



PUMP COURT

CHAMBERS

EMPLOYMENT LAW IN 2025: KEY LEGISLATIVE UPDATES

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Agenda

- The Employment Rights Bill (“ERB”);
- Other Recent Legislative Changes;
- Worker Status.

- The Intent;
- Major Proposed Changes;
- Where Are We Now?

ERB: Intent

- The ERB was introduced in Parliament on 10th October 2024 to:
“update and enhance existing employment rights and make provision for new rights; make provision regarding pay and conditions in particular sectors; and make reforms in relation to trade union matters and industrial action. It further creates a new regime for enforcement of employment law...”
- Angela Rayner when introducing the second reading on 21st October 2024:
“Over decades, the good, secure jobs that our parents and grandparents could build a life on were replaced by low-paid and insecure work. Wages flatlined, in-work poverty grew, growth was strangled and the Tories left behind a battered economy that served no one. Today, this Labour Government, led by working people for working people, will start to turn the tide.”

ERB: Major Proposed Changes

- The ERB is intended to bring forward commitments from the Government's "*Plan to Make Work Pay*" by:
 - Ending One-Sided Flexibility;
 - Providing Family Friendly Rights;
 - Implementing measures related to dismissal and redundancy;
 - Promoting Fairness and Equality at Work (incl. removing the SSP waiting days);
 - Restoring the principle of a fair pay for a day's work;
 - Updating Trade Union Legislation to give people a voice at work.
 - Establishing the Fair Work Agency to improve enforcement.

ERB: Ending One-Sided Flexibility

- Ending One-Sided Flexibility by introducing a right to a **guaranteed hours contract, reasonable notice of shifts** and **payment for shift cancellation and curtailment at short notice** for those on zero and low hours contracts.
- Chapter 2 (Sections 27BA – 27BH): Guaranteed hours contract;
 - Employer must **offer** guaranteed hours to a “*qualifying worker*” after the end of every reference period.
 - A qualifying worker is someone who, during the reference period, was employed under a zero hours contract or a “low hours” contract, worked longer than the minimum number of hours in the contract and met conditions about regularity (and is not excluded e.g. as an agency worker).
 - The offer must be based on the actual hours worked and set out days/times that reflect the pattern in the reference period.
 - Workers may **accept or reject** the offer during the response period.

ERB: Ending One-Sided Flexibility

- Key debates:
- *Low hours:*
 - Government has said it will be “*higher than two hours per week*” and might be around 16 hours per week.
 - Current working assumption is 18 to 16 hours per week.
- *Reference period:*
 - Government’s current working assumption is 12 weeks.
 - Calls for 26 weeks have been proposed, to reflect workflow variability.
 - Possible sector-specific flexibility.

ERB: Ending One-Sided Flexibility

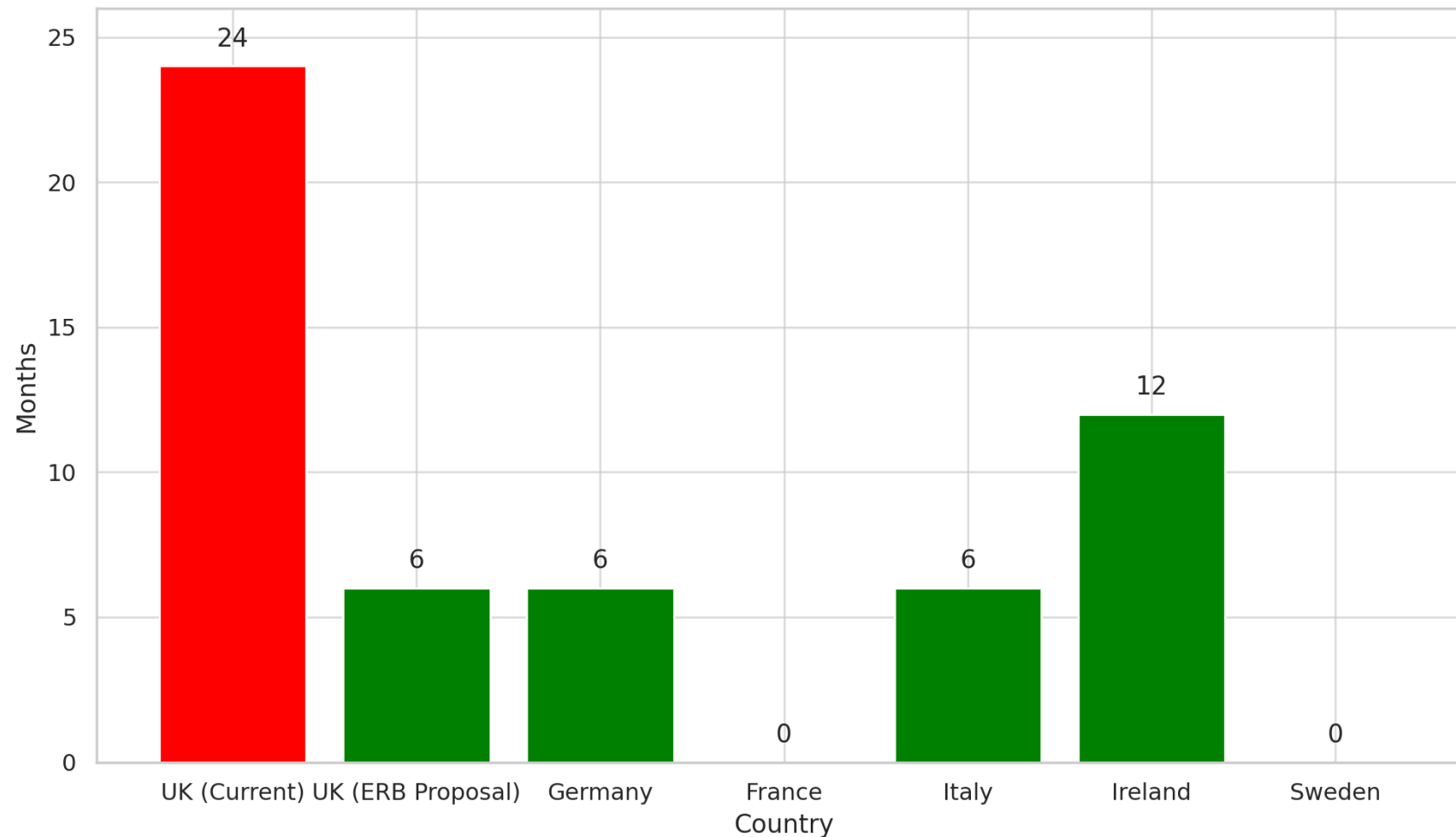
- Chapter 3 (Sections 27BI – 27BN): Shifts, rights to reasonable notice;
 - Employer required to give reasonable notice of shifts to four main categories:
 - 1) Workers on zero-hour contracts;
 - 2) Workers on contracts which are not zero-hour but which do not specify when shifts will take place;
 - 3) Workers on contracts which are not zero-hour but which do not specify the timings of the shift;
 - 4) Individuals who would have a zero hours arrangement if they worked the shift.
 - Once notice of a shift is given and the worker has agreed to it, the worker is entitled to reasonable notice of cancellation or change of shift.
 - Giving less than the amount of time specified by regulations will be presumed to be not reasonable
- Chapter 4 (Sections 27BO – 27BT): Right to payment for cancelled, moved or curtailed shifts.

ERB: Dismissal

- Dismissal: as a day one right with a six months time limit and restricting fire and re-hire:
- Removal of the qualifying period of two years at s. 108 ERA;
- Regulations to modify the operation of the test for a fair dismissal where the EDT falls within the “*initial period of employment*” (“IPE”) or three months after the IPE, where termination was given before, for reasons related to conduct, capability, illegality or SOSR;
- A “lighter-touch” process, to be clarified by secondary legislation, in the IPE.
- New automatically unfair reason at s.104I: where an employee is dismissed for not agreeing to a variation of their contract or if the employer dismissed the employee to replace or to re-engage them on varied contractual terms, unless it falls within the exemption in s.104I(4) – even so will need to assess fairness:
 - Facing severe financial difficulties;
 - Contractual changes are aimed at preventing or mitigating those difficulties; and
 - The need to change could not reasonable have been avoided.

ERB: Dismissal

- Comparative IPE periods



ERB: Fair Work Agency

- The **FWA** will bring together existing state enforcement functions and take on enforcement of a wider range of employment rights, giving it more “teeth”.
- It is currently intended that the FWA will:
 - inspect workplace and records,
 - proactively investigate and enforce,
 - issue underpayment notices (for example for failure to pay statutory holiday and sick pay) and penalties (200% of the sum due, capped at £20,000 per individual payable to the SoS).
 - be able to bring tribunal cases on behalf of workers and provide legal assistance and costs to respondents and claimants – applies to all types of claims.

ERB: Where Are We Now?

Bill passage



ERB: Where Are We Now?

- Expected to receive Royal Assent as the Employment Rights Act 2025, before the summer break in 2025.
- Some limited immediate changes e.g. s.104I and “*refusal to agree contract variation*” as an automatically unfair reason for dismissal.
- Nearly all changes are expected to come into force in 2026;
- Removal of two years qualifying period and introduction of IPE will take effect no earlier than Autumn 2026.

Other Legislative Changes

- **Paternity (Bereavement) Act 2024;**
 - 24th May 2024
 - Automatic, day-one right to paternity leave for fathers/partners when child's mother dies.
- **Dismissal and Re-Engagement Code of Practice:**
 - 18th July 2024;
 - Fire and re-hire to be used only as a “*last resort*” after meaningful consultation;
 - May increase award by up to 25% if the Code is ignored.
 - In collective dismissal, protective award can be doubled to 180 days.
- **Neonatal Care (Leave & Pay) Act 2023;**
 - 6th April 2025
 - 12 weeks' paid leave for parents whose babies receive neonatal care in hospital.

Worker Status & Employment Contracts

- In its’ “*Make Work Pay*” plan, Labour identified the current “*three-tier*” system for employment status, reflected in the classification of employees, self-employed or “workers”, as in need of reform.
- However, the ERB did not make any proposals.
- The Government has pledged to consult on moving forward towards a single “worker” status, with a view to providing more clarity. The intention is to have a simpler, two-part framework so that someone would enjoy the full suite of employment rights, or not.
- **WATCH THIS SPACE!**