



# Employment law update: The Employment Rights Bill, and recent developments.

**Dominic Cooper** - Professional Support  
Lawyer



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75%

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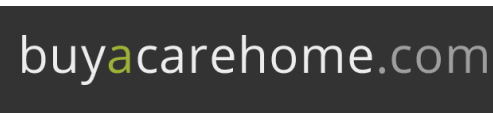
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# 2024 - a year of change!

<b>DATES</b>	<b>KEY CHANGES</b>
January 2024	Holiday pay and entitlement reforms
April 2024	Flexible working changes
April 2024	Carer's Leave Act
October 2024	Worker Protection (Amendment of Equality Act 2010) Act 2023
October 2024	Employment (Allocation of Tips) Act 2023



# **In October, the new Employment Rights Bill set out the biggest upgrade to workers' rights in a generation**

The Bill sets out over 28 key employment law reforms over 158 pages of legislation



# **On 26 November, the government published an amendment paper**

This 52-page paper includes new changes and refines other provisions in the main bill



# Unfair dismissal rights from day one

- The 2-year service requirement will be removed
- Likely to come in Autumn 2026
- Probation periods will still be allowed but they will be limited in time and employers will need both:
  - a fair reason to dismiss **and**
  - a fair procedure







# Probation periods

The test for a fair dismissal is likely to be modified where:

1. The date the employment ends falls within either the probationary period (now clarified as within 3-9 months) or within 3 months immediately after the end of that period if the employer has given notice of termination within the probationary period **and**
2. The reason for the dismissal must relate either to:
  - the employee's conduct, or
  - their capability or qualifications for performing the work for which they have been employed, or
  - their continued employment would contravene a statutory duty or restriction, or
  - be for some other substantial reason, relating to the employee, of a kind to justify dismissal.



# What employers need to do

- Employers should review:
  - Recruitment practices
  - Induction processes
  - Contracts
  - Probation processes
- Is there a fair reason to dismiss?
- Retention strategy





# Statutory Sick Pay

- Removes the 3-day waiting period, making SSP payable from the first day of sickness absence.
- Abolishes the requirement that earnings should be above the Lower Earnings Limit, meaning that all eligible employees will be entitled to SSP, regardless of their earnings.
- Current consultation on percentage to be paid where employee earns close to Lower Earnings Limit / less than SSP.





# What employers need to do

- Sickness absence is already one of the top HR problems for employers - **15%** of all Citation advice given.
- Employers should generally review their absence management processes:
  - Self-certificates
  - Return to work interviews
  - Welfare measures - e.g. EAP, World Mental Health Day initiatives etc.
  - Is it appropriate to discipline?
  - Discrimination risks





# Zero hours contracts

Three key changes:

1. Right to a contract giving guaranteed hours
2. Right to reasonable notice of shifts
3. Right to reasonable notice for cancelled, moved and shortened shifts





# Right to guaranteed hours

- Employers **MUST** offer a 'guaranteed hours' contract to workers once they have completed a certain amount of work over a specified period.
- It will apply to those working under a zero-hours contract or under a contract which gives them less hours than the specified maximum.
- The offer should not vary any other terms and conditions or include a 'temporary' clause unless this is reasonable e.g. where there is only a temporary need for the worker.





# Right to reasonable notice of shifts

- The Bill introduces a duty on employers to give reasonable notice of a shift.
- This includes the number of hours and/ or the day/ time of the shift.
- The duty will apply where the worker is under either a zero-hours contract or a variable hours contract where their hours are outside of any potential hours set out in the contract.
- Reasonable notice is not defined but will not be longer than 7 days.





# Right to reasonable notice for cancelled, moved and shortened shifts

- Introduces a right to reasonable notice of cancelled, moved or shortened agreed qualifying shift. The same definition of 'reasonable notice' will apply (as yet unknown).
- If the employer fails to give reasonable notice in these circumstances, they will have to pay compensation. This amount will be set out in future regulations, but it will not be more than the wages the worker would have earned during the shift (or part of it).
- Amendment makes it clear tribunals will have discretion on how much to award.







# What employers need to do

- Keep up to date on the developments in this area - e.g. look out for the '*certain amount of hours over a specified period*' definition being confirmed.
- Prepare by:
  - reviewing current work structure
  - consider changes required and the risks of change
  - consider how currently give notice of shifts/variation
  - reviewing management of shifts





# Tribunal time limits

The Amendment paper includes a proposal to increase the time limit to bring an employment tribunal claim.



Time limit will be increased from 3 months to 6 months.



# Flexible working

There has been no change proposed to the existing 8 grounds on which an employer can refuse flexible working.

However, an employer should only refuse a request if:

1. They believe it should be refused on one of those grounds **and**
2. It is reasonable for them to refuse it on those grounds.

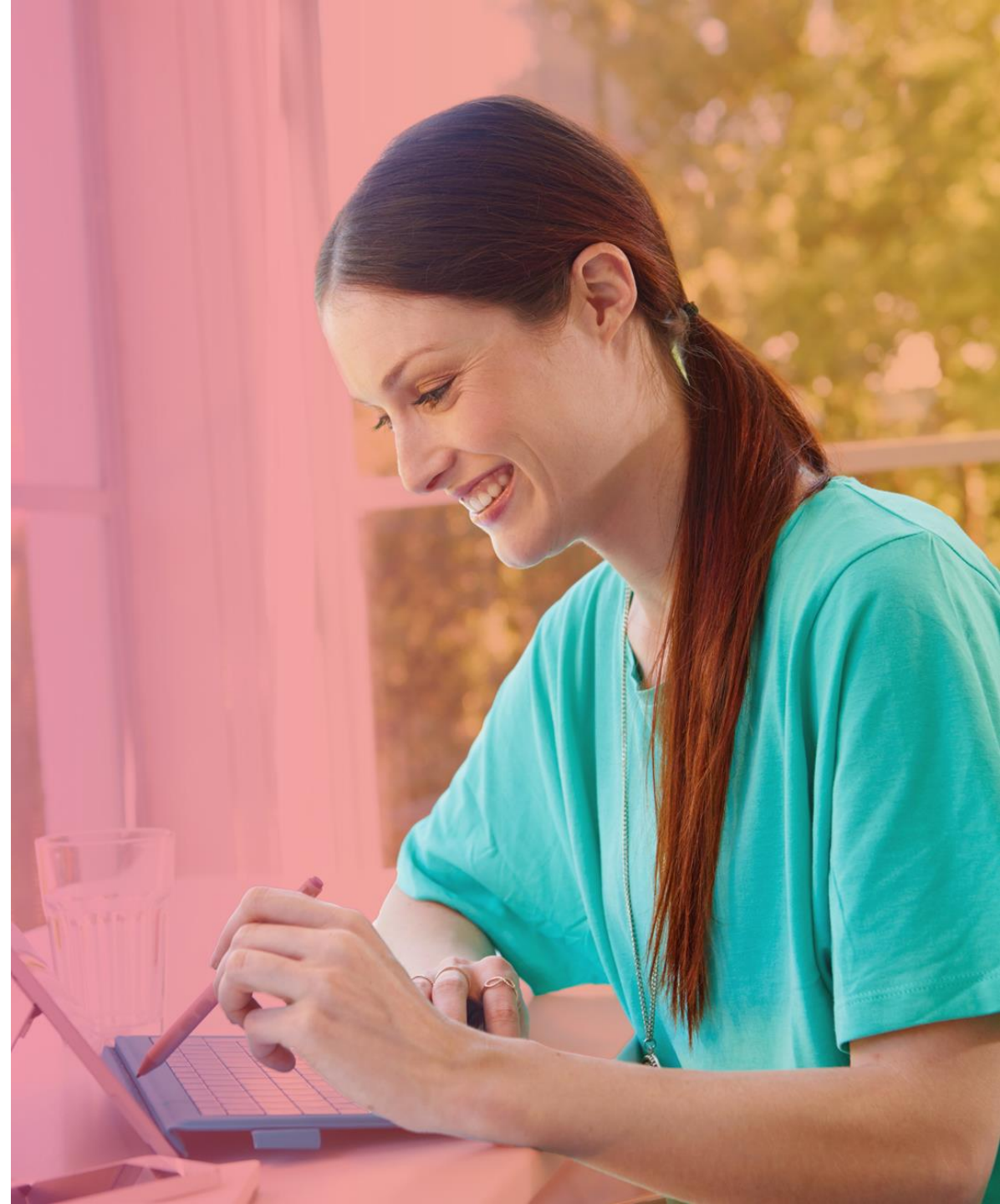
When refusing a request, the employer would have to state the grounds for refusal explaining why it is reasonable to refuse the application.

The Secretary of State may specify particular steps to be followed when consulting with an employee before refusing a request.



# The Worker Protection Act 2023

- Came into force on **26 Oct 2024**.
- Creates a new, proactive duty to take "reasonable steps" to prevent sexual harassment occurring
- Breach incurs up to 25% increase in damages
- Intention is to shift the focus on preventing harassment happening in the first place
- Equality & Human Rights Commission updated guidance includes preventing sexual harassment by third parties





# Harassment in the new Bill

1. Changes the duty on employers to take **all** reasonable steps to prevent sexual harassment.
2. Extends the current law concerning all types of harassment to include harassment by third parties.
3. Gives the power to make regulations specifying what would be viewed as reasonable steps when considering whether an employer has met their obligations to prevent sexual harassment. The measures could include:
  - Carrying out a risk assessment
  - Publishing harassment plans or policies
  - Steps relating to reporting sexual harassment
  - Steps relating to the handling of complaints
4. Makes a disclosure that sexual harassment that has occurred, is occurring or is likely to occur is a 'protected disclosure' under the whistleblowing rules.



# What employers need to do now

- Risk assessment
- The right policies
- Training
- Appropriate and consistent enforcement





# Changes to Parental, Paternity and Bereavement leave

Parental Leave will become a day one right (currently need to have one year's service).

Paternity Leave will become a day one right (currently available to employees with 26 weeks' service by the qualifying week (the 15th week before the baby is due)).

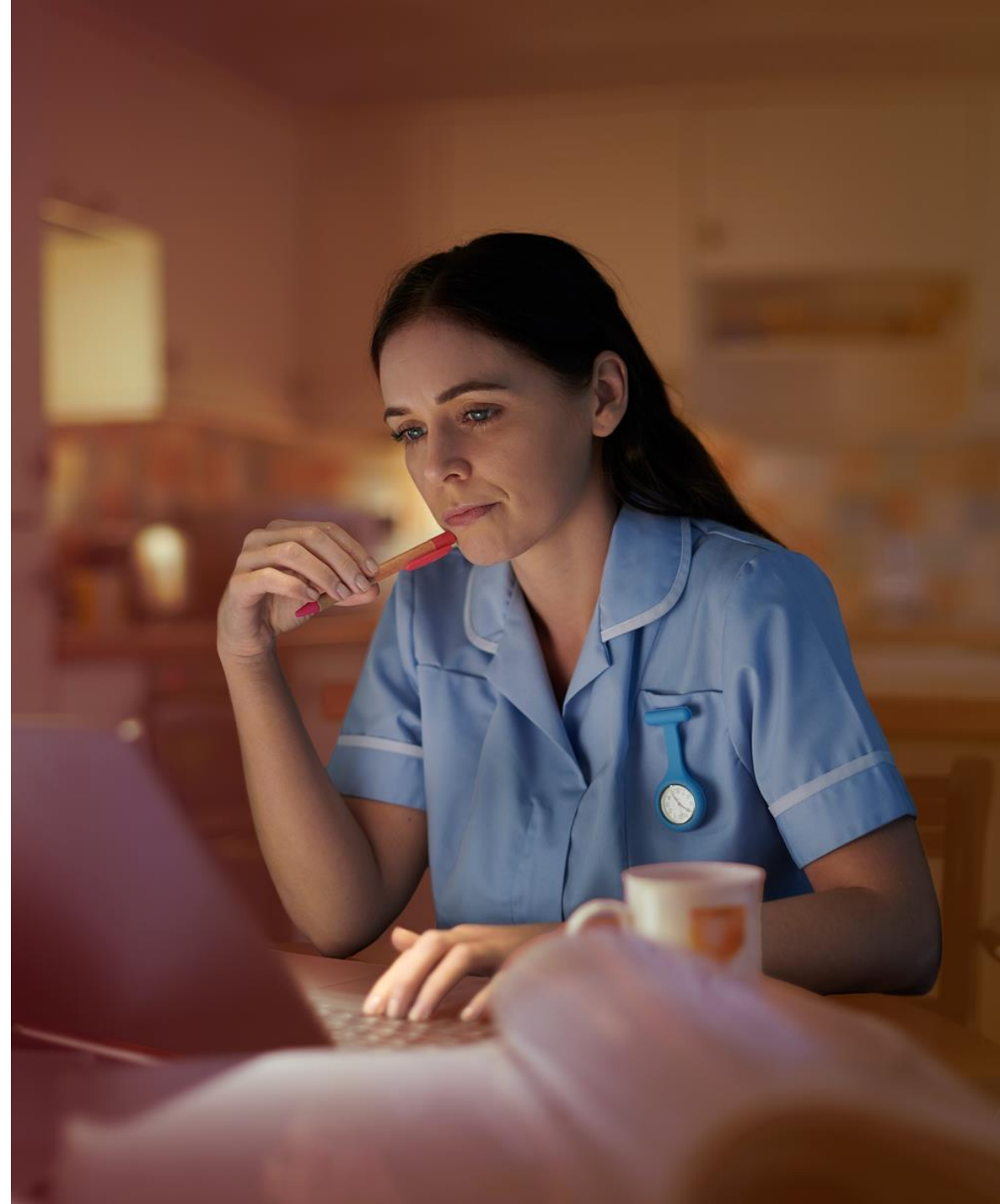
Bereavement Leave will be extended beyond just parents offering others who suffer bereavement (at least one week). Those entitled to leave for more than one person will be entitled to a period of leave for each person. The exact nature of the relationship will be set out in the regulations.



# The Fair Work Agency

The Bill paves the way for the creation of a new single labour market enforcement body which would bring all labour market enforcement within one organisation.

This body can be given the authority to require people to provide information and its enforcement officers will have the power to enter business premises and have access to and retain documents/ computer files.







# Union Reforms

A significant part of the Bill is devoted to Trade Union reforms. These include:

1. Repealing restrictive trade union legislation introduced by the Conservative government.
2. Introducing a new requirement for employers to provide all workers with a written statement of their right to join a trade union.
3. Granting union officials the right to access workplaces for meeting, representing, recruiting or organising workers and enabling collective bargaining governed by "access agreements".
4. Relaxing the rules on ballots for union recognition (currently at least 10% must be members - reducing to between 2% and 10%).
5. Changing the requirements for a successful recognition ballot to a majority of the actual votes cast to be in favour rather than at least 40% of the whole group eligible to vote.
6. Simplifying the ballot for industrial action so that only majority support will be needed.



# Timeline for implementation

Passed its second reading in House of Commons on **Monday 21 October 2024**

The Public Bill Committee reported back to the House of Commons on **Thursday 16 January 2025**. Progressing now to report stage and third reading (**dates to be confirmed**).

Most changes expected to take place no **earlier than April 2026** (unfair dismissal change will be October 2026)





# Say hello to our all-in-one solution



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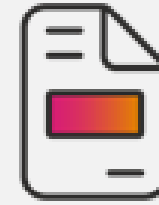
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- Employee Assistance Programme
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- **7x less** likely to suffer a major injury in the workplace
- **75% less** likely to have a reportable accident at work
- **47x times** less likely to receive an enforcement notice versus UK/national average

85% of clients agreed by partnering with Citation they are building a safer, happier and more productive workplace.

*"Not having the Citation support system in place would be impossible to be without. I'd highly recommend Citation to other businesses."*

**Kirsty Miceli, Bloom & Care**



# Speak to our experts

If you'd like to discuss how Citation can support your business scan the QR code or email [seminars@citation.co.uk](mailto:seminars@citation.co.uk) today!





# Thank you!

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