

On 10 October, the government published its Employment Rights Bill, outlining its proposals for employment law reform. Our “[at a glance](#)” guide provides a summary of the main points.

The government said that it expected to begin consulting on these reforms in 2025, but this week it has published what can only be described as four slightly random and unrelated consultation documents, inviting views on such things as what information should be included in a trade union ballot notice, to the rate of Statutory Sick Pay (SSP) that should apply to low earners. None of these consultations deal with the “big” issues unveiled in the Bill itself and the only common thread seems to be that responses to them may inform changes to the Bill before it is finally passed – not least to fill in some of the obvious gaps in the current drafting. All the consultation exercises will close in early December. Brief details of what they cover are set out below.

In the “[at a glance](#)” guide referred to above, one of our key suggestions for employers was that they ought to “engage loudly and comprehensively with any consultation exercises...”. It is fair to say that when we wrote that, we weren’t expecting that the first consultations issued would deal with such niche points of law. As such, they may not be of universal interest and perhaps the “engaging loudly” may come later, when we get to the bigger issues. However, the esoteric nature of these consultations is indicative of the somewhat haphazard approach the government is taking to addressing the legislative promises made in its manifesto and absolutely confirms our comment that “the way in which the government proposes to implement some of the changes will inevitably make things more complicated for employers.” Even keeping up with the numerous changes will be a challenge, as will understanding when and how it might be appropriate to engage with the numerous consultation processes that will follow. With this in mind, we will be scheduling a series of roundtables focussing on key proposals, to help clients navigate these changes. Look out for further details of these in due course.

And just by way of update – the Employment Rights Bill was debated at a second reading in the House of Commons on 21 October 2024 and has now been sent to a Public Bill Committee that will scrutinise the Bill and is expected to report to the House by 21 January 2025.

Creating a Modern Framework for Industrial Relations

The government has committed to updating existing trade union legislation and this [consultation](#) is apparently the first step in modernising the legislation that underpins trade union activity and the rights of workers to unionise. It deals with various trade union-related changes, from simplifying industrial action ballots and notices to employers, to unfair practices during the statutory recognition process.

There will be future consultations on the more substantive changes to the trade union legislative framework following Royal Assent of the Employment Rights Bill, including the new rights for trade unions to access workplaces and changes to the statutory recognition process. The government will also be holding roundtables “this coming winter” on the introduction of electronic balloting.

Collective Redundancies and “Fire and Rehire”

This [consultation](#) seeks views on a couple of narrow points relating to the government’s proposals to make changes to the collective redundancy and “fire and rehire” regimes.

The first proposal is to increase the amount an employment tribunal will be able to order as a protective award if employers fail to comply with their collective redundancy consultation obligations. This is currently capped at 90 days’ (actual) pay to each affected employee. The government is considering two options – either increasing it from 90 to 180 days, or removing the statutory cap entirely.

The consultation also seeks views on making interim relief available to employees who bring protective award claims for a breach of collective consultation obligations and to “fire and rehire” unfair dismissals. Interim relief is currently only available in limited circumstances and gives an individual the ability to apply to an employment tribunal for an order that they continue to be employed pending final determination of their case. The government says these changes would provide an additional incentive for businesses to comply with their obligations.

The consultation document states that the government will consult on the more significant changes to the collective redundancy framework in 2025, including doubling the minimum consultation period when an employer is proposing to dismiss 100 or more employees from 45 to 90 days, something that was not mentioned in the Employment Rights Bill and would also represent a significant change to the current position.

In the meantime, the government has also re-laid regulations that will allow employment tribunals to increase (or decrease) the amount of a protective award by up to 25% for an unreasonable failure to comply with the recently introduced [statutory Code of Practice on Dismissal and Re-engagement](#), in circumstances where the obligation to consult collectively is also triggered. These changes will come into force on 20 January 2025.

Extending the Application of the Zero Hours Contracts Measures to Agency Workers

As highlighted in the “at a glance” guide above, the government is proposing to introduce new rights for zero hours contract workers, including the right to be offered guaranteed hours that reflect the hours they usually work and a right to reasonable notice of shifts, etc.

This [consultation](#) considers how these new rights should apply to agency workers, bearing in mind the position is more complicated because of the tri-partite relationship between agency workers, employment agencies and end-user hirers.

The government will consult later on implementing these measures more generally.

SSP

The final [consultation](#) has been issued by the Department for Work & Pensions (DWP) and seeks views on the very narrow issue of the rate of SSP that should apply to low earners, i.e. those earning below the current rate of SSP.

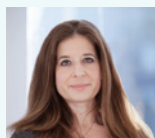
The proposal is that the rate will be calculated as a percentage of earnings (ranging from 60 to 80% of average weekly earnings), or the current SSP flat rate, whichever is lower. So, if you do have any strong thoughts on the most appropriate percentage, now is the time to let the government know!

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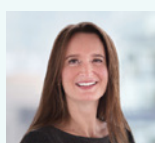
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