

Urgent changes needed to Workers (Predictable Terms and Conditions) Bill

The Workers (Predictable Terms and Conditions) Bill aims to give workers and agency workers the right to request more predictable terms and conditions of work. The [Recruitment & Employment Confederation](#) (REC) is the voice of the recruitment industry in the UK, and are concerned about the impact this bill will have on the UK's temporary labour market.

REC concerns with the draft Bill

Inclusion of temporary agency workers

Temporary work is a crucial part of the UK economy. According to REC Research, the UK recruitment industry is estimated to have directly contributed £42.9 billion to the UK economy in 2021, with £36.4 billion (85%) of this achieved through temporary work placements. Giving temporary workers the right to request more stable working hours after only 12 weeks puts this whole market at risk.

Temporary work is inherently flexible, and this is the core reason why workers choose to work in this way, and why businesses engage workers this way. Where agency workers are engaged on a contract for services (the majority are) then the workers have complete choice of when and who to work for with no obligation to work even when work it's offered. This allows temporary work to play a key role in the UK labour market by allowing workers, particularly those with caring needs or other commitments, to work to their own schedule. The same flexibility also allows businesses to respond to peaks and troughs in demand easily. As an example, many of our members in the logistics and retail sector have seen lower numbers of temporary work assignments this spring than last year because the weather was unseasonably wet and cold - meaning consumers did not start buying for summer until much later in the season. In response they could dial up or down their hiring of temporary agency workers. This is two sided flexibility that needs to be maintained. It has helped sustain our labour market through recent and many previous cycles of economic uncertainty.

Temporary agency work shouldn't be confused with zero hours contracts

This type of temporary working is different from employees working on zero-hours contracts but the two are often conflated. Zero hours refers instead to workers engaged directly by a business/organisation to work without fixed or minimum hours. Zero-hours contracts can be used in a way that has sometimes lead to the imbalanced one-sided flexibility that causes issues for many workers. In these contracts it is solely the employer who decides whether work is available for their worker, and the worker must work if asked to. This is different to the genuine two-sided flexibility of the temporary worker on a contract for services,

REC Recommended Amendment:

To require the Secretary of State to remove agency workers from the scope of the Workers (Predictable Terms and Conditions) Bill.

Page 6, remove section 2, *Agency workers: right to request predictable work pattern*, in its entirety from the draft bill.

Explanatory Statement: Remove all of section 2 from the draft legislation. This would mean that the proposed "Chapter 3" bringing agency workers within the scope of the legislation would be removed, limiting the scope of the right to request more stable hours to permanent employees only.

Right to request after 12 weeks

If the government is insistent on including temporary workers in the right to request more stable hours, then steps can be taken to mitigate the impact of this on the temporary worker market. The current draft legislation would allow a worker to request a more stable contract after only 12 weeks. This makes no sense for temp workers and employers who use them as it undermines the ability of the inherent flexibility that both worker and hirer are seeking. For example, in the retail industry it is commonplace for employers to hire more staff in the months leading up to Christmas. If these staff would have the right to request a more stable working pattern, but in January the retail industry does not have the same need for workers then employers would be able to reject these requests for the legitimate reasons proposed in the legislation anyway. But the process of reviewing the request and potential claims against rejected requests would be a huge waste of time and resource for all involved.

REC Recommended Amendment:

To require the Secretary of State to extend the qualifying period for the right to request a more stable contract to 12 months for agency workers in the Workers (Predictable Terms and Conditions) Bill.

Page 8, line 43, replace "12 continuous calendar weeks" with "12 continuous months", line 45 replace "12 continuous calendar weeks" with "12 continuous months" and remove everything from Page 8, line 48 to Page 9, line 8.

Explanatory Statement: If a worker has been on assignment for 12 months, it suggests there is consistent work available, and rejections will be less common. It will also help to avoid businesses having to deal with frivolous requests likely to be denied with ease under the suggested Bill. This change would save employers time and money by alleviating a process that isn't demanded by temporary agency workers in the first place.

Asking hirers of agency workers to make stable hours decisions will jeopardise the temporary labour market

Under the current draft, agency workers are able to request a more stable working pattern from either the employment business or the hirer they work at. Being able to make a request to your hirer makes no logistical sense and confuses things. Hirers are not involved in the contractual arrangements between the worker and the employment business and in many cases they have no knowledge of the terms of the contract between the other two parties. Given this lack of knowledge hirers are in no position to rule on a request for stable working. The agency workers have a relationship only with the employment business and so it is the employment business that should be liable for considering and responding to stable working requests. Putting this burden on to hirers will very likely dissuade them from engaging temporary workers. This would have a huge impact on the value of the UK's temporary labour market and jeopardise receipts to the Exchequer as well as the living standards of many people that choose to work flexibly.

REC Recommended Amendment:

To require the Secretary of State to remove the right to request a more stable contract from a hirer in the Workers (Predictable Terms and Conditions) Bill.

Page 6, line 40 remove all of section 80IF (2) and remove any subsequent references to "hirer" in the context of applications for stable contracts being made to them.

Explanatory Statement: Limiting applications for more stable contracts to temporary work agencies only makes more sense under the contractual structure of a standard agency worker. Including hirers will increase the administrative burden on employers and mean that increased numbers of applications are rejected.

Umbrella Companies should be included in the proposed changes

The regulations as proposed will apply to all "temporary work agencies" as defined in the Agency Worker Regulations 2010. This legislation would need to be specifically amended to include reference to umbrella companies if the government is to go ahead with these proposals. Umbrella companies have previously successfully argued to be outside the scope of other recruitment legislation such as the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2005. Allowing umbrellas to operate outside of the scope of these new regulations would further increase the potential for exploitation that is already rife within some parts of that market. If Umbrellas are not brought into scope of this Bill it will create an incentive to shift many more temps into being employed by Umbrellas so they can avoid having hirers and agencies can avoid the red-tape and bureaucracy of handling stable working requests. This would also expose more workers to the wider threats of the umbrella market, such as higher costs of employment and scam operators offering tax avoidance schemes.

REC Recommended Amendment:

To ask the Secretary of State to include explicit reference to Umbrella companies in the Workers (Predictable Terms and Conditions) Bill

Page 14, line 36-38, at end insert "and for the avoidance of doubt includes umbrella companies or other intermediary involved in paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of hirers."

Explanatory Statement: The definition of temporary work agency under the proposed Section 80IL(4) needs to be amended to make explicit reference to umbrella companies and other payment intermediaries. This will prevent umbrellas from claiming the new regulations do not apply to workers engaged through them.