



Workers (Predictable Terms and Conditions) Bill

HL Bill 126 of 2022–23

Author: Edward Scott

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The [Workers \(Predictable Terms and Conditions\) Bill](#) is a private member's bill introduced in the House of Commons by Scott Benton (Independent MP for Blackpool South). The bill completed its Commons stages on 24 March 2023. The bill is sponsored in the House of Lords by Baroness Anderson of Stoke-on-Trent (Labour). Baroness Anderson is a Labour Whip.

The bill would give workers who have a lack of predictability regarding their working patterns, such as workers on zero hours contracts, a legal right to request a change in their terms and conditions. This policy was initially proposed by the government following its review of employment practices in 2017. [At the time of the 2019 Queen's Speech](#), the government said this change would be included in its new employment bill. Such a bill has not yet been published. However, the government has supported several private members' bills, such as this bill and the Employment Relations (Flexible Working) Bill, which would implement aspects of the proposed employment bill.

The government has published [explanatory notes](#) to accompany the bill. In February 2023, the Department for Business, Energy and Industrial Strategy also published an [impact assessment](#) and a [delegated powers memorandum](#) for the bill. In March 2023, following a change to the structure of government, a successor department, the Department for Business and Trade, published a [separate delegated powers memorandum](#) ahead of the bill's stages in the House of Lords.

The bill has received cross-party support and it completed its House of Commons stages unamended. It received first reading in the House of Lords on 27 March 2023. The second reading is scheduled to take place on 16 June 2023.

1. What proposals for reform have the government published?

Currently, workers do not have the right to request more predictable working patterns. In 2017, the government published the findings of a review of employment practices in the UK, chaired by the former director of the Institute for Public Policy Research, Matthew Taylor.¹ That report recommended that workers on zero-hours contracts should be able to request a more predictable contract if they had worked with their employer for more than 12 months. In its response to the review, the government said it agreed with this proposal and would introduce legislation to establish this new right.² The government said this would be available to workers after 26 weeks of service.³

¹ Department for Business, Energy and Industrial Strategy, ['Good work: The Taylor review of modern working practices'](#), 11 July 2017.

² Department for Business, Energy and Industrial Strategy, ['Good work plan'](#), 17 December 2018.

³ As above, p 13.

The government also held a consultation on this and other proposals in 2018.⁴

The Conservative Party's subsequent 2019 general election manifesto included the following commitment:

We have already taken forward a number of recommendations from the Taylor Review and will build on existing employment law with measures that protect those in low-paid work and the gig economy [...] We will ensure that workers have the right to request a more predictable contract and other reasonable protections.⁵

The December 2019 Queen's Speech included a commitment to bring forward measures to encourage flexible working.⁶ The government said this would be achieved through a new employment bill, which it intended would introduce a "new right for all workers to request a more predictable contract".⁷

The government has yet to publish an employment bill and one was not included in the Queen's Speech in 2021 or 2022.⁸ However, the government has supported several private members' bills, such as this bill and the Employment Relations (Flexible Working) Bill, which would implement aspects of the proposed employment bill.⁹

2. What would the bill do?

The bill would establish a new statutory right to request more predictable working patterns by inserting new provisions in part 8A of the Employment Rights Act 1996. This right would be available to both agency workers and non-agency workers. The bill would set out the criteria for exercising this right and the duties of employers, agencies and hirers when an application for flexible working has been made. The bill also would lay out the circumstances in which an applicant may complain to an employment tribunal and the remedies that can be awarded. The bill has four clauses and one schedule.

2.1 Clause 1

Clause 1 would insert sections 80IA to 80IE into the Employment Rights Act 1996. These new sections would establish the right for non-agency workers to request more predictable working patterns. Section 80IA would set out the circumstances in which an application could be made. Under this section, someone could only make an application if their working patterns are unpredictable. Working patterns are defined as the number of hours, the days of the week and the times that someone works. It may also refer to the length of someone's contract. For example, the explanatory

⁴ Department for Business, Energy and Industrial Strategy, '[Good work plan: Establishing a new single enforcement body for employment rights](#)', 16 July 2019.

⁵ Conservative Party, '[Conservative Party manifesto 2019](#)', November 2019, p 39.

⁶ [HL Hansard, 19 December 2019, col 31](#).

⁷ Prime Minister's Office, '[Queen's Speech 2019: Background briefing notes](#)', 19 December 2019, p 43.

⁸ Prime Minister's Office, '[Queen's Speech 2021: Background briefing notes](#)', 11 May 2021; and Prime Minister's Office, '[Queen's Speech 2022: Background briefing notes](#)', 10 May 2022.

⁹ House of Lords Library, '[Employment Relations \(Flexible Working\) Bill: HL Bill 107 of 2022-23](#)', 15 March 2023.

notes describe a fixed contract of 12 months or less as being “presumed to lack predictability”.¹⁰ Section 801B would require that someone making an application for a more predictable working pattern must have been working with the same employer for a set amount of time. The length of this time is not included in the bill and would be specified by the secretary of state in regulations.¹¹

Section 801C would set out the duties for employers in relation to requests made under section 801A. Employers must deal with requests in a reasonable manner and must notify the worker of their decision within one month.¹² The application could be rejected only on the following grounds:

- the burden of additional costs
- a detrimental effect on the ability to meet customer demand
- a detrimental impact on the recruitment of staff
- a detrimental impact on other aspects of the employer’s business
- there would be insufficient work during the periods someone has requested to work
- planned structural changes¹³

The secretary of state would also be given the power to establish further grounds on which an application might be refused in regulations.

Section 801D would set out how a worker making an application under section 801A might make a complaint to an employment tribunal. The worker would be able to do this if the employer failed to meet their duties as set out in section 801C or if the employer made a decision based on incorrect facts.¹⁴ The employment tribunal may order the employer to reconsider the application and could require the employer to award compensation to the worker.¹⁵

2.2 Clause 2

Clause 2 would add new sections 801F to 801L to the Employment Rights Act 1996. These would establish for agency workers similar rights to those set out in clause 1. Under these new sections, agency workers would be able to make an application for more predictable working patterns to either the temporary work agency with which they have a contract or the hirer they have been working for.¹⁶

The grounds upon which a worker may make an application would be the same as those in section 801A.¹⁷ The restrictions on making an application would be different depending on whether the

¹⁰ [Explanatory notes](#), p 3.

¹¹ Workers (Predictable Terms and Conditions) Bill, clause 1(4), s801B(3).

¹² Clause 1(4), s801C(1)(a)–(b).

¹³ Clause 1(4), s801C(1)(c).

¹⁴ Clause 1(4), s801D(1).

¹⁵ Clause 1(4), s801E(1).

¹⁶ Clause 2, s801F.

¹⁷ Clause 2, s801G.

worker is making an application to a hirer or a temporary work agency. These differences are as follows:

- If the worker is making an application to a temporary work agency, the worker must have had a contract with the agency at some point in the month immediately before a period of time to be set out by the secretary of state in regulations.
- If the worker is making an application to a hirer, the worker must have worked in the same role with the same hirer continuously for 12 weeks within a period to be set out by the secretary of state in regulations.¹⁸

The duties on hirers or temporary worker agencies following an application would be similar to those set out in section 80IH.¹⁹ The remedies that could be awarded to workers in a tribunal would also be the same as those in section 80IE.²⁰

2.3 Clause 3

Clause 3 would add new sections 80IM to 80IN to the Employment Rights Act 1996. Section 80IM would restrict the number of times a worker may make an application to two within any 12-month period. Section 80IN states that an application could not be made if one is already in progress.

2.3 Clause 4 and schedules

Clause 4 would establish the territorial extent of the bill and its commencement date. The bill would extend to England and Wales, and Scotland. The date on which the bill would come into force would be appointed by the secretary of state using secondary legislation. Schedule 1 lists the legislation that would be amended as a result of the bill.

3. What was said in the House of Commons?

Second reading of the bill took place in the House of Commons on 3 February 2023.²¹ Scott Benton said he supported zero hours contracts, describing them as an “important part of the UK’s flexible labour market”.²² However, he said that some employers misused flexible working arrangements, leading to insecurity of hours and income for workers who may have been working for an employer for an extended period. Mr Benton said his bill would give workers who would like more certainty the ability to request more predictable working patterns. He said establishing a new right to request flexible working would reassure workers that they would be able to start a conversation with their employer without being penalised.²³ He added that the bill would apply not only to workers on zero-

¹⁸ [Explanatory notes](#), p 4.

¹⁹ Clause 2, s80IH.

²⁰ Clause 2, s80IK.

²¹ [HC Hansard, 3 February 2023, cols 612–20.](#)

²² [HC Hansard, 3 February 2023, col 612.](#)

²³ [HC Hansard, 3 February 2023, col 613.](#)

hour contracts but to other workers who may have unpredictable working conditions, such as “temporary workers, agency workers and workers with non-guaranteed hours”.²⁴

The shadow minister for the future of work, Imran Hussain, said the Labour Party supported the bill. However, he criticised the government for failing to introduce the employment bill announced at the time of the 2019 Queen’s Speech.²⁵ Mr Hussain also said if the Labour Party formed the next government, it would introduce legislation to ban zero-hours contracts and contracts without a minimum number of guaranteed hours.²⁶

The parliamentary undersecretary of state for business, energy and industrial strategy, Kevin Hollinrake, repeated the government support for the bill.²⁷ He said it would allow some workers to request more predictable working hours while ensuring others were able to remain working on zero-hours contracts or other forms of nonguaranteed hours or temporary contract if they wished to do so. He also said, by supporting this bill, the government was meeting its commitment in the 2019 manifesto to give workers the right to request a more predictable contract.

No amendments were tabled at committee stage which took place on 8 March 2023.²⁸ Third reading took place on 24 March 2023.²⁹ During third reading, Scott Benton addressed the issue of how long someone may need to work with their employer before making an application for more predictable working patterns. He said, although this is to be set by regulations, the period was expected to be 26 weeks.³⁰ He said this period would also apply to agency workers making an application. The bill was passed following the debate without a vote, with all the MPs participating speaking in support of the bill.

4. What committees have reported on the bill?

The bill was reported on by the House of Lords Delegated Powers and Regulatory Reform Committee in its 32nd report of the 2022–23 session.³¹ The committee noted the period of time that a worker must be employed by someone before making an application was not on the face of the bill. It said the proposal in the 2018 Good Work Plan had been for this period to be 26 weeks. It also noted the government said in its delegated powers memorandum that:

Taking this power allows the secretary of state to make changes, for example in light of new evidence emerging around atypical contracts and the gig economy, in light of evolving work practices, or if it is determined that the right should accrue at a different time.³²

²⁴ [HC Hansard, 3 February 2023, col 613.](#)

²⁵ [HC Hansard, 3 February 2023, col 616.](#)

²⁶ [HC Hansard, 3 February 2023, col 617.](#)

²⁷ [HC Hansard, 3 February 2023, cols 617–19.](#)

²⁸ House of Commons Public Bill Committee, ‘[Workers \(Predictable Terms and Conditions\) Bill](#)’, 8 March 2023, session 2022–23, cols 3–8.

²⁹ [HC Hansard, 24 March 2023, cols 577–86.](#)

³⁰ [HC Hansard, 24 March 2023, col 578.](#)

³¹ House of Lords Delegated Powers and Regulatory Reform Committee, ‘[32nd report](#)’, HL paper 182 of session 2022–23, pp 4–6.

³² Department for Business and Trade, ‘[Workers \(Predictable Terms and Conditions\) Bill: Delegated powers memorandum to the Delegated Powers and Regulatory Reform Committee](#)’, 3 February 2023, p 4.

The committee argued it would be feasible for the 26-week period to be on the face of the bill while conferring powers on the secretary of state to amend the length of the period by regulations. It recommended the bill should be amended accordingly. It also noted the bill proposed these regulations would be subject to the negative procedure. It argued this was not appropriate given the scope of this power. It recommended the bill be amended to make these regulations subject to the affirmative procedure. The committee made similar recommendations concerning the powers in the bill given to the secretary of state to set the period of time that must elapse before making an application under clause 2 of the bill.

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