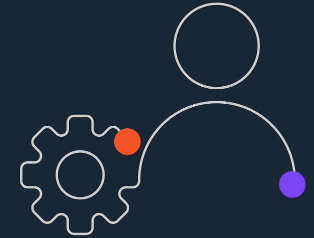
Calling all employers with a contingent workforce:

Are you ready for how the Employment Rights Act 2025 is going to impact your business?

July 2026



With the government recently issuing its latest consultation on its proposed reforms to zero hours and similar contracts, we thought this was a good opportunity to remind employers of what the Employment Rights Act (ERA) 2025 has in store for them if they engage certain types of individuals on a contingent basis.

Having a contingent workforce (e.g. engaging zero hours workers, agency workers and other casual workers, etc.) can give your business strategic and operational advantages. It allows you to be more flexible, is often more cost-effective than engaging permanent staff and can provide you with access to specialist skills. The government is, however, concerned that this flexibility is too "one-sided", and is committed to ensuring that workers on zero hours and similar contracts are protected and have a baseline of security.

With this in mind, the ERA 2025 will introduce three key new rights giving zero hours workers and other workers on low-hours contracts (it is important to remember that it is not just zero hours workers that will be impacted) statutory rights to:

- Guaranteed hours, to reflect the hours they regularly work during a reference period
- Reasonable notice of shifts
- Payment for shifts cancelled, curtailed or moved at short notice

The above provisions will also be extended to eligible agency workers, largely it seems to prevent agency work becoming a loophole for employers to avoid this new legislation. We will be doing a separate note on how these changes will impact end-user hirers when engaging agency workers.

For employers, these changes will make it more administratively complex to engage such workers, but also much more expensive and less flexible. According to the government's own economic analysis, the administrative costs of offering workers a contract that reflects their working pattern after an expected 12-week reference period is estimated at around £160 million per year. It goes on to say that 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 is "likely to be up to hundreds of millions of pounds", depending on how the policy is designed. We should stand heads bowed for a moment to remember the warm assurances in the government's press release for the ERA 2025: "that's why it's vital to give employers the flexibility they need to grow".

Although we do not yet have final details of what these new rules are going to look like, or a specific date when the changes are coming into force (the government's implementation timetable simply says "in 2027"), it is important that businesses that engage a significant number of zero hours workers, or those on similar contracts, are thinking now about what steps, if any, they can take to mitigate the impact of these changes.

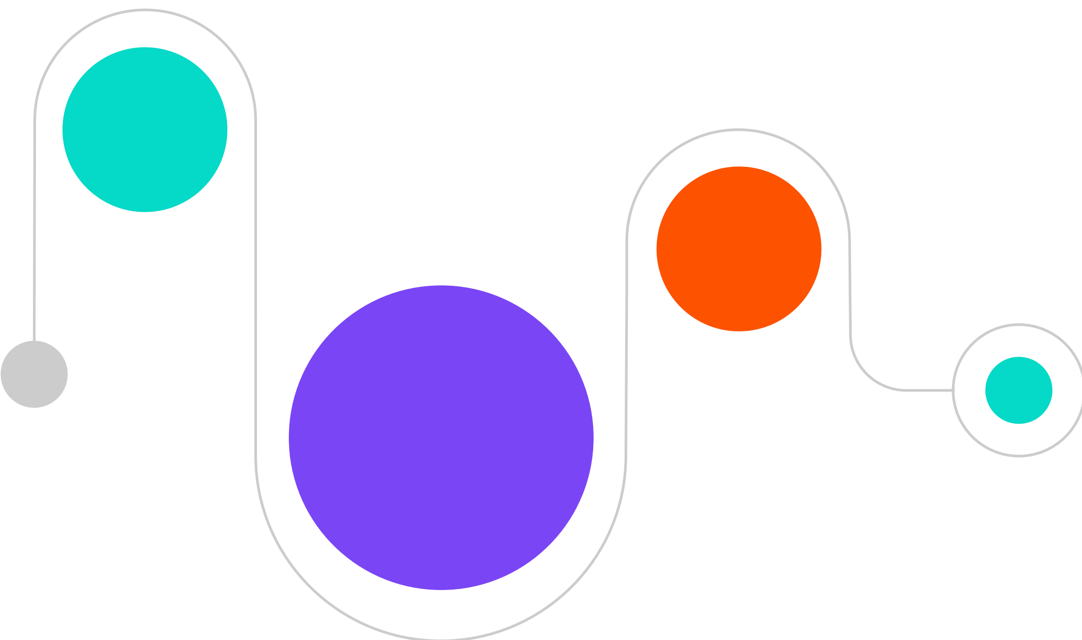
In this note, we provide a summary of the key changes, as well as the practical steps that employers should be taking now to prepare for them.

SQUIRE PATTON BOGGS

Guaranteed hours

As highlighted above, the government wants to ensure that workers on zero hours and similar contracts have a degree of security and predictability when it comes to their hours of work. In its recent consultation, it gives the (more than faintly unrealistic) example of a worker on a zero hours contract, who under the current regime could have been working 40 hours per week for the same employer for years, but still not have any contractual guarantee of how many hours they will get the next day, let alone the next month.

In very simple terms, the ERA 2025 creates a new obligation on employers to offer eligible workers "guaranteed hours" that reflect the number of hours they regularly work during a reference period. An eligible worker will be someone who works under a zero hours contract/arrangement, or someone who is only contractually entitled to a low minimum number of hours. This minimum hours threshold is one of the issues that the government is currently consulting about, and is likely to be between 8 to 20 hours per week. The government gives the following example of how this might work in practice if the minimum hours threshold is set at 12 hours per week: in this scenario, any worker on a contract guaranteeing 12 or fewer hours per week would be in scope of the right to guaranteed hours. Any worker on a zero hours contract (i.e. no guaranteed hours per week) would similarly be in scope. Whereas any worker who is guaranteed more than 12 hours per week would be out of scope. Where the government sets this threshold will therefore be key in determining the number of workers who are covered by these new rules, as well as the attendant impact for businesses.



The government's intention is that only workers who work regularly for their employer will be entitled to this new right. The meaning of "regular" is also the subject of the current consultation. As will become clear during this note, there is still quite a bit that the government needs to finalise about how these new rules are going to work in practice – and so there is still time for affected employers to influence the outcome by responding to the consultation.

The obligation to make a guaranteed hours offer will be a recurring obligation – employers will be obliged to make such an offer at the end of each reference period. According to its current consultation, the government's preference is for the initial reference period to be 12 weeks (on the basis that this balances the need for qualifying workers to be offered guaranteed hours reasonably soon after they start a role, and the reference period being long enough to establish the hours they regularly work), but interestingly they have said that subsequent reference periods may be longer (possibly up to 52 weeks and possibly with gaps in-between). The government seems to be acknowledging the concerns that rolling 12-week reference periods would be unworkable, and would significantly increase the administrative burden on employers. Longer reference periods, on the other hand, would mean that the duty to offer guaranteed hours would arise much less frequently than was initially envisaged – something that would be welcomed by employers, but presumably not trade unions.

In terms of what a "guaranteed hours offer" will look like, any offer will have to take the form of a variation to the worker's existing terms and conditions or an offer of a new contract. Either way the new terms will require the employer to provide the worker with work for a number of hours that reflects the hours they were regularly working during the reference period. The government is also consulting on how the guaranteed hours offer should be calculated.

Workers will be able to reject an offer of guaranteed hours and remain on their current arrangements if they wish.

If a worker qualifies for the right to guaranteed hours, but does not receive such an offer from their employer, they will be able to bring an employment tribunal claim.

As mentioned above, much of the "nitty gritty" of these new rules has yet to be finalised, but even the simple summary above demonstrates how complicated matters have the potential to become. The complexity of the legislation seems guaranteed to dissuade some employers from using zero hours and similar contracts (which is clearly the government's intention!). Part of the reason for the complexity seems to be that the government is trying to anticipate all the different ways that employers may seek to sidestep these obligations and legislate accordingly. The problem is the traditional one, i.e. the government's recurring inability to distinguish between employers trying to sidestep the rules on the one hand, and those merely trying to make them work and remain a going concern on the other.

Right to reasonable notice of shifts and payments for shifts cancelled, moved or curtailed at short notice

The ERA 2025 also introduces new obligations on employers to give zero hours workers and other workers on low-hours contracts "reasonable notice" of the shifts that they are required to work, including notice of how many hours are to be worked and when the shift is to start and end, etc. Reasonable notice of the cancellation of, or changes to, a shift will also be required.

We do not yet know how much notice employers will be required to give – what amounts to "reasonable notice" is another issue that is the subject of the latest government consultation exercise. It is currently seeking views on what this should be, ranging from one week to four weeks. It is also seeking views on the circumstances in which it might be acceptable to offer shifts with less notice, and in which circumstances employers should be required to provide more notice.

The government proposes that the right to reasonable notice should only apply to workers with up to and including a certain number of hours guaranteed in their contract. This mirrors the approach to guaranteed hours, but employers should be aware that the government may set a different hours threshold for each, just to make things even more complicated!

Qualifying workers will also have the right to be paid for shifts that are cancelled, moved or curtailed at short notice. The aim is to incentivise employers to plan effectively so they do not need to cancel or change as many shifts at short notice, and to ensure workers do not bear all the financial risk of unforeseen circumstances. The amount of the payment and what constitutes "short notice" will be set out in regulations. According to its consultation, the government is considering whether to have a short notice period (between one and seven days) and a "very short notice period", with a higher payment due for cancellations, movement and curtailments at "very short" notice. It is also considering whether there may be some exceptions from the right to short notice payments (but these will be very limited).

In another new development, the government has indicated that it is considering giving the Fair Work Agency the power to enforce the right to payment for shifts cancelled, moved or curtailed at short notice. This would be in addition to workers being able to complain to the employment tribunal where they wish.

Action points for employers

As highlighted above, according to the government's implementation timetable, the provisions outlined in this note will be coming into force at some point in 2027. Employers therefore still have time to prepare for the impact of these changes. They also still have time to potentially influence the details of these new provisions. We would encourage affected businesses to respond to the government's latest consultation to ensure their views are heard on how the different options being considered by the government will likely work in practice. The consultation closes on 25 August 2026.

We set out below our top five tips for employers:

1. Carry out an audit of your workforce to enable you to determine how many workers will be eligible for these new rights. Do you engage zero hours workers, and/or workers on low guaranteed minimum hours, e.g. fewer than 20 hours per week? How many such workers do you engage? Do such workers regularly work more hours than you are contractually obliged to offer them? Such an assessment will allow you to determine the extent to which your business is likely to be affected by these changes.

2. If you are regularly using such workers (rather than simply using them to fill short-term labour gaps), consider whether you need to change your current workforce strategy to minimise your exposure once these reforms are introduced. Are you able, for example, to contractually provide a greater number of hours to these workers, potentially taking you outside these new rules, while still giving you sufficient flexibility? Data released by the Office for National Statistics suggests that the sectors that rely most on zero hours contracts are hospitality (accommodation and food), transport, arts and other services, health and social care, as well as retail and wholesale trade.

3. Do you have the necessary systems and processes in place to enable you to track working hours? Employers will need to know the number of hours that such workers are working to be able to determine whether, for example, the obligation to make a guaranteed hours offer is triggered. This may mean that you need to invest in new technology/software to enable you to identify eligible workers, and flag when offers should be made at the end of relevant reference periods. This can take both time and budget to implement.

4. In terms of shifts, how are they currently scheduled for such workers? How much notice is typically given and how often are such shifts cancelled, curtailed or moved at short notice (e.g. with less than seven days' notice)? The above information will also allow you to determine your likely financial exposure. Do you need to redesign your rotas? Do you also need to introduce new controls/processes before such shifts can be cancelled to minimise the potential financial exposure to the business?

5. Do you have trade unions in place? Employers will potentially have more flexibility in relation to zero hours workers and others on low minimum hours if they have trade unions in place, and are able to reach an agreement with them. The ERA 2025 states that the provisions governing guaranteed hours, reasonable notice of shifts and compensation for cancelled, curtailed or moved shifts can be excluded by a relevant collective agreement, provided there are terms that expressly replace any terms that are excluded. This is potentially useful for businesses, although it is difficult to imagine that any trade union would agree to any significant watering down of any of the provisions. This is also clearly an attempt by the trade unions to try to increase collective bargaining agreements in sectors where they might not currently have a big presence.

Home Office indicates extension of right to work checks

Another forthcoming development that will be relevant to businesses with large contingent workforces is the government's proposal to extend the illegal working regime in the UK to workers and subcontractors. The Home Office has indicated that these changes will come into force from 1 October 2026, but it is yet to issue much-needed guidance to clarify how the new rules will be applied. Businesses can prepare in the meantime by carrying out internal right to work audits on their existing workforce; assessing the nature of their contingent workforce to understand their potential additional obligations and liabilities, and then reviewing and scaling up onboarding processes as necessary; and ensuring relevant recruitment, HR personnel and hiring managers have adequate support and training and are well versed in the new requirements. We include a link to our recent blog setting out further details of the changes.

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