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Wide Reaching Reform to UK Employment Law Proposed for 2026

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The UK Labour Government published the Employment Rights Bill ("Bill") last week, alongside a "Next Steps to Make Work Pay" plan ("Plan"), introducing several key employment law changes that will impact all UK businesses, including funds and their portfolio companies and investments.

The **key changes** are as follows:

- **Unfair Dismissal** - There will no longer be a two-year qualifying period before being entitled to "ordinary" unfair dismissal rights. Employees will be entitled not to be unfairly dismissed from day 1 of their employment. However, the Bill makes provision for the ability to dismiss an individual during a probationary period subject to a lighter touch process. The Government have proposed 9 months as a statutory probationary period, but this is subject to consultation.
- **Flexible Working** - The Government has stated it wants to make flexible working "the default Grounds for refusing a flexible working application must be explained and be reasonable and from a list of specified grounds. However, a failure to follow the procedure for responding to a flexible working request remains at 8 weeks' capped pay.
- **Sexual Harassment** – The soon to be implemented duty to take reasonable steps to prevent sexual harassment will be extended such that employers will need to take **all** reasonable steps. Regulations may further specify what "all reasonable steps" means. If there is a disclosure relating to sexual harassment, this will now also benefit from whistleblowing protections.
- **Harassment** - Employers will again be liable for third parties harassing employees (based on certain protected characteristics) unless they took all reasonable steps to prevent it. This had been repealed in 2013.
- **Parental Leave & Paternity Leave** - Employees will be entitled to take such leave from day 1 of their employment. Currently, employees need to have 1 year of service to be entitled to unpaid parental leave and 26 weeks' service to be entitled to paternity leave.

- **Dismissal during Pregnancy/following a period of Statutory Family Leave** – In April 2024, there was enhanced protection provided from dismissal during pregnancy and following a statutory family leave period. It is now proposed this will be extended to all types of dismissals.
- **Collective Redundancy Consultation** – The trigger to collectively consult will now be linked to the employing entity only, rather than to "one establishment" of that employing entity (broadly each workplace). That means when an employing entity proposes to make 20 or more redundancies in a 90 day period, employers will need to follow a collective redundancy consultation process.
- **Dismissal for Failing to Agree to Vary a Contract** – Employees will have specific protection where they are dismissed for failing to agree a contract variation, subject to certain exceptions. This is broadly where the employer can show the reason for the variation was due to financial difficulties and the employer should not reasonably have avoided the need to make the variation.

Other changes proposed include: (i) greater protections for those on zero hours contracts; (ii) the introduction of a statutory right to take bereavement leave; (iii) additional potential liability for employers who do not following collective consultation processes correctly with respect to fire/rehire situations; and (iv) sick pay becomes available from the first day of sickness absence (rather than from the fourth day).

Outside of the Bill, the Government has set out in the Plan its proposals for future changes in a number of areas, including:

- implementation of a statutory Code of Practice with respect to the Right to Switch Off;
- removing the age bands for the national minimum/living wage;
- developing menopause and health and wellbeing guidance for employers;
- reviewing parental and carer's leave;
- a call for evidence on the Transfer of Undertakings (Protection of Employment) (usually known as TUPE) regulations and processes; and
- consulting on:
    - workplace surveillance technologies; and
    - a clearer framework to differentiate between workers and the self-employed.

The Government proposes to consult on various aspects of the changes proposed in the Bill in 2025. It will also require various pieces of secondary legislation, updates to Code of Practice, etc. The Government has stated that the reforms (once approved) won't come into effect until 2026 at the earliest (with reforms to unfair dismissal taking effect no sooner than Autumn 2026). The other areas the Government has stated it wishes to evaluate are listed as simply being for Autumn 2024 onwards.

Whilst the Bill works its way through the Parliamentary process and is finalised, there will be time to consider how these changes could impact your business. In due course, contracts, policies and procedures (including training) will need to be reviewed and updated to address the changes in law and to ensure your business is adequately protected against the associated risks.

Related Professionals

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