

## Is there going to be a ban on zero hours contracts?

The Employment Rights Bill aims to tackle “one-sided flexibility” by introducing a requirement for employers to offer “guaranteed hours” to eligible workers.

### Core of the guaranteed hours proposal

While there is unlikely to be an outright ban, retaining zero hours contracts may become unworkable for many businesses. Instead, the Bill mandates offering guaranteed hours to workers with regular patterns, based on hours worked over a reference period, likely to be 12 weeks. This aims to provide security for consistent workers and shifts some control to employees, without eliminating flexible work. The Bill replaces a “right to request” predictable hours, with a stronger employer obligation.

### Impact on agency workers

Agency workers are included. The end hirer will likely be responsible for offering guaranteed hours, as they control the work. Regulations might specify agency responsibility in some cases. This could significantly impact the flexibility of agency work.

### Employer’s duty to inform

Employers must inform qualifying workers about their rights within two weeks of employment or when the law starts. Regulations will detail the required information. Employers must offer a contract reflecting the reference period’s hours, specifying either work availability times/days or a consistent pattern. The offer format and duration will also be regulated. The obligation to make offers continues as long as the worker qualifies for the right (i.e., remains a low-hours worker). If a worker accepts guaranteed hours exceeding the “low” threshold, the monitoring and offer cycle may cease. However, the cycle continues if the worker rejects the offer or accepts an offer still below the “low” hours threshold.

### Employee response and negotiation

Employees have a “response period” to accept. Acceptance triggers the new terms shortly after. The response period’s length will be regulated, which may impact employer flexibility. Negotiation might be possible, but the initial offer obligation remains.

### Rejection or non-response

Employees can reject offers, but employers might need to make further offers.

Non-response within the designated period allows employers to treat the offer as rejected

### Restrictions on changing other terms

When offering guaranteed hours, employers will be unable to change other employment terms. Variations should only adjust minimum hours.

### Potential for overstaffing

Acceptance of guaranteed hours creates a permanent obligation for the employer to provide and pay for those hours. This may have far-reaching consequences

- Unilateral reduction of guaranteed hours is not permitted unless subsequent review periods allow.
- Employers with time-limited needs will need to utilise fixed-term contracts.
- Managing resource levels during downturns may become challenging. Employers might reduce hours for zero-hour contract workers to prioritise guaranteed hours, potentially impacting stability for some staff.
- Redundancy may become a consideration. The Bill removes the qualifying period for unfair dismissal for redundancy (for employees), increasing the burden on employers.
- Dismissal for accepting a guaranteed hours offer will be automatically unfair for employees.

### Other exceptions

No offer is needed if the worker is fairly dismissed or resigns during the reference/offer period, or if a limited-term contract ends as agreed. Employers must notify the worker with reasons. Resignation/dismissal during the response period withdraws the offer, but notification is still needed. Further exceptions may be defined in regulations.

### Can employers contract out of this?

Potentially. Another key change in the Report Stage amendments in March 2025 was a new provision which allows a collective agreement to contract out of the guaranteed hours (and shift notification) regime, provided this agreement is incorporated into the individual’s employment contract.

This has the potential to be a wholesale opt out: it can apply to both workers and agency

workers and does not require the gap to be filled with comparable terms.

### Consequences of non-compliance

Workers can claim at a tribunal within the new proposed deadline of six months, if confirmed. Successful claims can result in declarations and compensation for financial loss (likely based on the unoffered guaranteed hours). Maximum compensation will be regulated. Workers are protected from detriment for being believed eligible or accepting/rejecting offers. Employees have unfair dismissal protection for these reasons.

### Key uncertainties

There is still a huge amount of unknown detail on the practicalities of the new rights with further consultation and amendments likely before the new rights become law.

We will keep you updated on any changes in the proposals for zero hours and other important developments in the ERB as they happen.

### Next steps for employers

While not banning zero-hour contracts, the Bill empowers consistent workers. Employers should:

- Audit their workforce for zero-hour and low minimum hour contracts.
- Analyse the impact of a 12-week average on working patterns.
- Track seasonal demand to justify limited-term contracts.
- Review work request and cancellation processes.

### Next Month...

We will be looking at the impact of the Supreme Court’s significant ruling on the definition of ‘sex’ within the Equality Act 2010.

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Atina Ndingeng

M 03302 2020218

E [atina@ourHRpeople.co.uk](mailto:atina@ourHRpeople.co.uk)

[www.ourhrpeople.co.uk](http://www.ourhrpeople.co.uk)