
THE EFFECT OF THE EMPLOYMENT RIGHTS BILL 2024 ON ZERO-HOUR CONTRACTS

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INTRODUCTION

This research analyses the effect of the changes made to zero-hour contracts by the Employment Rights Bill 2024 on all its stakeholders. The research will assess not only its effect on workers but also its effect on employers and the economy. It will also evaluate its intentions and whether or not the bill does what it intends to do. This research intends to bring together all contrasting opinions. It will bring together both critical and complementary commentary regarding the introduction of the bill. The research will outline the potential issues with the legislation and help identify solutions.

Throughout the research, a Doctrinal legal research approach will be used. This is a predominant method used by legal researchersⁱ. It involves the use of qualitative data and primary and secondary sources, such as case law, journal articles and legislation. A doctrinal method of research is being used to examine, explain, and justify the changes made to employment rights regarding zero-hour contracts.

CHAPTER ONE: EMPLOYMENT RIGHTS BILL 2024

The Employment Rights Bill 2024 is being introduced to increase worker rights and boost the economy. The reforms the bill makes are going to be added to the Employment Rights Act 1996 upon receiving royal assent. Regulations are also going to be added to regulate the bill further.

1.1 Introduction of the Employment Rights Bill

The Employment Rights Bill 2024 was introduced to the House of Commons on 10th October 2024. It has been introduced to amend the current Employment Rights Act 1996. It was first acknowledged in the King's Speech on 17th July 2024ⁱⁱ. This highlighted the government's commitment to making work pay and legislating a new deal for working people to ban exploitative practices and enhance employment rights such as the day-one right to protection from unfair dismissal and the entitlement to sick pay. The government stuck to its commitment to introduce the bill within 100 days of entering office and published the bill on the 10th of October, 2024. Consultation on these reforms is expected to occur throughout 2025 and will require significant input from all stakeholdersⁱⁱⁱ.

The reforms the bill makes are not expected to take effect until 2026 at the earliest^{iv}, and this is to ensure that businesses have sufficient time for the implementation of these reforms. Additionally, if more time is needed for businesses to prepare for the change, this will be considered. Most of the bill applies to England, Scotland and Wales. It does not apply in Northern Ireland, where employment law is devolved^v. Some of the bill's reforms will not apply to Scotland due to certain clauses having different territorial extents. The bill's reforms to zero-hour contracts affect England, Scotland, and Wales.

In order for the bill to be successfully introduced, a money resolution is required as it requires additional expenditure, for example, due to the changes to statutory sick pay and the establishment of a new labour market enforcement body. The bill will be introduced alongside regulations, which will be made in the future after Royal Assent. These regulations will give further details and definitions regarding policies and establish procedures on how businesses should operate to comply with legislation.

1.2 Aims of the Employment Rights Bill 2024

The Employment Rights Bill proposes to address the current one-sided flexibility. It will ensure that jobs provide a baseline of security for workers. It will amend worker's employment rights, such as introducing the day-one right to protection from unfair dismissal, removing the qualifying period required for parental leave and banning exploitative zero-hour contracts. The bill proposes to make these changes because, between 2010 and 2024, there was relatively little new legislation regarding employment law^{vi}. Two significant pieces of legislation related to industrial relations have been passed in the last decade: the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023. Both of these have proven to be controversial, leading to the repeal of both pieces of legislation within this bill.

The Employment Rights Bill 2024 has been introduced to make improvements to the employment rights of workers. The Employment Rights Bill 2024 is part of Labour's plan to make work pay^{vii}. The plan to make work pay is a core part of the mission to grow the economy, raise living standards across the country and create opportunities. It aims to tackle low pay, poor working conditions and poor job security that have been holding back our economy. Angela Rayner, the deputy prime minister of the United Kingdom, has stated that more than 10 million workers in every corner of the country will benefit from the labour plan, and the money in their pockets will go back into the economy and support businesses^{viii}.

The Employment Rights Bill proposes to change several employment law areas. These include changes to the enforcement of labour market legislation, trade union and industrial action, pay and conditions in particular sectors. However, the main focus of the bill is Part 1, which aims to address the reforms to employment rights in areas such as flexible working, statutory sick pay, dismissal and zero-hours workers. This research will consider how the reforms seen in the Employment Rights Bill 2024 will affect zero-hours contracts.

1.3 Conclusion

The introduction of the Employment Rights Bill 2024 is set to make changes to the law regarding zero-hour contracts. The bill will bring an increase in rights to those employed under these contracts, and these rights will be added to the Employment Rights Act 1996. The intentions of the bill are to

ban exploitative practices and increase security for workers. The bill is currently being read by the House of Lords.

CHAPTER TWO: ZERO-HOUR CONTRACTS

Exploitative zero-hour contracts are being banned within the Employment Rights Bill 2024. This is set to affect workers by increasing worker rights and job security. The employment rights bill increases legislation regarding zero-hour contracts because they are often viewed negatively due to the inherent one-sided flexibility.

2.1 What is a Zero-Hour Contract

Zero-hour contracts are defined under Section 27A (1) of the Employment Rights Act 1996^{ix}. Under the current legislation, a zero-hour contract means a contract of employment or other worker's contract under which the undertaking to do or perform work or services is an undertaking to do so conditionally on the employer making work or services available to the worker, and there is no certainty that any such work or services will be made available to the worker. Zero-hour contracts

are also known as casual contracts. They offer no guarantee of work. This means that zero-hour contract workers are on call to work when you need them; they are not entitled to work, and they do not have to work when asked. Additionally, zero-hour contract workers cannot be stopped from getting work elsewhere. This is seen in S.27A(3) ERA, which states, (a) any provision of a zero-hour contract which prohibits the worker from doing work or performing services under another contract or under any other arrangement, or (b) prohibits the worker from doing so without the employer's consent, is unenforceable against the worker^x.

2.2 Prevalence of Zero-Hour Contracts

Zero-hour contracts are widely used throughout the UK. The Office of National Statistics shows that between October and December 2024, around 1,134,000 people aged 16 and over were employed on a zero-hours contract, which is 3.3% of all people employed in the UK^{xi}. Of these 1,134,000 people, 603,000 were women (3.7% of all women in employment), and 449,000 were aged between 16-24 (11.9% of all 16-24-year-olds in employment).

Throughout the UK, the country that employs the most individuals on zero-hour contracts is England, with 996,000 people under a zero-hour contract, whereas Northern Ireland is the country with the fewest people employed under a zero-hour contract, with only 14,000 people employed under these contracts^{xii}. London is the region with the most prevalent use of zero-hour contracts, where 163,000 people are employed under a zero-hour contract.

A survey by the Chartered Institute of Personnel and Development (CIPD) found that fewer than a fifth of employers (18%) used zero-hour contracts^{xiii}. The industry with the most prevalent use of zero-hour contracts is the accommodation and food industry. 328,000 people within this industry are employed under zero-hour contracts, and this is 28.9% of all people on zero-hour contracts. 66.9% of people under zero-hour contracts have been with their current employer for over 12 months. Whereas 375,000 people on zero-hour contracts have been employed with their current employer for less than 12 months^{xiv}.

2.3 Issues with zero-hour contracts

One issue with zero-hour contracts is establishing the type of contract an individual is on. It is important to establish the kind of contract an individual is on so that they are aware of what rights are available to them. Typically, workers are employed under zero-hour contracts, but employees can also be on zero-hour contracts^{xv}. A worker is defined under s.230 (3) ERA as an individual who has entered into or works under a contract of employment or any other contract^{xvi}. An employee is defined as an individual who has entered into or works under a contract of employment, s.230 (1) ERA^{xvii}. All employees are workers; however, not all workers are employees.

Employees have more access to employment rights than workers. Employees have access to all the rights of workers, but they also have additional rights, including the right to statutory sick pay, maternity leave pay and protection from unfair dismissal, which workers are not entitled to^{xviii}. Workers are entitled to certain employment rights such as national minimum wage, statutory minimum level of paid holiday, and to work no more than 48 hours on average per week or to opt out of this right if they choose^{xix}.

Trying to apply legal protections using the traditional binary scheme of employees and workers to those on zero-hour contracts is very difficult. This is because of the absence of any stipulation as to the minimum hours and the absence of mutuality of obligation within zero-hour contracts. Mutuality of obligation refers to the expectation that an employer will provide work and that the worker will accept and perform it. In *Carmichael v National Power*^{xx}, Mr Carmichael was employed under a zero-hour contract, in which he was not considered to be an employee. Lord Irvine stated, 'to find a contract of service, there had to be an irreducible minimum of mutuality of obligation necessary to create a contract of service'. In this case, the documents contained no provisions governing when, how or with what frequency work would be offered; therefore, Mr Carmichael was not considered to have a contract of service due to the lack of mutuality of obligation. Similarly, in *O'Kelly v Trusthouse Forte*^{xxi}, they did not, technically, have to turn up to work for a shift, and they could be sacked at any time, so the contract lacked "mutuality of obligation" and could not be described as one between an "employee" and "employer". In these cases, the increased rights that being an employee brings did not apply.

However, in *Heimann v Kaiser GmbH*^{xxii}, the court held that certain employment rights, such as holiday pay, apply to zero-hour contracts. In this case, the European Court of Justice ruled that national legislation could provide workers on zero—hour contracts with the right to be paid annual leave on a pro-rata basis since their situation was analogous to that of part-time workers. This shows the difficulty of establishing what rights apply to those employed under zero-hour contracts.

Another issue with zero-hour contracts is that they offer low earnings, difficulties in planning finances due to the variability of earnings, lack of employment rights, and insecurity^{xxiii}. The 2017 Taylor Review of Modern Working Practice found that many workers on zero-hour contracts struggle with the one-sided flexibility of being employed under these contracts^{xxiv}. These workers struggle to manage their time and their financial obligations. Additionally, a survey conducted by the Living Wage Foundation found that 25% of workers have had shifts cancelled unexpectedly, with 88% receiving less than full shift compensation^{xxv}. Furthermore, it was seen that 59% of workers received less than one week's advanced notice of shifts. This means workers face the costs associated with last-minute changes in their work schedule, such as travel costs and late childcare notices.

2.4 Conclusion

Zero-hour contracts offer workers and employers flexibility. They are currently legislated under Sections 27A and 27B of the Employment Rights Act 1996. They are extremely prevalent within the UK, with the majority of individuals under these contracts being women aged 16-24. These contracts are often viewed negatively because of the lack of security and low earnings. The changes the Employment Rights Bill is going to make to zero-hour contracts will affect all stakeholders. It will create greater rights for workers, including the right to guaranteed hours and reasonable notice for shift changes.

CHAPTER THREE: EFFECT OF THE BILL ON STAKEHOLDERS

The changes the Employment Rights Bill 2024 proposes to make to zero-hour contracts will affect not only workers but all its stakeholders, including employers and the economy. The bill's introduction will affect zero-hours contracts by banning all exploitative zero-hour contracts. The government intends to do this by establishing employment rights that transfer the burden from the worker to the employer. These new rights include the right to guaranteed hours with a contract that reflects the number of hours regularly worked and the right to reasonable notice of shifts with payment for shifts cancelled or curtailed at short notice. Part one of the Employment Rights Bill 2024 highlights the changes being made to employment rights.

3.1 How does the bill effect Zero-hour Contracts

Section 27BA of the bill establishes the right for qualifying workers to be offered guaranteed hours.^{xxvi} This section states that an employer must make an offer of guaranteed hours to a worker after the end of every period, which is a reference period in relation to that worker and that employer and in relation to which the worker is a qualifying worker for the employer. As seen in the explanatory notes, the reference period is expected to be defined in regulations^{xxvii}. However, during the consultation on the application of zero-hours contract measures to agency workers, it was stated that this reference period is anticipated to be 12 weeks^{xxviii}. This would mean an employer of an eligible worker will be required to offer them guaranteed hours, which reflect the hours that they have regularly worked over the 12-week reference period. The contract offered should be permanent unless the work is inherently temporary. The right to guaranteed hours is a right to be offered rather than a right to claim. This means that it is the employer's responsibility to offer guaranteed hours and should not be on the worker to ask for guaranteed hours. If an employer fails to comply with this legislation, they may be subject to potential claims from workers in the employment tribunal.

Section 27BJ of the bill enacts the right to reasonable notice of a shift.^{xxix} An employer must give a worker reasonable notice of a shift that the employer requests or requires the worker to work if the worker is to be employed by the employer under a zero-hour contract. This also gives workers the right to reasonable notice of cancellation of or change to a shift, s.27BK^{xxx}. As seen in the explanatory notes^{xxxi}, what is reasonable will depend on all the circumstances of the case. Therefore, it is clear that when there is a claim for a lack of reasonable notice, all factors in the case will need to be considered, and each case is individual. It is to be presumed, unless the contrary is shown, that notice of the cancellation, shift start time and any other change is not reasonable notice if it is given less than a specified amount of time before the shift would have started. Amanda Beattie, an

employment solicitor, states that in most cases, a minimum of 12 hours would be reasonable to cancel a shift and if there was a change to a weekly rota, typically, at least 24 hours' notice would be required^{xxxii}.

Section 27BP of the bill executes the right to payment for cancelled, moved or curtailed shifts.^{xxxiii} An employer must make a payment of a specified amount to a worker each time that the employer cancels, moves or curtails at short notice a qualifying shift. A shift is qualifying in relation to a worker and an employer if it would be worked or is being worked by the worker for the employer under a zero-hours contract. If an employer gives a worker reasonable notice of the cancelled, moved or curtailed shift, they are not required to make a payment. However, if notice is given less than a specified amount of time before the shift would have started, they are required to pay an employee. Regulations under this section may include provisions specifying different amounts depending on the notice amount given.

3.2 The effect on workers

The changes to employment rights offer increased protection for those under zero-hour contracts and will have several effects on workers under zero-hour contracts. These effects are expected to be both positive and negative.

The main way in which the employment rights bill will affect zero-hour contract workers is by the introduction of new employment rights available to them. These rights are the right to guaranteed hours, reasonable notice and payment for a change in shift. The right to guaranteed hours means those employed under a zero-hour contract will be offered guaranteed hours based on a qualifying period. This will mean that workers have a predictable income and have scheduled working hours regularly. As seen in the impact assessment,^{xxxiv} the right to guaranteed hours is expected to positively impact workers by reducing anxiety associated with unpredictability and income security, which will have numerous well-being and financial implications for workers. However, there is room for exploitation during the qualifying period. This is due to the fact that employers could exploit the number of hours worked, meaning workers are not offered contracts that fully represent their time worked during this period.

The right to reasonable notice of a shift requires employers to give workers a reasonable amount of notice for any changes or cancellations of shifts. This is also expected to positively impact workers, as the risk will be transferred from workers to firms employing them^{xxxv}. This will incentivise better workforce planning of shifts and ensure that workers are covered financially where this is not possible. This ensures workers are given greater advanced notice of any change in shift patterns. Therefore, workers will face fewer costs associated with last-minute changes in their work schedules, such as higher travel costs or late notice child care^{xxxvi}.

The right to payment for cancelled, moved, or curtailed shifts means that employers must make a payment of a specified amount to a worker each time that the employer cancels, moves or curtails at short notice a qualifying shift. This means that in cases where reasonable notice was not given, workers will be entitled to payment. This right will positively affect workers because this will mean no loss of money from childcare costs and travel costs, and will mean that workers are more likely to have the predictability of shifts. Where these rights are not followed, workers will be able to take their claims to the employment tribunal in order to receive compensation. Workers do not have to pay a fee to make a claim to an employment tribunal.

Even though the increase in employment rights is set to positively affect workers, it is believed that the ban on “exploitative” zero-hour contracts will lead to a decrease in hiring and could potentially increase unemployment. This is because higher labour costs could reduce the demand for work, and where businesses cannot absorb the increase in labour costs, it is believed that they may pass this cost on to workers.

Another way in which the Employment Rights Bill 2024 affects workers is by the lack of a complete ban on zero-hours contracts. Within Labour's plan to make work pay, it was clearly stated that they intended to ban all zero-hour contracts^{xxxvii}. However, the bill does not propose a comprehensive prohibition, thereby leaving scope for ambiguity and continued employer discretion. This means there is still room for employers to exploit zero-hour contract workers. Employers could exploit workers through definitional ambiguities. This is because terms such as reasonable notice are currently not defined. It is merely stated that notice is not reasonable where it is given less than the amount of time specified in regulations by the Secretary of State prior to the beginning of the relevant shift. However, there is an opportunity for judicial interpretation, meaning there is less probability of exploitation.

The lack of an outright ban is also considered a positive, as workers have the right to be offered guaranteed hours and do not have to accept if they do not wish to. This means that, as the bill only bans exploitative zero-hour contracts, workers can still retain employment under a zero-hour contract. Zero-hour contracts offer workers flexibility, and workers do not have to accept any work that is offered. They also provide employment opportunities for those who might otherwise not be able to work because they can't commit to more regular, pre-determined working hours due to ill health, care or studying needs, for example^{xxxviii}. The ability to retain zero-hour contracts could positively affect 258,000 of those employed under a zero-hour contract who are in full-time education, 22.7% of all people employed under a zero-hour contract.^{xxxix}

There were concerns from campaigners that employers may circumvent new legislation preventing 'exploitative' zero-hours contracts by shifting workers into temporary agency work. However, in a recent reading of the bill, this was addressed by making these rights applicable to agency workers^{xi}.

During the qualifying period, when assessing a worker's right to guaranteed hours, workers are considered zero-hour workers and are therefore still subject to the negative effects that being employed under zero-hour contracts brings, such as unpredictability due to workers not knowing how many hours they will be working, job insecurity due to employers not having to offer hours, limited access to employment rights and unpredictable income as employers are not required to provide the same number of hours each week, and therefore a steady income is not guaranteed.

3.3 The effect on employers

One of the effects the Employment Rights Bill 2024 has on employers of zero-hour contracts is an increase in worker productivity. Unions have praised the bill as life-changing for millions of workers and say it will also benefit employers in the form of a healthier and happier workforce and boosted productivity^{xii}. Jonathan Reynolds, the Secretary of State for Business and Trade, stated that the best employers know that employees are more productive when they are happy at work^{xiii}.

As a result of improvements in worker welfare and incentives for better planning of work and shifts, there is potential for productivity improvements, which would drive benefits to firms. In a study conducted in 2022, it was concluded that a positive work environment promotes workers' performance within organisational circuits^{xiii}. More specifically, the workplace environment can improve the achievement-striving ability of the workers, and workers tend to bounce back in difficult situations.

Additionally, some firms will already be operating in ways that comply with this legislation, e.g., avoiding zero and low-hours contracts. This will allow these firms to compete on a level playing field with firms that transfer excessive risk to their variable-hour workers^{xiv}. There may also be a benefit to firms through improved well-being for workers and incentives for better work planning and shifts feeding through to productivity improvements. Imposing an obligation on the worker to accept work (which is not the case under most variable contracts) gives the employer more certainty and may diminish the need to administer a large pool of workers to ensure demand is met.

It has been stated that the new measures could cost businesses up to £5 billion a year as they adjust to the new legislation and take on administrative and compliance costs^{xiv}. In the impact assessment, it is stated that the costs to business will represent just under 0.4% of total employment costs across the economy, which are more than offset by substantially wider economic and social gain^{xvi}. The economic analysis states there will be further benefits to employers from 'improved wellbeing and

health', with 17.1 million working days lost due to stress, depression, or anxiety - the equivalent of over £5 billion in lost output^{xlvii}. The explanatory notes show that many of the burdens placed on businesses represent a direct benefit to the workers^{xlviii}; therefore, those direct benefits to workers are similar in magnitude to the costs. These benefits include the value of payments paid to zero-hour workers for short-notice shift cancellation and savings from avoiding wasted travel and childcare costs.

However, the bill is also expected to affect employers negatively. As seen in the impact assessment, the introduction of guaranteed hours will negatively affect businesses^{xlix}. The regulatory change places an obligation on businesses to offer guaranteed hours contracts to eligible workers after an assumed 12-week reference period. Businesses will incur costs related to familiarisation and implementation, as well as procedural costs of the policy. The average administrative cost to business is estimated to be around £230 million per year, and these costs relate to the familiarisation and subsequent set-up costs, alongside ongoing costs to business of having to track hours to calculate the correct new contract required and the process by which they offer this to their workers^l. The main non-monetised impact on business is the loss of flexibility for those firms that rely on these forms of contract, particularly where demand is seasonal or unpredictable.

The introduction of a right to reasonable notice and the right to payment for shifts cancelled, moved or curtailed at short notice is expected to have a negative impact on businesses. Firms without sufficiently thorough workforce planning and where it is not possible to predict demand for work will likely bear costs associated with either cancellation payments for those shifts or paying wages for little return if they still bring the worker in, but with little work for them to do. The average cost to business Equivalent Annual Net Direct Cost to Business (EANDCB) is estimated to be £320 million per year^{li}. The average administrative costs to businesses are estimated to be around £210 million per year, which includes familiarisation and set-up costs, as well as costs associated with shift planning. A loss of flexibility and increased risk of not meeting consumer demand beyond the costs captured by increased workforce planning, as firms are no longer able to easily flex up their workforce.

Small businesses have said the reforms have been rushed and chaotic to meet an arbitrary time frame^{lii}. The change in legislation poses a real threat to the viability of small and medium-sized enterprises. The economic analysis shows that the bill is expected to have a disproportionate effect on small and micro businesses (SMB's)^{liii}. Five out of the nine largest measures in the bill are expected to have a disproportionate impact on SMB's. However, despite this, the government has stated that any exemption to the policy based on business size would significantly undermine the policy objectives. It is believed that this would create a two-tier labour market with some workers

receiving less protection, leading to an uneven playing field between employers of different sizes and would reduce the incentive for small businesses to grow.

More rigid rostering to banish zero-hour contracts will inevitably act as a deterrent to recruitment, with each new worker representing a host of extra costs and responsibilities. Meaning there will be less scope for taking a chance on a fresh hire. Additionally, the inability of employers to absorb the increase in the financial burden due to the rise in labour costs will also escalate unemployment.

3.4 Economic Consequences

The government's plan to make work pay is a core part of the mission to grow the economy, raise living standards across the country and create opportunities for all. It will tackle low pay, poor working conditions and poor job security that have been holding our economy back.^{liv} Economic growth is driven by getting more people into work and making them more productive. As laid out, employment rights can increase workforce participation and, therefore, support economic growth.

The current imbalance of bargaining power in the labour market means that, without government intervention, the issue of poor quality and poorly paid jobs will persist, creating anxiety for workers and holding our economy back. Whilst most employers want to do the right thing by their workers and already do, the low levels of mandated protections for workers mean that competitors can undercut them^{lv}. Therefore, the introduction of the Employment Rights Bill is set to affect the UK economy positively. Employment rights can support labour market participation by increasing the range of jobs and working patterns that are attractive to workers.

The government believe that the introduction of the bill will have a positive effect on the economy. Bryson et al.^{lvi} found a positive association between employee job satisfaction and productivity. Where greater worker well-being increases productivity, this will offset some of the direct costs imposed on employers. Angela Rayner stated that this landmark legislation will turn the tide on decades of insecurity and low pay while driving up productivity, generating growth and improving living standards^{lvii}.

However, the government's impact assessment estimates that the measures could cost businesses up to £5 billion annually. The IEA (Institute of Economic Affairs) believe that, as seen in past economic studies and business surveys, the cost will be largely passed on to consumers through higher prices, workers earning lower wages and/or job losses^{lviii}. They also believe that the £5bn figure is likely to be a considerable underestimate as it almost entirely relates to increased administrative burdens, failing to calculate the significant impact on business costs and hiring from making it more expensive to employ people.

The bill's measures have the potential to at least partly undermine the policy objectives laid out in Section 2^{lix}. This is because higher labour costs could reduce demand for work, damaging the employment prospects of the same workers the bill is trying to support. Although the impact on unemployment is likely to be small or negative, the risks are highest for workers with the weakest attachment to the labour market, such as the low-paid, who are already most likely to be let go from work in a downturn, disabled workers, who face a large employment gap, and the youngest workers, since they are still gaining experience and skills. Where businesses cannot absorb the increase in labour costs, they may look to pass them on to workers by reducing expenditures that benefit workers (e.g. staff training) or scaling back future improvements to T&C's (e.g. wage growth).

Additionally, because the Employment Rights Bill increases the employment rights available to workers, there will be an increased use of mediation services. If disputes cannot be resolved internally, workers will be able to enforce their rights by making a claim, which is likely to increase the number of dispute cases in employment tribunals. This will affect the economy because of administrative costs and fees, a negative impact on the labour market, damage to morale, and reputational harm. The volume of cases reaching mediation services, such as Advisory, Conciliation and Arbitration Services (ACAS) and Employment Tribunal (ET), is expected to increase by 15%^{lx}.

3.5 Conclusion

While the bill was intended to impact workers positively, it has unintended consequences on both workers and employers. The bill fails to successfully balance the competing interests of both workers and employers. Any benefit to workers represents a direct cost to employers. For example, whilst the increase in employment rights positively affects workers, it has an adverse effect on employers; this is because of the financial burden new rights create. Additionally, the increase in rights has a negative impact on the economy because of the increase in the use of mediation services.

Additionally, the bill is set to increase workers' productivity, which will, in turn, positively affect employers by having a more productive workforce. However, this is also expected to lead to a decrease in hiring rates, which will, in turn, negatively affect workers by increasing unemployment and negatively affect employers by leading to an increased workload for current workers. So, although the Employment Rights Bill successfully increased the employment rights available to workers under zero-hour contracts. It fails to properly consider the effect this will have on businesses and the economy. It also fails to address the potential for exploitation, even though it intends to ban all exploitative zero-hour contracts.

CHAPTER FOUR: RESPONSE TO THE BILL

The response to the employment rights bill has been very varied. Where Trade unions have widely heralded the changes, many businesses are opposing the bill. This is because of the adverse effect the bill is going to have on businesses and the financial burden this is going to create.

4.1 Positive Response

The Trade Union Congress (TUC) has praised the bill for offering real hope for workers; they have called it a landmark piece of legislation which represents a positive and ambitious plan to make work pay^{lxi}. They have stated that it will benefit millions of workers, especially those trapped in low-paid and insecure employment, and it will also benefit employers in the form of a healthier and happier workforce^{lxii}. Where the TUC have acknowledged the positive effect on workers and employers, they fail to consider the negative effect the bill has. The TUC is a reputable institution which brings together more than 5.5 million working people. Articles written by the TUC are written for the workers' interest and fail to take into account the impact the bill has on business and the economy.

The TUC states the package is “expected to benefit people in work with the protected characteristics that are disproportionately represented in low pay, low quality, insecure jobs”. These include low-paid women, younger workers, ethnic minority workers and disabled workers^{lxiii}. The TUC, however, fails to adequately consider how a decrease in hiring is going to affect these individuals.

Employment solicitor Kaajal Nathwani affirmed, “The aim of modern-day employment law is to ensure the balance of rights and obligations of employers and employees, and as time goes on, we move closer to achieving that true equity and parity, and the latest legislative changes as a result of the new Government will be a step even closer to a fairer working world; a far cry from the very first laws which enshrined the principles of the master-servant relationship built on the archaic and unfair expectation of ‘one-way’ obedience and loyalty.^{lxiv}” Kaajal shows that whilst the bill moves closer to achieving true equity, she also acknowledges that the new legislation will not reach a fully fair working world. She comes from a unique place as an employment solicitor, as she represents workers and employers in matters relating to employment law, meaning she can fully appreciate that the bill has an effect on all stakeholders.

Deputy Prime Minister Angela Rayner reflected on her time as a mother and care worker struggling on unpredictable hours, and how new protections in the bill will save the lowest-paid workers up to £600 a year in lost income from cancelled or shortened shifts. She said: “My fight to support others out of insecurity into stability and restore respect is deeply personal. I know how it feels, and I’ve been there. Now I am at the Cabinet table, I am determined to deliver for the millions of people in the position I was once in.”^{xv} However, there is evident bias from the deputy prime minister, as it is necessary for her to be in support of legislation introduced under her party's government. She does not account for the effect the bill might have on workers if employers are unable to absorb the increase in labour costs.

Barry Fletcher, the CEO of Youth Futures Foundation, states, “The government’s commitment to improving employment rights is welcome....we are pleased the government is working collaboratively with employers, unions and labour market experts to make sure the reforms boost worker's rights while avoiding a reduction in hiring, which could negatively impact young people and increase our already high rates of youth unemployment and inactivity”^{xvi}. Barry Fletcher focuses on the positive effect on young workers, but fails to take account of young business owners.

4.2 Negative response

The Institute of Directors (IoD) states that the bill's measures will make employing staff more expensive and riskier for businesses, and as a result, they will hire fewer people, and where they do hire, hiring decisions will be made more conservatively^{xvii}. Additionally, there will be an increase in costs as a result of the resources needed to meet the increased compliance burden for measures such as offering every worker on a zero-hour contract guaranteed hours every 12 weeks. The IoD states that the government's own impact assessment acknowledges that the impacts on the costs of the bill will be disproportionately borne by SMEs. This is because they have less in-house HR capacity necessary to be able to absorb additional compliance burdens and to have the financial resources to absorb the costs. The measures pertaining to zero-hours contracts will significantly reduce the ability of employers to offer such contracts, even where employees want them. Employers who offer zero-hours contracts, because demands fluctuate in their sector, are unlikely to be willing to run the risk that after any 12-week reference period, a worker may accept the required guaranteed hours and become a liability when there is insufficient work.

Where the TUC failed to consider the bill's effect on businesses, the IoD failed to consider the effect on workers. The IoD is a non-party political organisation representing 20,000 company directors, senior business leaders and entrepreneurs^{xviii}. As the IoD represents employers and businesses, it does not sufficiently consider the positive effects the bill has on workers. The bill will increase productivity due to a happy workforce, and this, in turn, will positively affect businesses.

Other Unions, such as the Institute of Economic Affairs, assess the impact the bill is going to have on a broader scale. The IEA has had a negative response to the bill, stating that the government may be well-intentioned, but it risks damaging businesses which are already under pressure and stifling economic growth, whilst hurting the very workers the bill intends to protect^{lxxix}. There is no attempt to calculate how many fewer people will be hired due to limiting zero-hour contracts. The IEA produce reports and papers on all areas of economic policy; their research is designed to reach a wide audience, including policymakers. Throughout their research, they successfully consider the effect the bill is going to have on all stakeholders.

Additionally, the Independent Workers Union of Great Britain (IWGB) said that anything less than an outright ban on the practice would leave scope for exploitation^{lxxx}. This is because it is believed that the power imbalance of zero-hour contracts would persist under these new proposals.

The Federation of Small Businesses found that 'nearly every small business in Britain is worried about government plans to expand workers' rights, exacerbating concerns about stagnant economic growth after the budget and a collapse in hiring'^{lxxxi}. Ninety-two per cent of the 1,270 small employers surveyed in November raised concerns about the bill. The researchers said that 67 per cent planned to take on fewer staff, and nearly a third would cut their workforce. Fifty-six per cent said that the bill would prompt them to ditch investment plans and efforts to grow their businesses. The Federation of Small Businesses is a UK organisation for small businesses. They have been 'the voice of millions of small businesses since 1974'. Their main focus is the bill's effect on small businesses, and therefore, they have a biased approach when assessing the employment rights bill.

The Regulatory Policy Committee (RPC) believe that eight of the 23 individual impact assessments are not fit for purpose^{lxxxii}. They are critical of the government's Impact Assessment and state that it needs to assess more fully the potential for the policy to increase unemployment/ worklessness and how far this risk is mitigated by zero-hour contracts remaining potentially available. Additionally, there is nothing in the impact assessment which points to any benefit or assistance at all to employers or which considers where all the additional compliance costs to them will come from^{lxxxiii}. The RPC is an independent regulatory scrutiny body for the UK Government, which helps ensure that ministerial policy decisions are based on accurate evidence. The RPC are unbiased and impartial. Their critique of the employment rights bill is reliable and is written to give guidance to the government on ways to improve the bill.

4.3 Comparative analysis

Different countries throughout Europe follow different regulations with regard to zero-hour contracts. Within countries such as Germany, zero-hour contracts are banned. In Germany, there is an outright ban on entering into a zero-hour contract, as German law follows the inherent

principle that the economic and employment risk of the employer should not rest with the employee^{lxxiv}. You must have the number of hours you will work stated on your contract. If the working time is not stated, the employer is required to pay you at least 20 hours per week. Hourly contracts are not permitted.

Whereas in Ireland, zero-hour contracts are banned in almost all circumstances under the Employment (Miscellaneous Provisions) Act 2018^{lxxv}. This is because workers are entitled to a minimum payment if their employer fails to provide them with work. Workers are entitled to guaranteed hours of work that reflect their normal working week. Workers have the right to compensation from their employer if they turn up for a shift but are sent home without work.

The government are following in similar footsteps to Ireland with the employment rights bill. However, there are arguments that they should follow Germany by completely banning zero-hour contracts. This is seen by Henry Chango Lopez, the Independent Workers Union of Great Britain's general secretary, who said this power imbalance would still persist under these new proposals^{lxxvi}.

4.4 Conclusion

The response to the bill has been very varied. Where the positive responses are typically from workers, unions and government officials, most of the negative responses are from businesses. Lots of the commentary regarding the effect of the employment rights bill on zero-hour contracts comes from a biased perspective.

For example, trade unions and government officials have praised the introduction as a landmark piece of legislation that benefits those employed under zero-hour contracts and will bring modern-day employment law closer to achieving true equity. Whereas the Institute of Directors has criticised the introduction, stating it will have a disproportionate effect on small businesses and will inevitably act as a deterrent for hiring. This discourse further highlights the bill's failure to successfully balance the interests of employers and workers.

CHAPTER 5: CONCLUSION

5.1 Conclusion

The Employment Rights Bill 2024 affects zero-hour contracts by banning all exploitative zero-hour contracts. This is being done by introducing new employment rights available to zero-hour contract workers. These rights are the right to guaranteed hours, reasonable notice for changes in shifts and payment to workers where reasonable notice is not given.

The introduction of new rights is set to positively affect workers by increasing the employment rights available to them, but also create more job security and predictability of shifts. However, the benefit to workers represents a direct negative impact on other stakeholders. For example, an increase in employment rights for workers will mean a greater financial burden on employers. These measures are expected to cost businesses up to £5 billion annually. Where businesses cannot absorb these costs, there is anticipated to be a decrease in hiring rates due to higher labour costs reducing the demand for work. Employers are expected to be most negatively affected by the bill, and these effects are mostly monetary.

Although the bill intended to ban exploitative zero-hour contracts and end one-sided flexibility, it does not do what it intends. By only banning exploitative zero-hour contracts, there is still room for exploitation under the new rights being introduced. This shows that despite the good intentions behind the bill, it fails to properly balance the interests of workers and employers, by focusing on the positive effects it will have on workers and failing to address the potential for an increase in unemployment, exploitation under the new rights and the monetary effect on employers. Therefore, amendments need to be made to improve the bill's functionality.

5.2 Suggested Amendments

Not all of the suggested amendments work in conjunction with each other and are to be considered separately. One amendment I would suggest the government make to ensure that the bill does as it intends would be to ban all zero-hour contracts. If the government followed the same principles as German law, there would be no room for further exploitation, and the bill would meet its aim of ending one-sided flexibility. This would also reduce the burden on employers as they would not have to offer workers guaranteed hours based on a qualifying period, as these hours would be stated in their contract of employment.

Another amendment the government should make would be to increase the reference period for guaranteed hours. Although it has yet to be confirmed, many people are under the assumption that

the reference period under the bill is set to be 12 weeks. However, the Institute of Directors proposes changes such as amending the reference period for guaranteed hours to 26 weeks and making it a right for employees to request, rather than be proactively offered, a contract reflecting hours regularly worked^{lxxvii}. Similarly, prior to the introduction of the bill, the Taylor review has suggested making it a right to request flexible working, and the average weekly hours worked over the previous 12 months should be the starting assumption for any new contract.

The final amendment the government should make would be for them to address and further consider the unemployment rates expected from the bill's imposition in the impact assessment. Currently, it is unknown how unemployment rates are going to be affected by the introduction of the bill, but it needs to be considered whether an increase in workers' employment rights adequately outweighs the potential decrease in hiring. The failure to do this will mean that there is not a fully transparent view on how the employment rights bill is going to affect zero-hour contract stakeholders.

So, although the intentions of the employment rights bill were to positively affect workers, this research has shown that many of its policies undermine this. This research helps identify areas of improvement for the government and brings together contrasting commentary regarding the introduction of the bill. However, due to the time constraints of this research, further research is needed to establish how the bill is going to affect zero-hour contracts once the bill has reached royal assent.

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