May 2025

**Briefing for Members of Parliament: Employment Rights Bill**

**Introduction**

The Employment Rights Bill (ERB), which is currently at the [Committee Stage in the House of Lords](https://bills.parliament.uk/bills/3737#timeline) before progressing to the final stages in the House of Commons, offers a valuable opportunity to strengthen worker protections. However, several clauses risk undermining the flexibility that is essential to the UK’s dynamic labour market. While the government’s commitment to consultation and addressing key details through secondary legislation is welcome, it is vital to strike a fair balance between protecting workers and maintaining business flexibility to avoid deterring growth.

The [Recruitment & Employment Confederation (REC)](https://www.rec.uk.com/about-the-rec), a trade association of which our business is a member, is particularly concerned about mandatory offers of guaranteed hours contracts for agency workers, which could lead to increased non-compliance and false self-employment. Proposals on Statutory Sick Pay (SSP) risk placing disproportionate costs on agencies, while effective regulation of the umbrella market requires robust enforcement to protect workers and maintain a level playing field for businesses.

To sustain confidence in both temporary and permanent hiring, the government must engage with businesses as well as trade unions. Achieving this balance is crucial to safeguarding economic growth, preserving employment opportunities, and ensuring the resilience of the UK labour market.

Below are the key concerns and proposed solutions for your consideration during the ongoing scrutiny of this bill.

**Key Concerns and Proposed Measures**

**Offer of Guaranteed Hours to Agency Workers**

**Challenge:**

* The requirement for agencies to offer guaranteed hours contracts risks eroding flexibility for agency workers, many of whom choose this type of work to retain control over their schedules.
* Mandating guaranteed hours may lead to increased non-compliance and false self-employment, as workers seek to avoid restrictive contracts.

**Proposed Solution:**

* Allow agencies, rather than hirers, to manage the offer of guaranteed hours contracts to better reflect the nature of agency work.
* Base the reference period for calculating qualifying hours on hours worked with the agency, not across multiple hirers.
* Enable agency workers to request guaranteed hours contracts if they wish, rather than imposing a blanket requirement for agencies to offer them.

**Reasonable Notice of a Shift**

**Challenge:**

* Agencies rely on information from hirers about the availability and cancellation of assignments.
* Placing a rigid obligation on agencies to provide “reasonable notice” without considering the timing and nature of information provided by hirers may unfairly penalise agencies.

**Proposed Solution:**

* Define “reasonable notice” in the context of agency work to mean that an agency has offered an assignment as soon as reasonably practicable after receiving information from the hirer.
* Allow reasonable notice to account for the time required for agencies to conduct suitability assessments under the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**Cancellation of a Shift and Right to Payment**

**Challenge:**

* Shift cancellations at short notice can leave agency workers without income. However, agencies often have no control over cancellations initiated by hirers but may still bear the financial responsibility.

**Proposed Solution:**

* Introduce a joint obligation for agencies and hirers to provide notice of cancellations and share the liability for reasonable payment to the worker when a shift is cancelled.
* Allow additional terms relating to cancellation to be agreed between agencies and hirers, with hirers bearing responsibility for any inaccuracies or failure to provide agreed notice.

**Agency Workers’ Right to Request a Guaranteed Hours Contract**

**Challenge:**

* Agency workers, unlike directly employed zero-hours workers, often prefer flexible working arrangements.
* Imposing a mandatory process for offering guaranteed hours contracts adds unnecessary complexity and undermines the choice that many agency workers seek.

**Proposed Solution:**

* Allow agency workers to request a guaranteed hours contract if desired, rather than placing a blanket requirement on agencies to offer such contracts.
* Ensure that information about this right is provided through the Key Information Document, empowering workers to make informed choices.

**Amendments to the Agency Workers Regulations (AWR) 2010**

**Challenge:**

* Regulation 13 of the AWR 2010 only entitles agency workers to be informed about vacancies within the hirer’s business, without any obligation to offer genuine opportunities.

**Proposed Solution:**

* Strengthen Regulation 13 to ensure agency workers have a stronger right to apply for and be considered for permanent vacancies within the hirer’s business.
* Require hirers to make genuine efforts to offer suitable work to agency workers where appropriate.

**Umbrella Companies and Enforcement**

**Challenge:**

* Non-compliance and exploitation in the umbrella company market remain a significant concern.
* Effective enforcement is essential to ensure that new regulations protect workers and maintain a level playing field for businesses.

**Proposed Solution:**

* Adequately fund and resource the Fair Work Agency to ensure effective enforcement of regulations on umbrella companies.
* Introduce robust oversight mechanisms to prevent non-compliance and ensure fairness for both workers and businesses.

**Statutory Sick Pay (SSP) and Cost Burdens**

**Challenge:**

* Expanding the scope of Statutory Sick Pay (SSP) is positive for workers but may place a disproportionate financial burden on agencies rather than hirers.
* Agencies already struggle to reclaim SSP from client businesses, which could further undermine their financial stability.

**Proposed Solution:**

* Ensure that the cost of SSP is shared fairly between agencies and hirers, rather than placing the entire burden on agencies.
* Set SSP at a level that enables agencies to retain staff without being forced into capability-based dismissals due to cost pressures.

**Recommendations**

* **Use Section 27BV Powers Effectively:** Ensure that regulations made under Section 27BV ERB apply proportionately to agency work, recognising the unique nature of this segment of the labour market.
* **Maintain Flexibility and Choice:** Protect the ability of agency workers to choose flexible work arrangements, avoiding unnecessary rigidity that could undermine the temporary workforce.
* **Joint Responsibility for Cancellations and Changes:** Place a clear and enforceable obligation on hirers to share responsibility for cancellations and changes to assignments.
* **Strengthen Oversight of Umbrella Companies:** Ensure that the Fair Work Agency is properly equipped to enforce new regulations on umbrella companies effectively.
* **Prevent Unfair Burdens on Agencies for SSP:** Ensure that any changes to SSP do not disproportionately burden agencies, recognising the complexities of agency work.

**Conclusion**

The Employment Rights Bill presents a critical opportunity to enhance worker protections while maintaining the flexibility and dynamism of the UK labour market. However, the current approach risks creating unintended consequences for agency workers, hirers, and recruitment businesses. By making targeted amendments and using the powers available under Section 27BV ERB, the Government can strike the right balance between protection and flexibility, ensuring that the Bill supports both businesses and workers while safeguarding the UK’s economic resilience.