a healthier workforce, which may reduce welfare dependency and healthcare costs associated with job anxiety and insecurity.
- The department predicts employers may react to increased costs by raising prices, absorbing costs, or cutting recruitment. Feedback from businesses suggests some will increase prices to maintain profit margins. It has been widely reported that the impact assessment suggests the direct cost to business will run into a [figure less than £5bn a year](#).

The costs of the policies have been set out by the Government as:

- **The Right to Guaranteed Hours Contracts** – the administrative costs of offering workers a contract that reflects their working pattern after 12-weeks as well as following an annual review is estimated at around £160 million per year. The impact of lost flexibility to employers (i.e., having a smaller pool of workers that can 'flex up' or 'flex down') is not possible to accurately quantify but we believe the value to employers is likely to be up to hundreds of millions of pounds depending on how the policy is designed.
- **Payment for Short Notice Shift Cancellation or Curtailment** – The Department estimates that the value of unavoidable cancellations for businesses that face unpredictable demand could be between £90m to £120 million per year, and there will also be costs to employers of additional workforce planning to avoid shift cancellations, valued at up to £200 million per year.
- **Making Unfair Dismissal a Day One Right** – it is likely employers will make changes to hiring, dismissal and management practises to minimise the risk of litigation for dismissal and minimise unproductive

employee-job matches. The burden of these changes could be in the hundreds of millions per year, albeit this will depend to a large degree on how 'statutory probationary periods' operate in practice which will be set out in secondary legislation.

- **Reforms to Statutory Sick Pay** – DWP analysis suggests the additional SSP payments made by employers are expected to cost around £400 million per year.

Second Reading

Supporters

The Second Reading of the Bill provided the first opportunity for MPs to debate the Bill's core tenants and proposals. The Deputy Prime Minister, Angela Rayner, opened the [debate](#) by declaring herself a "lifelong proud trade union member". She emphasised the ambitious nature of the reforms, noting "too many working people have had to wait too long for change".

“This Labour Government, led by working people, for working people, will start to turn the tide.”

- Angela Rayner

She echoed the results of the Government's impact assessments and explained that business "giants" like Sainsbury's and Octopus Energy understand that strong employee rights mean strong growth opportunities, as she heralded a "new partnership between workers and business". She covered off the key changes that the Bill will bring, including making jobs more secure, banning zero-hour contracts, supporting women in work, a genuine living wage, sick pay for the lowest earners and ending fire and rehire. She also praised the role that unions can play, stressing their "valuable contribution" and emphasising that the Government wants trade unions and employers to come together to grow the economy.

Many Labour MPs took to the floor of the house to express their support for the Bill, and Mike Amesbury declared the Second Reading as "an important day for the history of the labour movement", describing the Bill as "landmark legislation". Similarly, former trade union official, Johanna Baxter stated the legislation to be the "biggest uplift in workers' rights in a generation". Former Unison official Mark Ferguson noted the Bill as being at "the heart" of why Labour Party are in Government. Other MPs outlined their trade union membership status and praised the ambition of the Bill.

Opposition

Shadow Secretary of State for Business and Trade, Kevin Hollinrake led the Opposition's criticism of the Bill. The key message was that Bill runs counter to the Government's goals of improving growth and productivity and will instead increase costs for both businesses and consumers.

Hollinrake discussed the serious reservations the Opposition, along with business representatives he had met, shared about the reforms. From an industrial perspective "the Institute of Directors highlighted the fact that 57% of its member will be less likely to hire staff" and that "the costs associated with this Bill cannot be afforded by 54% of businesses."

Specifically, Hollinrake argued that the measures fell disproportionately on Small and Medium-sized enterprises, and asked Angela Rayner to consider exempting SMEs from the Bill. To that end, the Shadow Secretary of State stated that he would not start a business today under the proposed legislation.

In terms of impact assessment, Hollinrake said:

- "The Institute for Fiscal Studies has warned that it risks lower employment rates and lower wages for employees.
- The *Local Government Chronicle* has warned that the Bill will place financial pressure on councils.
- The Recruitment and Employment Confederation has said that the Bill will fuel long and complex litigation.

- The *Financial Times* has warned that the Bill is causing deep unease among business leaders. In short, jobs down, wages down and prices up.”

Regarding Unions, Hollinrake claimed that the repeal of trade union laws “will lead to more strikes and intimidation in the workplace” forcing firms to “bankroll more trade union facility time.”

Hollinrake underlined the lack of business experience on the Government Benches and accused the Bill of being rushed into Parliament.

He repeated that reforms would create an existential crisis for SMEs and called upon the Government to withdraw the legislation.

Several other Conservative MPs expressed their opposition to the Bill. Graham Stuart, Andrew Murrison, and Kit Malthouse raised concern over the impact upon small businesses, whilst Luke Evans noted the timing of the Bill coinciding with business uncertainty over speculated changes to national insurance in the Budget. Saqib Bhatti also raised an example of Trade Union fraud and asked whether the unions will be held accountable in the Bill.

The Bill will now proceed to Committee Stage in the House of Commons, where a group of MPs will scrutinise the Bill line by line, and propose amendments. No date has yet been set for the Committee Stage but it is expected this side of the Christmas recess.

Consultations

The Department for Business and Trade has published a series of consultations on strengthening statutory sick pay, zero-hours contracts, industrial relations, collective redundancy, and fire and rehire. Views are being welcomed from businesses and interested parties, and **the consultations will close at 23:59 on 2 December 2024.**

Making Work Pay: creating a modern framework for industrial relations

The first of the Department for Business and Trade’s consultations focuses on trade union rights and looks at changes that will be brought in following the repeal of anti-union legislation including the Trade Union Act 2016, and the Strikes (Minimum Service Levels) Act 2024. The Government argues that the existing framework for industrial relations and collective bargaining is “full of inefficiencies” and seeks views on:

- Simplifying the amount of information unions are required to provide in industrial action notices
- Strengthening provisions to prevent unfair practices during the trade union recognition process
- Removing the 10-year ballot requirement on political funds
- Securing a mandate for negotiation and dispute resolution
- Extending the expiry of the strike mandate
- Reducing the industrial action notice period
- Updating the law on repudiation and prior call
- The enforcement mechanism for right of access

Responses can be made [here](#).

Making Work Pay: the application of zero hours contracts measures to agency workers

The second consultation relates to measures to tackle “one-sided flexibility” in zero-hours contracts through a right to guaranteed hours with a contract that reflects the number of hours regularly worked, and a right to reasonable notice of shifts with payment for shifts cancelled or curtailed at short notice. The consultation seeks views explicitly on the application of these two measures to agency workers.

Responses can be made [here](#).

Making Work Pay: collective redundancy and fire and rehire

The third consultation looks at strengthening remedies against abuse of rules on collective redundancy and fire and rehire. The Government are seeking views on the proposal to increase the maximum period of the protective award that a tribunal can award. Two options are currently being considered:

- Increasing the protective award that a tribunal can award from 90 to 180 days
- Removing the cap on the protective award entirely

Responses can be made [here](#).

Reaction

From industry

Chief Executive of the Confederation of British Industry (CBI), Rain Newton – Smith [said](#): *“Politicians and businesses have a shared goal in wanting to raise living standards through higher levels of growth underpinned by investment and increased productivity... The government deserves credit for its willingness to engage with businesses and unions on how to make a success of the Plan to Make Work Pay.”*

Chairman of British Safety Council, Peter McGettrick, [said](#): *“The reforms that have been set out today in the Employment Rights Bill are a major step forwards in ensuring all workers benefit from a more certain and consistent floor of standards and protections in work.”*

However, the Government continues to receive strong criticism over the adverse impact the reforms could have on smaller businesses.

Tina McKenzie, Policy Chair of the Federation of Small Businesses [said](#): *“This legislation is a rushed job, clumsy, chaotic and poorly planned – dropping 28 new measures onto small business employers all at once leaves them scrambling to make sense of it all. Beyond warm words, it lacks any real pro-growth element and will increase economic inactivity, seriously jeopardising the government’s own 80% employment target.”*

One business group also [cautioned](#) against the extensive timeline for the introduction of the measures, which mean in some cases employees will have to wait nearer to 1,000 days to enjoy new rights; “there is still a fight, but the fight has been postponed.”

From Unions

The Bill was largely [successful](#) with unions, who now “urge MPs from all parties to support this Bill and to be on the right side of history.” Trade Union Congress General Secretary, Paul Nowak [said](#) the Bill “highlights Labour’s commitment to upgrade rights and protections for the millions.” [Sharon Graham](#) of Unite offered a more cautious response, reminding that the reforms fall “short of making work pay,” though welcomes the Bill as a “step forward for workers.”