

What to do with employees on zero hour contracts?

With the new Employment Rights Bill the government is set to make some of the largest changes to employment law in a generation. With one of the changes being the changes to “exploitative” zero hours contracts.

Zero hours contracts have been under scrutiny for some time. Whilst they are designed to provide flexibility to both workers and employers, the criticism levelled at them has been that there is a disproportionate amount of benefits to employers and few for workers.

Initially there was talk of banning them outright, however the Government’s bill has instead sought to reform them, giving workers more rights and ending ‘one-sided’ flexibility.

If your organisation employs workers on zero hours contracts, then you need to ensure your business is compliant with the latest Employment Law legislation, or face the possibility of costly legal litigation and reputational damage.

Contact the Employment Law advisors at Croner to discuss what the changes mean to your business and how to ensure compliance with the new law on zero hours contracts. Take advantage of your key member benefits by calling the advice line today on 0800 022 820 and quote 932613.

What are the rules on zero hours currently?

Zero hours contracts are designed to be a flexible option for both employers and workers, this generally means the following for employers.

- You don’t have to offer staff any minimum working hours.
- Staff have the right to decline any work offered.

Currently the rules on zero hours contracts means any staff on them can be legally classed as employees or workers. This means under the current rules staff on zero hours contracts have the rights to:

- Be paid the national minimum wage.
- Holiday entitlement and holiday pay.
- Rest breaks.
- Protection from discrimination.
- Receive pay slips.

Note: *This is not an exhaustive list of rights. Employers should ensure they know the status of their staff to ensure they are legally compliant, when it comes to their rights.*

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What to do with employees on zero hour contracts?

As an employer you currently have a set of responsibilities that you must adhere to or risk being in breach of employment legislation. If you employ staff on zero hours contracts, you must ensure that you uphold the following:

- Grant employees their statutory employment rights.
- Uphold protected employment rights.
- Pay the National Minimum Wage at the very least, regardless of the hours offered or worked.
- Clearly inform and define whether a member of staff is classed as an employee or a worker.
- Communicate to staff what their rights are, i.e. Sick pay, holiday entitlement etc.
- Let staff know how the contract will end.
- Use PAYE to disburse wages this includes tax and National Insurance (NI) deductions.

It is also good practice for employers to make clear to staff, the following information:

- Work is not guaranteed
- The work can end quickly
- The worker or employee isn't obliged to accept any work offered

- Show there is a fair and transparent process for dividing the work amongst staff based on each individual's circumstances

As an employer you must ensure that you don't cause an employee or worker 'detriment' if they exercise their statutory rights, for example for demanding the National Minimum Wage.

An example of causing an employee detriment could be if you treat an employee poorly, such as bullying, harassment, refusing training without good reason, overlooking an employee for development and reducing their hours without good reason.

If an individual's employment status is classed as an employee, dismissing them for asserting their rights is grounds for an automatic unfair dismissal claim. Whilst those classed as workers can't claim for unfair dismissal, they might be able to claim ending their contract was a detriment.

By law you can also not stop a worker or employee on a zero hours contract from working for another employer whilst also working for your business. This also applies even if you have included an exclusivity clause in the employment contract.

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What's set to change with zero hours contracts?

Whilst the details have yet to be completely finalised and given a date they will come into enforcement, there will be several changes to zero hours contracts under the Employment Rights Bill, including:

- A contract that reflects their regular hours of work (referenced over a 12-week period)
- Ad-hoc flexibility where there is a worker preference, this can be done through request and opt-in
- Reasonable notice of any changes in the workers shifts
- Proportionate compensation of cancelled or curtailed shifts

These changes seek to offer all workers a baseline level of job security and ensure that they have predictable hours. Employers will still have the ability to hire workers on fixed-term contracts. This will include seasonal work.

How can employers prepare for the new legislation?

Even though there has been no date given by the UK Government on when these changes will come into force, employers should start

preparing for their implementation, to make the transition much simpler and ensure compliance from the day-one of its introduction.

Failure to ensure compliance with the new legislation could result in costly legal expenses and reputational damage to your business. If you're unsure about how the new legislation will affect your business, talk to the Employment Law advisors at Croner for expert, professional advice that's tailored to your business.

You can help prepare for the changes by taking the time to review your current workforce and identify those on zero hours contracts, and the nature of the work that they undertake. Consider offering other types of contracts to workers in those roles and how this would benefit your business.

You should also take the time to assess the potential impact the 12 week reference period will have on both your workforce and your organisation. You should also review the shift request and cancellation process, to assess whether there are areas for improvement. As with all major changes in the workplace you should communicate and consult with your staff on the new changes and how best to facilitate their implementation.

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What to do with employees on zero hour contracts?

If offering alternatives to zero hours contracts, there are several avenues that you can explore, including:

- Temporary or permanent part-time contracts
- Fixed term contracts (This can be used to cover seasonal demands).
- Hiring freelancers and agency staff
- Employing additional staff for cover purposes
- Training existing staff to enable them to cover other roles
- Utilising overtime as an incentive to existing employees

Ensure your business is prepared for the changes in the Employment Rights Bill

Talk to the Employment Law and HR specialists at Croner today and get award winning advice tailored to your business' needs. Take advantage of your key member benefits by calling the advice line today on 0800 022 820 and quote 932613.

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