

Research Briefing

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# Zero-hours contracts



## Summary

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- 2 Zero-hours contracts and employment law
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- 4 Policy background and discussion

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## Summary

A zero-hours contract is a type of employment contract where workers have no guaranteed hours and agree to be potentially available for work. They are favoured by companies seeking labour flexibility and by workers seeking flexibility around their other commitments.

Opinion on zero-hours contracts has been mixed. Employee organisations tend to argue that the contracts result in financial insecurity for workers who lack key employment rights; employer organisations stress their usefulness when seeking to meet fluctuating demand for labour and argue that they play a vital role in keeping people in employment.

## What are the legal issues with zero-hours contracts?

Working under a zero-hours contract does not in itself determine what employment rights someone does or does not enjoy. Rather, that depends on their employment status, for which a range of legal tests exists. See the Library briefing [Employment status](#) for more details.

However, zero-hours contracts can make it challenging to establish someone's employment status and their qualification for certain employment rights. 'Mutuality of obligation' – where one person is obliged to offer work and the other is obliged to accept it – is a key legal test for whether someone is an 'employee'. With some zero-hours contracts it can be hard to establish whether such mutuality of obligation exists or not.

Similarly, it is difficult for some zero-hours contract employees to build up enough uninterrupted continuity of service to qualify for certain employment rights, such as unfair dismissal. This is because a week's gap without work can be enough to reset the timer on their continuity of service.

Since 2015, employers have been banned by [section 27A of the Employment Rights Act 1996](#) from inserting 'exclusivity clauses' into zero-hours contracts, which try to stop employees with such contracts from also working elsewhere.

## How many people have zero-hours contracts?

The Office for National Statistics (ONS) collects statistics on zero-hours contracts as part of the [Labour Force Survey](#).

According to ONS, over a million people in the UK were employed on a zero-hours contract in April to June 2024. Reported use of zero-hours significantly increased contracts between 2012 and 2016, though it is likely this was due to increased awareness of such contracts among survey respondents at the time, rather than an increase in their use. Since then, the rate of zero-hours contracts has increased by a smaller amount, from around 2.5% to 3.5%.

Based on a [small survey by the Chartered Institute of Personnel and Development](#) (CIPD), businesses report that they are most likely to use zero-hours contracts to manage fluctuations in demand for labour.

Collectively, the research by the ONS and the CIPD suggests that people on zero-hours contracts are more likely to be:

- aged 16 to 24
- female
- working part time
- from London and the South East
- employed in the accommodation and food sector
- on average, paid slightly less than those not on zero-hours contracts
- reporting lower opportunities for career progression

## What reforms have been proposed?

The perceived increase in zero-hours contracts in recent years has prompted expressions of concern inside and outside Parliament, although many stakeholders support their use. A series of [private members' bills](#) aiming to ban or regulate zero-hours contracts have been introduced, though only one – the [Workers \(Predictable Terms and Conditions\) Bill 2023](#) – received Royal Assent. No commencement regulations have been made to bring this act into force.

Instead, following the 2024 general election, the newly elected Labour government pledged to ban “exploitative zero-hours contracts”, as part of a promised Employment Rights Bill. The [Employment Rights Bill 2024-25](#) was published on 10 October 2024. The key rights created would be:

- The right to reasonable notice of shifts and payment for shifts that are cancelled or curtailed at short notice.
- The right to a guaranteed hours contract reflecting the hours regularly worked.

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# 1 Zero-hours contracts statistics

## 1.1 What is a zero-hours contract?

The term ‘zero-hours contract’ can be used to refer to a range of casual working relationships. According to the Advisory, Conciliation and Arbitration Service (Acas) the term ‘zero-hours contract’ is usually understood to mean:

- your employer does not have to give you any minimum working hours
- you do not have to take any work offered<sup>1</sup>

By contrast, an article in *People Management* in 2017 draws a distinction between ‘casual contracts’ where there is no obligation to either offer or accept any work, and ‘zero-hours contracts’ where “The employer has no obligation to offer the employee any employment assignments, but the employee has an obligation to accept the employment assignments offered – they could face disciplinary action if they repeatedly reject work or turn it down without valid reasons.”<sup>2</sup>

The only significant definition in legislation of a zero-hours contract is found in section 27A of the Employment Rights Act 1996, which defines a zero-hours contract as one under which:

- (a) 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
- (b) there is no certainty that any such work or services will be made available to the worker.<sup>3</sup>

The Office for National Statistics (ONS) collects statistics on zero-hours contracts as part of its [Labour Force Survey](#). This measure uses a self-identified definition of a ‘zero-hours contract’, so will depend on how workers themselves understand the term.

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<sup>1</sup> Acas, [Zero-hours contracts](#), updated 28 March 2024

<sup>2</sup> Randall Tsolakis-Franka, [Zero-hours v casual contracts](#), *People Management*, 14 April 2017

<sup>3</sup> [Employment Rights Act 1996, section 27A\(1\)](#)

## 1.2

## Prevalence of zero-hours contracts

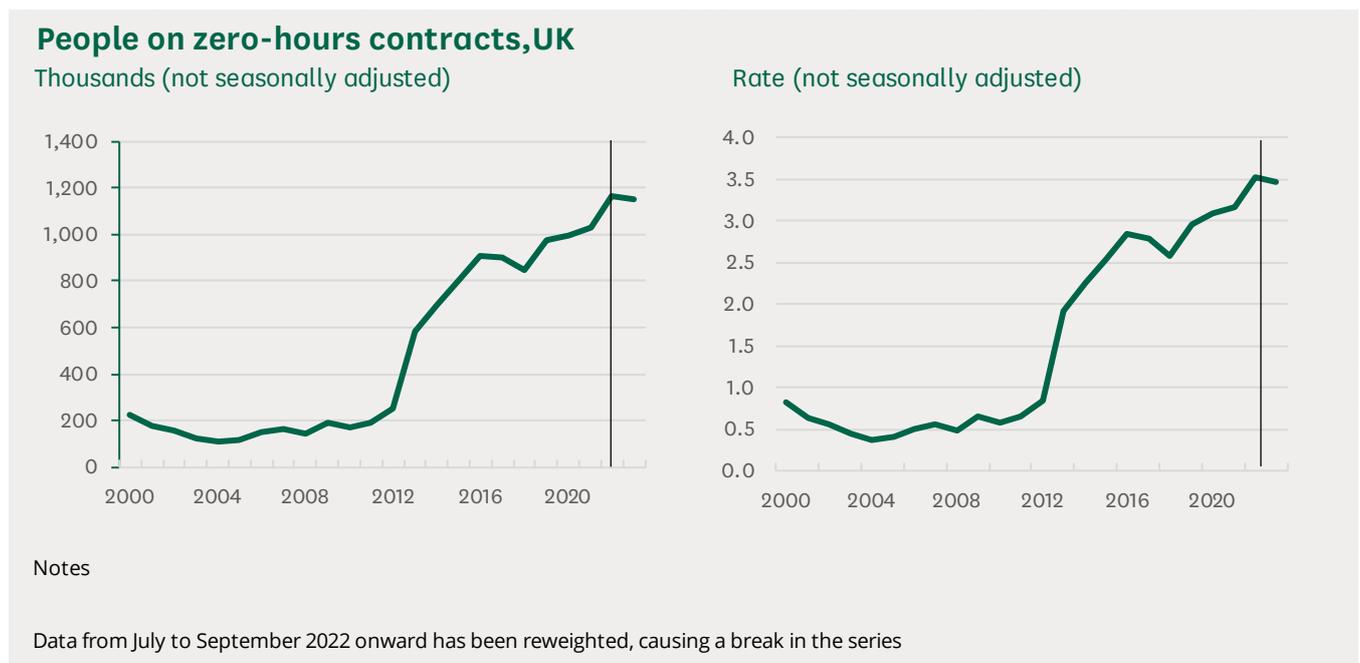
## People working on zero-hours contracts

The Office for National Statistics (ONS) [Labour Force Survey](#) asks workers about their employment arrangements in their main job. The statistics rely on survey respondents correctly identifying their contractual arrangements: the survey will only identify those workers on zero-hours contracts who are aware that they are on such a contract. This also relies on them being aware of the concept of a zero-hours contract.

Estimates for April to June 2024 suggest that 1.03 million people were on zero-hours contracts in their main job. This is 3.1% of all people in employment in the UK.

The total number of zero-hours contracts that are in use will be higher than the number of people working on zero-hours contracts in their main job: some people may hold multiple contracts.

As shown in the chart below, there has been a significant increase in the number of people reporting they are on zero-hours contracts since 2012. Between October to December 2012 and October to December 2016, the number of people on zero-hours contracts more than tripled. By the same quarter in 2023, the number of people increased by a further 50%. Some of this is explained by increased awareness of zero-hours contracts from 2012 onwards (explained below).



Source: ONS, Table [EMPI17](#)

The very sharp rise in employment on zero-hours contracts between 2012 and 2016 very likely reflected better awareness of zero-hours contracts as a result of extensive media coverage in 2013. This meant that more survey respondents correctly identified themselves as employed on zero-hours contracts, rather than a genuine increase in their use. The ONS has said that the increase from 2012 to 2016 is probably affected by more people being aware that they are employed on zero-hours contracts.<sup>4</sup>

Indeed, around half of the reported change in zero-hours contracts between 2012 and 2013 came from people who said they had been in their job for over a year, which suggests that some respondents must have failed to report or identify that they were on a zero-hours contract in previous surveys.<sup>5</sup>

A small proportion of employers use zero-hours contracts for the majority of their workforce, according to Chartered Institute of Personnel and Development (CIPD) surveys. This was based on responses from 132 employers.<sup>6</sup>

## 1.3 Hours worked on zero-hour contracts

People reporting that they are employed on a zero-hours contract work fewer hours per week on average than other workers. However, most workers on zero-hours contracts also report that they do not want to work more hours. Estimates from the Labour Force Survey show that in April to June 2024:

- 75% of people reporting that they were on a zero-hours contract were working part-time. This compares with 24% of workers not on zero-hours contracts who were working part-time.
- In their main job, workers on zero-hours contracts usually worked an average of 21.8 hours per week, compared with 36.5 hours for all people in employment.<sup>7</sup>
- Around 17% of people on zero-hours contracts worked no hours on that contract in the survey reference week. This compared with around 9% of workers not on zero-hours contracts.
- Around 16% of people on a zero-hours contract reported that they wanted more hours in their current job. A further 10% wanted an additional job or a replacement job with longer hours. This compares with 5% of people not on a zero-hours contract who would like more

<sup>4</sup> ONS, [Contracts that do not guarantee a minimum number of hours: April 2018](#), 23 April 2018

<sup>5</sup> ONS, UK Labour Market bulletin, [Table EMP17](#)

<sup>6</sup> CIPD, [Zero-hours contracts: evolution and current status](#), August 2022, p7

<sup>7</sup> Figures are for *usual* weekly hours worked. The actual number of hours worked per week for each group is lower, reflecting that some workers will have taken time off during the survey week.

hours in their current job, and 1% who would like an additional job or a replacement job with longer hours.

- 60% of people on a zero-hours contract reported that they did not want more hours, compared with nearly 80% of those in employment not on a zero-hours contract.

## 1.4

### Job satisfaction

People on zero-hours contracts are likely to report lower satisfaction on a range of measures of job quality, according to responses to the ONS Annual Population Survey.<sup>8</sup>

In 2023, people working on zero-hours contracts were less likely to report that they were satisfied with the hours they were working, that their contract was their “desired contract”, that they had opportunities for career progression, and that they had good employee involvement. These trends are shown in the chart below.



Source: ONS, [Annual Population Survey](#)

<sup>8</sup> ONS, [Annual Population Survey](#)

## 1.5

## Characteristics of people employed on zero-hours contracts

As shown in the chart below, a higher proportion of workers on zero-hours contracts work part time, are in full-time education and are women than is the case for the workforce as a whole.

Based on Labour Force Survey estimates for April to June 2024:<sup>9</sup>

- Around 75% of people on zero-hours contracts worked part time, compared with around 23% of other workers.
- 19% of people on a zero-hours contract were in full-time education, compared with 2% of other workers. Nevertheless, a higher number of full-time students were employed on a contract with guaranteed hours than on a zero-hours contract.
- 54% of people employed on zero-hours contracts were women. Around 555,000 women were working on zero-hours contracts, almost 4% of all women in employment. This compares with 477,000 men, almost 3% of all men in employment.

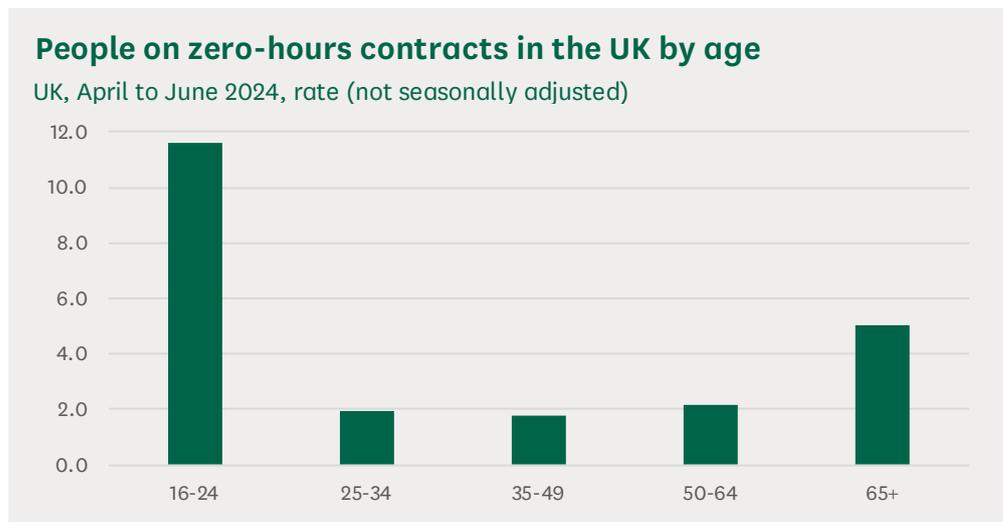


Source: ONS, Table [EMP17](#)

People in employment who are young are more likely to be on zero-hours contracts than people in employment who are older. Nearly 12% of those in

<sup>9</sup> ONS, UK Labour Market bulletin, [Table EMP17](#)

employment aged between 16 and 24 are on zero-hours contracts. 5% of those aged over 65 in employment are on zero-hours contracts. This is shown in the chart below.



Source: ONS, Table [EMP17](#)

A higher proportion of people on zero-hours contracts live in London and the South East, with 30% of zero-hours workers living there. People on zero-hours contracts are least likely to live in Wales, the North East, or Northern Ireland. This is shown in the table below.

### People on zero-hours contracts by region

UK, April to June 2024 (rate, not seasonally adjusted)

| Region           | Level | Rate |
|------------------|-------|------|
| London           | 170   | 16%  |
| South East       | 144   | 14%  |
| West Midlands    | 105   | 10%  |
| South West       | 97    | 9%   |
| North West       | 95    | 9%   |
| East             | 88    | 9%   |
| Yorks and Humber | 85    | 8%   |
| Scotland         | 78    | 8%   |
| East Midlands    | 69    | 7%   |
| Wales            | 46    | 4%   |
| North East       | 39    | 4%   |
| Northern Ireland | 17    | 2%   |
| UK               | 1,033 | 100% |

Notes

The rate is people on zero-hour contracts in the region, out of all those on zero-hour contracts

Source: ONS, Table [EMP17](#)

## 1.6 Prevalence by industry

The Labour Force Survey asks respondents to describe the area in which they work, but people may not know or correctly say which sector their employer is based in. For example, someone working for a food delivery company may say they work in the food sector, when in fact their employer may fall under the transport sector. Therefore, these results should be interpreted with caution, and they are likely to underreport the number of workers in the admin and support services sector in particular.

Workers on zero-hours contracts reported that they were most likely to be employed in the accommodation and food sector, with around 32% of all workers on zero-hours contracts working in this sector. They were least likely to be working in public administration. These trends are shown in the table below.

| <b>People on zero-hours contracts by industry</b>   |                      |                      |
|---|----------------------|----------------------|
| UK, April to June 2024 (rate, not seasonally adjusted)  |                      |                      |
|   | Level<br>(thousands) | Rate<br>(percentage) |
| Accommodation and food  | 332                  | 32.2                 |
| Transport, arts, other services   | 167                  | 16.1                 |
| Health and social work  | 151                  | 14.7                 |
| Education   | 91                   | 8.8                  |
| Admin and support services  | 64                   | 6.2                  |
| Wholesale and retail  | 64                   | 6.2                  |
| Production, including agriculture   | 44                   | 4.2                  |
| Information, finance, professional  | 43                   | 4.2                  |
| Construction  | 41                   | 4.0                  |
| Public admin  | 24                   | 2.4                  |
| <b>Total</b>  | <b>1,033</b>         | <b>100.0</b>         |
| Notes   |                      |                      |
| The data for construction and public administration was based on small sample sizes, so the results should be used with caution                           |                      |                      |
| The total includes people with workplace outside UK and those who did not state their industry; therefore sum of component percentages may not equal 100. |                      |                      |

Source: ONS, Table [EMP17](#)

## 1.7

### Pay

Workers on zero-hours contracts tend to be paid less than other employees, even after accounting for differences in workers' characteristics.

The Chartered Institute of Personnel and Development (CIPD) found that people on zero-hours contracts were earning around 6% less on average in October to December 2021. This is even after other factors are taken into account, such as the types of people on zero-hours contracts and the types of jobs they were doing.<sup>10</sup>

This reflects earlier findings by the Resolution Foundation, an economics think tank.<sup>11</sup> It analysed Labour Force Survey data for 2011 to 2016 and estimated that workers on zero-hours contracts earned on average 6.6% less per hour (93p per hour).

The findings do come with some caveats. The Labour Force Survey is known to underestimate levels of pay compared with other sources. As noted above, estimates also rely on people being aware that they are employed on zero-hours contracts.

## 1.8

### Trends in business use of zero-hours contracts

The CIPD published a report in 2022 on zero-hours contracts, which analysed Labour Force Survey data as well as their own survey data. The report noted that:

- Businesses' most frequently reported reason for using zero-hours contracts was to manage fluctuations in demand for labour, with 64% of businesses surveyed citing this. Based on a survey of 167 responses, other reasons cited were to provide flexibility for the individual (46%) and to provide coverage for staff absences (35%).<sup>12</sup>
- Over 50% of businesses in the CIPD survey reported that they give between one week and one month's notice of work schedules for their workers.<sup>13</sup>

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<sup>10</sup> CIPD, [Zero-hours contracts: evolution and current status](#), August 2022, p13

<sup>11</sup> Resolution Foundation, [Zero-hours contract workers face a 'precarious pay penalty' of £1,000 a year](#), 30 December 2016

<sup>12</sup> CIPD, [Zero-hours contracts: evolution and current status](#), August 2022, p9

<sup>13</sup> CIPD, [Zero-hours contracts: evolution and current status](#), August 2022, p19

- 33% of businesses surveyed said they give workers compensation for shifts cancelled with fewer than 24 hours' notice. 48% of businesses said they did not give compensation.<sup>14</sup>

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<sup>14</sup> CIPD, [Zero-hours contracts: evolution and current status](#), August 2022, p20

## 2 Zero-hours contracts and employment law

### 2.1 Zero-hours contracts and employment status

The use of zero-hours contracts raises a number of legal issues. One of the most important considerations is the employment status of people on zero-hours contracts: whether they are “employees”, “workers” or self-employed.

For a more detailed discussion of this legal issue, see the Library briefing [Employment status](#). In summary:

- Employees have the full range of employment rights, including protections against unfair dismissal, redundancy pay and various kinds of parental leave.
- Workers have fewer rights than employees, although retain many of the most basic entitlements such as the National Minimum Wage, paid annual leave and protections against discrimination and for whistleblowing.
- Self-employed independent contractors are not eligible for most employment rights. However, they will still enjoy some equality law protections against discrimination and some basic protections of their health and safety while on a client’s premises.

#### The tests for employee status

The case law indicates that if the day-to-day reality of any work undertaken suggests a relationship of employment, then the contract will be one of employment, and the person working under it will be classed as an employee.

A number of factors determine whether or not a contract is one of employment. The crucial elements of a contract of employment are that:

- it must impose an obligation on a person to provide work personally
- there must be mutuality of obligation between employer and employee (the employer must offer work and the employee must accept it)
- the worker must expressly or implicitly agree to be subject to the control of the person for whom they work to a ‘sufficient’ degree

- the other provisions of the contract must be consistent with it being a contract of service<sup>15</sup>

The case law on the use of zero-hours contracts has focused on the second issue: mutuality of obligation. Under contracts of employment, the employee is normally obliged to work, and the employer is obliged to provide work and pay for it. Under a zero-hours contract, it is possible for no work to be offered or accepted at all, so such obligations are not readily apparent.

However, mutuality of obligation may still in certain cases be inferred with zero-hours contracts. The circumstances in which it will be inferred were considered by the Employment Appeal Tribunal (EAT) in *Pulse Healthcare v Carewatch Care Services Ltd & Ors* [2012].<sup>16</sup> The focus in that case was the reality of the agreement between the company and the worker, rather than exclusively the written terms of the contract (see section below).

## The reality of the agreement

Employment tribunals will look closely at the reality of the agreement, not merely the wording of the contract.

In the *Pulse Healthcare* case, the EAT was required to decide whether the claimants were employees, within the meaning of section 230 of the Employment Rights Act 1996, despite being employed under a contract entitled “Zero-hours Contract Agreement”. The EAT concluded that the claimants were employees, and that there was a mutuality of obligation, despite the written terms of the contract suggesting otherwise.

The EAT noted that the proper approach to interpreting labour contracts is to consider the reality of the agreement, as set out by Mr Justice Elias in the 2007 case *Consistent Group Ltd v Kalwak*:

The concern to which tribunals must be alive is that armies of lawyers will simply place substitution clauses, or clauses denying any obligation to accept or provide work in employment contracts, as a matter of form, even where such terms do not begin to reflect the real relationship. Peter Gibson LJ was alive to the problem. He said this (p 697):

‘Of course, it is important that the industrial tribunal should be alert in this area of the law to look at the reality of any obligations. If the obligation is a sham, it will want to say so.’

In other words, if the reality of the situation is that no-one seriously expects that a worker will seek to provide a substitute, or refuse the work offered, the fact that the contract expressly provides for these unrealistic possibilities will not alter the true nature of the relationship.<sup>17</sup>

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<sup>15</sup> See: *Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance* [1968] 2 Q.B. 497; *Carmichael v National Power plc* [2000] IRLR 43

<sup>16</sup> UKEAT 0123\_12\_0608

<sup>17</sup> Para 57-58 *Consistent Group Ltd v Kalwak* [2007] IRLR 560; see also: [Autoclenz v Belcher \[2011\] UKSC 41](#), para 25; [Pulse Healthcare v Carewatch Care Services Ltd & Ors \[2012\]](#), para 35

The decision of the EAT indicates that where a worker is employed on a zero-hours contract and provided with regular work which is regularly accepted, there exists a possibility that the contract will be one of employment.

The EAT considered the employment status of zero-hours workers again in a 2014 case, *Saha v Viewpoint Field Services*. In *Saha*, the EAT concluded that the claimant (a telephone interviewer) was not an employee because of a lack of mutuality. Relevant to that decision was the fact that the claimant lacked a set working pattern and was free to decline shifts.<sup>18</sup> When looked at together, *Pulse Healthcare* and *Saha* show that the factual working pattern of a zero-hours worker will play a significant part in determining their employment status.

## Continuity of service

Assuming that a zero-hours worker can establish employee status, they may yet face further difficulty in claiming certain employment rights. Many employment rights take effect only after a period of qualifying service. For example, the right not to be unfairly dismissed is only available to employees with two years' qualifying service.

As noted by the Advisory, Conciliation and Arbitration Service (Acas) in their [guidance on Zero-hours contracts](#), "If you're not provided work for a full calendar week (7 consecutive days from Sunday to the following Saturday), this usually counts as a break in employment."<sup>19</sup> This may therefore make it hard for zero-hours contracts workers, even if classed as employees, to build up the continuity of service required to qualify for many employment rights such as unfair dismissal protections.

## 2.2

## Exclusivity clauses

Exclusivity clauses are clauses in employment contracts which aim to either stop employees from working for another employer altogether or which require the employee to seek consent before accepting work with another employer.

Under [section 27A of the Employment Rights Act 1996](#), exclusivity clauses are "unenforceable against the worker" for any employees on a zero-hours contract.

Since 5 December 2022, these protections against exclusivity clauses have also applied to all employees and workers whose weekly income is below the

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<sup>18</sup> [Saha v Viewpoint Field Services Ltd](#) UKEAT/0116/1

<sup>19</sup> Acas, [Zero-hours contracts](#), updated 28 March 2024

Lower Earnings Limit (£123 per week in 2022 to 2025), even if not on zero-hours contracts.<sup>20</sup>

Employees on zero-hours contracts have a right not to suffer detriment or dismissal for breaching any purported exclusivity clause and can bring a claim to an employment tribunal for redress.<sup>21</sup>

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<sup>20</sup> [The Exclusivity Terms for Zero Hours Workers \(Unenforceability and Redress\) Regulations 2022](#)

<sup>21</sup> [The Exclusivity Terms in Zero Hours Contracts \(Redress\) Regulations 2015](#)

## 3

## Zero-hours contracts and Universal Credit

Universal Credit is paid and assessed on a monthly cycle, with payments increasing or decreasing depending on earnings and other income during each assessment period. Income from employment or self-employment reduces the maximum Universal Credit award available at a constant 55% rate for each pound of net (post-tax) earnings. This is known as the taper rate. Some households are also able to keep some of their earned income (the ‘work allowance’) before it begins to affect their award.<sup>22</sup>

Unlike [income-based Jobseeker’s Allowance \(JSA\)](#) and [Working Tax Credit \(WTC\)](#) – the unemployment and in-work benefits that Universal Credit is replacing – there are no hours rules in Universal Credit. JSA is payable to people not in full-time work, which is defined as work of 16 hours a week or more.<sup>23</sup> In addition, even if someone is working under 16 hours in a particular week, any earnings above a small, disregarded amount will reduce the amount payable on a pound for pound basis. People who are in work may be eligible for WTC but only if they work a minimum number of hours a week.<sup>24</sup>

The previous system of JSA and WTC was criticised for removing the financial incentive for people who worked for fewer than 16 hours a week to increase their working hours. It was also criticised for requiring people to move between out-of-work and in-work systems if their hours changed. The coalition government argued that this failed “to reflect the flexible working pattern that modern employers and individuals need”.<sup>25</sup>

As Universal Credit was introduced, ministers said that the new system’s responsiveness made the new benefit more suitable for workers on zero hours contracts and other flexible contracts where hours and earnings may vary on a month-to-month basis.<sup>26</sup>

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<sup>22</sup> See gov.uk, [Universal Credit>How your wages affect your payments](#), accessed 3 October 2024

<sup>23</sup> 24 hours for couples

<sup>24</sup> For some this may be 16 hours, but for others it may be as much as 30 hours

<sup>25</sup> Department for Work and Pensions (DWP), [Universal Credit: welfare that works](#), Cm 7957, 11 November 2010, para 15

<sup>26</sup> See [HC Deb 1 July 2013, c606](#); [HL Deb 18 Dec 2013, cGC329](#); and [Letter from Esther McVey MP to Sheila Gilmore MP, 1 March 2014 \(PDF\)](#)

## 3.1

## Conditionality and requirements to accept employment with zero-hours contracts

Under both Jobseeker's Allowance and Universal Credit, claimants are expected to seek work and accept offers of employment. They can be sanctioned for refusing to take up offers or leaving employment without good reason.

In contrast with the rules for Jobseeker's Allowance, Universal Credit claimants may receive a sanction if they refuse to apply or accept a zero-hours contract job or leave a zero-hours job voluntarily.<sup>27</sup> However, sanctions are not supposed to be applied where employers reduce hours because claimants take up work elsewhere, or where hours would restrict a claimant's ability to increase their earnings with other employers.<sup>28</sup>

In reply to a letter from Sheila Gilmore MP in March 2014, Esther McVey, then Minister for Employment, explained why sanctions might be imposed on a Universal Credit claimant for failing to accept zero-hours work, but not on someone claiming Jobseeker's Allowance. In doing so, she cited the greater flexibility and responsiveness in the Universal Credit system:

Within Jobseekers [sic] Allowance [...] our coaches do not currently require claimants to apply for jobs with zero hours contracts. The structure of Jobseeker's Allowance (JSA) and supporting processes could make the interaction of zero hour contracts and the benefit system difficult to manage – short periods of work could end a JSA claim, requiring new claims to be made in periods where earnings fall.

Universal Credit, of course, is payable when people are in work as well as out of work so the need to reclaim when earnings fluctuate is removed. In addition Universal Credit is designed to be response to variations in earnings so each monthly payment will reflect the amount actually earned, even if this includes some weeks when no work was done. So in Universal Credit our coaches can mandate zero hours contracts.<sup>29</sup>

<sup>27</sup> DWP, [Decision Maker's Guide Chapter 34: JSA Sanctions \(PDF\)](#), paras 34415-34417

<sup>28</sup> DWP, [Advice for Decision Making Chapter K2: Good reason \(PDF\)](#), paras K2301 - K2303

<sup>29</sup> [Letter from Esther McVey MP to Sheila Gilmore MP, 1 March 2014 \(PDF\)](#); see also PQ 5689 [[Jobseeker's Allowance: Zero Hours Contracts](#)], 5 September 2017; PQ 197461 [[Universal Credit: Zero Hours Contracts](#)], 5 December 2018; PQ 216934 [[Universal Credit: Disqualification](#)], 8 February 2019

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## 4 Policy background and discussion

### 4.1 Coalition government policy

#### 2013 consultation: Zero-hours employment contracts

On 16 September 2013, then Secretary of State for Business, Innovation and Skills, Vince Cable, announced that he would launch a consultation on zero-hours contracts. He said that there were “abuses in the system”, especially around the employer use of exclusivity clauses.<sup>30</sup> Exclusivity clauses require workers to work exclusively for one employer, regardless of the hours offered.

The consultation ran between December 2013 to March 2014. The consultation document identified exclusivity clauses as being particularly concerning and sought views on whether it was appropriate to ban these in contracts that provided no guarantee of work.<sup>31</sup>

#### Consultation outcome: Banning exclusivity clauses

In June 2014, the government published the outcome of the consultation, and announced their intention to ban the use of exclusivity clauses.<sup>32</sup>

The government also announced plans to:

- consult further on how to prevent rogue employers evading the exclusivity ban, for example through offering 1 hour fixed contracts
- work with business representatives and unions to develop a code of practice on the fair use of zero hours contracts by the end of the year (2014)
- work with stakeholders to review existing guidance and improve information available to employees and employers on using these contracts<sup>33</sup>

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<sup>30</sup> Department for Business, Innovation & Skills, Low Pay Commission and The Rt Hon Dr Vince Cable press release, [Cable announces plans to boost fairness for workers](#), 16 September 2013

<sup>31</sup> BIS, [Consultation: Zero hours employment contracts](#), 19 December 2013

<sup>32</sup> Department for Business, Innovation & Skills and The Rt Hon Dr Vince Cable, [Government crackdown on zero hours contract abusers](#), 25 June 2014

<sup>33</sup> Department for Business, Innovation & Skills and The Rt Hon Dr Vince Cable, [Government crackdown on zero hours contract abusers](#), 25 June 2014

Plans to ban exclusivity contracts were taken forward in the Small Business, Enterprise and Employment Bill (see below).<sup>34</sup>

## Small Business, Enterprise and Employment Act 2015

The Small Business, Enterprise and Employment Act 2015 came into force on 26 March 2015.<sup>35</sup>

Section 153 of the act came into force on 26 May 2015 and renders exclusivity clauses in zero-hours contracts unenforceable.<sup>36</sup> The section amended the Employment Rights Act 1996 by inserting a new part 2A.<sup>37</sup>

Section 27A of the 1996 act defines “zero hours contract” as

a contract of employment or other worker’s contract under which—

(a) 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

(b) there is no certainty that any such work or services will be made available to the worker.<sup>38</sup>

Section 27B of the 1996 act as amended contains the ban on exclusivity clauses:

(3) Any provision of a zero hours contract which—

(a) 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.<sup>39</sup>

### Commentary

Commentators suggested the legislation was ‘toothless’ as the ban on exclusivity clauses was not backed by any enforcement measures.<sup>40</sup> Lawyers also highlighted that, because employers were not obliged to provide regular work for those on zero-hours contracts, workers who informed their managers that they had work elsewhere could find their hours reduced.<sup>41</sup>

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<sup>34</sup> Department for Business, Innovation & Skills and The Rt Hon Dr Vince Cable, [Government crackdown on zero hours contract abusers](#), 25 June 2014

<sup>35</sup> [Small Business, Enterprise and Employment Act 2015](#)

<sup>36</sup> [Small Business, Enterprise and Employment Act 2015](#), s 153

<sup>37</sup> [Employment Rights Act 1996](#), pt 2A

<sup>38</sup> [Employment Rights Act 1996](#), s 27A

<sup>39</sup> [Employment Rights Act 1996](#), s 27B

<sup>40</sup> The Guardian, [Tories' legislation to protect zero-hours workers called 'toothless' by lawyers](#), 26 May 2015 (accessed 18 September 2024)

<sup>41</sup> As above

In response to the above criticism, the government consulted on and included in the act a power to make delegated legislation supporting the prohibition of exclusivity clauses.

## Exclusivity Terms Regulations

By amending the 1996 act, the Small Business, Enterprise and Employment Act 2015 created a power to enable ministers to make regulations that would penalise employers who use exclusivity clauses.<sup>42</sup> The Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015 came into force on 14 December 2015.<sup>43</sup>

The regulations created rights for:

- zero-hours workers classed as “employees” not to be unfairly dismissed for failing to comply with an exclusivity requirement
- zero-hours workers classed as “workers” not to be subjected to any detriment for failing to comply with an exclusivity requirement

The rights are enforceable against an employer by way of a claim to an employment tribunal.<sup>44</sup>

These were followed in 2022 by the Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022. The 2022 regulations extended the protections against exclusivity clauses to other workers earning less than the Lower Earnings Limit (currently £123 per week), even if not on zero-hours contracts.<sup>45</sup>

## 4.2

## Conservative government policy, 2015-2024

### Taylor Review, 2016-17

On 1 October 2016, the Prime Minister commissioned Matthew Taylor, Chief Executive of the Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA), to assess the implications for employment regulation of new forms of work driven by digital platforms.

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<sup>42</sup> The regulations were created using powers under sections 27B(1) and (5) and 209(1) of the Employment Rights Act 1996. Section 27B was inserted by the Small Business, Enterprise and Employment Act (c.26), section 153(1) and (2).

<sup>43</sup> [The Exclusivity Terms in Zero Hours Contracts \(Redress\) Regulations 2015 SI 2015/2021](#)

<sup>44</sup> Acas, [Zero-hours contracts](#), 28 March 2024

<sup>45</sup> [The Exclusivity Terms for Zero Hours Workers \(Unenforceability and Redress\) Regulations 2022](#)

The Independent Review of Employment Practices in the Modern Economy launched on 30 November 2016.<sup>46</sup> The subsequent report, [Good Work: the Taylor Review of modern working practices](#), was published on 11 July 2017.

### Recommendations

The Taylor Review was broadly positive about the flexibility afforded by zero-hours contracts, which it said enabled individuals to fit work around other commitments such as caring or studying, but was critical about what it saw as ‘one-way flexibility’:

[...] We have heard repeatedly during the Review that there is an issue of flexibility not being reciprocated, with a requirement to be available for work at very short notice, without any guarantee that work will actually be available. This makes it very difficult for a person to manage their financial obligations, or for example secure a mortgage. This can feel unfair, especially when the reality of the working arrangement is that the individual regularly works 40 hours a week. While in theory individuals in these working arrangements have the right to turn down work, we were told that workers, needing work but lacking unfair dismissal rights, often felt that to express legitimate views about conditions or make even reasonable requests risked having future work denied to them.<sup>47</sup>

The review suggested that the benefits of flexibility could be shared more equally if the government ensured that workers were entitled to a higher minimum rate of pay for hours that are not guaranteed. It recommended that the government consult the Low Pay Commission (LPC) on the impact of bringing in a higher National Minimum Wage for hours that are not guaranteed in a contract.<sup>48</sup>

The review also recommended that zero-hours workers be given the right to request regular hours, using the average weekly hours worked over the previous 12 months as a starting assumption for any new contract.<sup>49</sup>

### Government response

The government accepted the recommendation regarding the National Minimum Wage and asked the LPC to provide an assessment of the impact of these options to ministers in their October 2018 report.<sup>50</sup>

The government also consulted on the right to request more regular hours.<sup>51</sup> In the Good Work Plan, the government committed to bringing forward

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<sup>46</sup> Department for Business, Energy & Industrial Strategy press release, [Taylor review on modern employment practices launches](#), 30 November 2016. GOV.UK, [Employment Practices in the Modern Economy](#), (accessed 13 September 2024)

<sup>47</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Good Work: the Taylor Review of modern working practices](#), 11 July 2017, p43

<sup>48</sup> As above, p44

<sup>49</sup> As above, p48

<sup>50</sup> As above, p39

<sup>51</sup> Department for Business, Energy & Industrial Strategy, [Good Work: The Taylor Review Of Modern Working Practices: Consultation on measures to increase transparency in the UK labour market](#), [PDF] February 2018, pp27-28

legislation to introduce a right for all workers to request a more predictable and stable contract.<sup>52</sup>

## 4.3

### Private members' bills

#### Zero Hours Contracts Bill, 2014

On 2 July 2014, a private member's bill, the Zero Hours Contracts Bill, sponsored by Ian Mearns MP, was presented to Parliament through the ballot procedure.<sup>53</sup>

The main aims of the bill were to ban exclusivity clauses and to place several duties on employers regarding equal treatment of zero-hours workers, reasonable cancellation notices and offering regular hours contracts to zero-hours workers after a period of employment.<sup>54</sup> The bill did not progress beyond second reading.

#### Workers (Definition and Rights) Bill, 2017

On 18 October 2017, the Workers (Definition and Rights) Bill was presented to Parliament, sponsored by Chris Stephens MP.<sup>55</sup> The bill included similar provisions to the Zero Hours Contracts Bill, but also would create a single employment status for workers regarding employment rights, a right to fixed and regular hours, and a requirement for employers to pay for cancelled shifts.<sup>56</sup> The bill did not progress beyond second reading.

#### Workers (Predictable Terms and Conditions) Act 2023

The Workers (Predictable Terms and Conditions) Bill, sponsored by Scott Benton MP and Baroness Anderson of Stoke-on-Trent, became an Act of Parliament on 18 September 2023.<sup>57</sup> The act would amend the Employment Rights Act 1996 to give workers and agency workers the right to request more predictable terms and conditions of work.<sup>58</sup>

However, commencement regulations to bring the act into force have not yet been made. It was reported in August 2024 that the newly elected Labour government would not bring the act into force but would instead plan to

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<sup>52</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Good Work Plan](#) [PDF], December 2018, p7

<sup>53</sup> House of Commons, [Zero Hours Contracts Bill](#), 27 March 2015

<sup>54</sup> House of Commons, [Zero Hours Contracts Bill \(HC Bill 23\)](#), 19 November 2014

<sup>55</sup> House of Commons, [Workers \(Definition and Rights\) Bill](#), 4 October 2019

<sup>56</sup> House of Commons, [Workers \(Definition and Rights\) Bill \(HC Bill 114\)](#), 17 January 2018

<sup>57</sup> UK Parliament, [Workers \(Predictable Terms and Conditions\) Act 2023](#), 13 November 2023

<sup>58</sup> [Workers \(Predictable Terms and Conditions\) Act 2023](#)

replace its provisions with a new right as part of the forthcoming Employment Rights Bill.<sup>59</sup>

## 4.4 Labour Party policy and government policy 2024 to present

### The Pickavance Report, 2013-14

In October 2013, Ed Miliband MP, then Labour Party leader, asked Norman Pickavance, the former director of human resources at supermarket chain Morrisons, to investigate the possible regulation of zero-hours contracts.<sup>60</sup>

On 25 April 2014, Labour published the Pickavance Report: ‘Zeroed Out: The place of zero-hours contracts in a fair and productive economy’.<sup>61</sup> The report made a number of policy recommendations intended to “prevent certain exploitative practices used by a minority”.<sup>62</sup>

The main recommendations of the report were that:

- employers should be prevented from requiring zero-hours workers to be available for work<sup>63</sup>
- exclusivity clauses should be banned<sup>64</sup>
- zero-hours workers who in practice work regular hours should, after a specified period, have a right to a contract with fixed minimum hours<sup>65</sup>
- zero-hours workers should have a right to compensation when shifts are cancelled at short notice<sup>66</sup>

In addition to the above, the report recommended that a zero-hours code of practice should be drawn up – developed by employer and employee representatives and Acas – to provide guidance to employers and employees.<sup>67</sup>

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<sup>59</sup> Global Employment News, Insights and Events, [Law giving workers right to request more predictable working conditions will not be brought into force in September](#), 30 August 2024

<sup>60</sup> BBC News, [Ed Miliband to pledge crackdown on zero-hour contracts](#), 9 September 2013

<sup>61</sup> Labour Policy Forum, [Zeroed Out: The place of zero-hours contracts in a fair and productive economy: an independent report by Norman Pickavance](#), [PDF] 25 April 2014, accessed 12 September 2024

<sup>62</sup> As above, p16

<sup>63</sup> Labour Policy Forum, [Zeroed Out: The place of zero-hours contracts in a fair and productive economy: an independent report by Norman Pickavance](#), [PDF] 25 April 2014, accessed 12 September 2024, p16

<sup>64</sup> As above

<sup>65</sup> As above, p17

<sup>66</sup> As above, p17

<sup>67</sup> As above, p18

## A New Deal for Working People, 2022

In October 2022, Labour published their employment rights ‘green paper’, A New Deal for Working People.<sup>68</sup>

In the report, Labour pledged a number of reforms to end ‘one sided’ flexibility which benefitted employers.

The reforms included banning zero-hours contracts and contracts without a minimum number of guaranteed hours, as well as other measures including:

- giving anyone working regular hours for 12 weeks or more a right to a regular contract to reflect those hours normally worked
- requiring companies to give all workers reasonable notice of any change in shifts or working time, with wages for any shifts cancelled without appropriate notice being paid to workers in full

Labour said that these proposals would not “prevent firms from operating flexible workforces or varying shift patterns, but will ensure a baseline level of security and predictability.”<sup>69</sup>

These commitments were re-stated in the May 2024 publication [Labour’s Plan to Make Work Pay: Delivering a New Deal for Working People](#) (PDF), which formed part of Labour’s manifesto for the 2024 general election. The plan said Labour’s aim was banning “exploitative zero hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period.”<sup>70</sup>

### Commentary on Labour’s New Deal

The Chartered Institute of Personnel Development (CIPD) responded to these proposals, suggesting that recent research had found workers saw more benefits than flaws in zero-hours contracts.<sup>71</sup> The CIPD suggested that zero-hours contract don’t necessarily lead to insecure work, and if used responsibly, can offer genuine flexibility for both employer and employee. The research also highlighted that zero-hours contracts provide employment opportunities for those who might otherwise be unable to work because they can’t commit to more regular pre-determined working hours, such as students or those with caring responsibilities.<sup>72</sup>

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<sup>68</sup> Labour Party, [A New Deal for Working People](#), [PDF] October 2022, accessed 23 September 2024

<sup>69</sup> Labour Party, [A New Deal for Working People](#), [PDF] October 2022, accessed 23 September 2024, p8

<sup>70</sup> Labour Party, [Labour’s Plan to Make Work Pay: Delivering a New Deal for Working People](#), [PDF] May 2024, accessed 4 October 2024, p5

<sup>71</sup> CIPD, [What can we expect from a Labour government on employment rights?](#), 22 June 2023; CIPD, [Benefits of zero-hours contracts outweigh the downsides for most workers](#), 11 August 2022

<sup>72</sup> CIPD, [Benefits of zero-hours contracts outweigh the downsides for most workers](#), 11 August 2022

The Trade Unions Congress (TUC) published a poll in September 2023 that found “overwhelming support” for Labour’s New Deal for Working People.<sup>73</sup> In response to the findings, TUC General Secretary Paul Nowak said that Labour’s employment proposals “would be the biggest upgrade in workers’ rights in a generation”, and that measures including banning zero-hours contracts would “reset the economy to work for working people.”<sup>74</sup>

Responding to the new Labour government’s forthcoming Employment Bill, the TUC published a separate poll in August 2024 which found that 84% of zero-hours contract workers wanted regular hours of work.<sup>75</sup> The poll also highlighted how issues such as financial pressures, one-way flexibility and work-life balance affect a large proportion of zero-hours workers.<sup>76</sup>

## Employment Rights Bill

Following the 2024 general election, the newly elected Labour government has re-stated its commitment to ban “exploitative zero-hours contracts”. The promised Employment Rights Bill, outlined in the [King’s Speech 2024: background briefing notes](#), committed to:

banning exploitative zero-hour contracts, ensuring workers have a right to a contract that reflects the number of hours they regularly work and that all workers get reasonable notice of any changes in shift with proportionate compensation for any shifts cancelled or curtailed. This will end ‘one sided’ flexibility, ensuring all jobs provide a baseline level of security and predictability.<sup>77</sup>

The Employment Rights Bill 2024-25 was published on 10 October 2024. It is listed for second reading on 21 October 2024.

Clauses 1-6 and Schedule 1 of the bill would together insert 25 new sections into the Employment Rights Act 1996 (ERA 1996), which collectively create new rights for workers on zero and low hours contracts. The key rights created would be:

- The right to reasonable notice of shifts and payment for shifts that are cancelled or curtailed at short notice.
- The right to a guaranteed hours contract reflecting the hours regularly worked.

The Library’s briefing paper [Employment Rights Bill 2024-25](#) will contain more detail on the bill.

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<sup>73</sup> TUC, [“Overwhelming support” for Labour’s New Deal for Workers, including among Tory voters – new TUC poll](#), 12 September 2023

<sup>74</sup> TUC, [“Overwhelming support” for Labour’s New Deal for Workers, including among Tory voters – new TUC poll](#), 12 September 2023

<sup>75</sup> TUC, [Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals](#), 30 August 2024

<sup>76</sup> TUC, [Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals](#), 30 August 2024

<sup>77</sup> Prime Minister’s Office, [King’s Speech 2024: background briefing notes](#), 17 July 2024



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