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What to expect if Labour win the general election

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Where are we now?

- Manifesto imminent
- **New Deal for Working People** green paper (published September 2021) replaced by **Labour's Plan to Make Work Pay** (published late May)
- Promises to deliver *“the biggest upgrade to rights at work for a generation”*
- But *“Labour is pro-worker and pro-business and we will work in partnership with trade unions and business to deliver our New Deal”*
- Employment Rights Bill to be introduced within 100 days
- Some of the changes reflect recommendations in the 2017 Taylor Review of Modern Working Practices

The detail – key rights

Proposal

- Day 1 rights
 - Removal of qualifying service for unfair dismissal
 - Removal of qualifying service for parental leave
 - Removal of 3 day waiting period for sick pay

Effect

- Labour says this won't prevent fair dismissals or the use of fair and transparent probationary periods
- Recruitment processes may become tougher with more reliance on probationary periods and well managed dismissal procedures
- Rise in unfair dismissal claims likely

The detail – fire and rehire

Proposal

- Amending law on fire and rehire to “*provide effective remedies against abuse*”
- Replacing “*inadequate*” statutory code of practice

Effect

- Businesses will still be able to do this “*when there is genuinely no alternative*” but “*must follow a proper process based on dialogue and common understanding*”

The detail – zero hour contracts

Proposal

- Banning “*exploitative*” zero hours contracts
- Ensure everyone has right to a contract that reflects the number of hours regularly worked, based on a 12 week reference period
- Notice of shift changes - “*proportionate*” compensation for cancelled shifts

Effect

- Move away from outright ban on zero hours contracts
- Plans won’t impact fixed-term contracts or seasonable work

The detail – single status

Proposal

- Move towards single status of worker
- Transition towards a two-part framework for employment status
- Consult “*in detail*” on framework that differentiates between workers and genuinely self-employed

Effect

- A very complex area that is unlikely to be easily simplified
- Tax issues for employers and workers

The detail – pay

Proposal

- Ensure that NMW is a real living wage
- Gender pay gap reporting action plans
- Extend pay gap reporting to ethnicity and disability (250+ employees)
- Fair pay agreements
- Fair tips
- Ban unpaid internships (except where part of an education or training course)

Effect

- Low Pay Commission will need to take into account cost of living
- Remove the age bands to ensure every adult worker benefits
- Requirement to develop, publish and implement action plans to close gender pay gaps
- Ethnicity pay reporting potentially complex
- Establish binding minimum terms and conditions in the adult social care sector following thorough consultation
- Strengthen law on tipping to ensure tips are received in full and workers decide how tips are allocated

The detail – tribunals and enforcement body

Proposal

- Increase time limit for tribunal claims from three to six months
- Establish single enforcement body for workers' rights

Effect

- May result in increase in tribunal claims
- Provides more time for internal procedures to be completed before claims are made
- Intended to provide one stop shop to inform both businesses and workers on rights

The detail – family friendly

Proposal

- Reviewing current parental leave system
- Making it unlawful to dismiss a women who is pregnant/on maternity leave and for 6 months after return from maternity leave
- Possible introduction of paid carer's leave
- Introduction of bereavement leave for all workers

Effect

- Incentivise sharing of parental leave?
- Effect will depend on the “*specific circumstances*” exceptions that have not been specified
- Review to be carried out - if proceed with this then uptake in carer's leave is likely

The detail – family friendly

Proposal

- Making flexible working the default from day one except where “*not reasonably feasible*”
- Menopause action plans (250+ employees)

Effect

- Impact unclear in absence of confirmation of what “*not reasonably feasible*” means
- Produce menopause action plan setting out how employer will support employee through menopause

The detail – family friendly

Proposal

- Right to switch off

Effect

- Acknowledges workers need to switch off, employers need to contact and value to workers of unconventional work patterns
- Follow similar models to Ireland and Belgium
- Encourages constructive conversations to create bespoke policies or contractual terms

The detail - harassment

Proposal

- Requirement to keep workplaces free from harassment including by third parties
- Strengthen legal duty for employers to take steps to stop sexual harassment
- Strengthening protection for whistleblowers, including updating protection for women who report sexual harassment at work

Effect

- Will legislation due to take effect in October come into force in current form? New or amended legislation likely
- Employers will need to consider how to effectively implement protection from third party harassment

The detail – redundancy and TUPE

Proposal

- Strengthen redundancy rights and protections
- Collective consultation to be governed by number of people impacted across business not one workplace
- Strengthen rights and protections for workers subject to TUPE

Effect

- Collective consultation obligations will be triggered more regularly
- More union involvement in redundancy procedures
- Lack of information provided on possible changes to TUPE

The detail – trade unions

Overhaul of TU legislation:-

- Repeal minimum service levels legislation
- Repeal Trade Union Act 2016 – restrictions on organising industrial action
- Introducing workplace and e-balloting for statutory ballots
- Expanding TU recognition process to include gig economy workers
- Simplification of trade union recognition process changing thresholds for starting the process and requiring only a simple majority to win the final ballot on recognition
- TUs empowered to access workplaces for recruitment and organisational purposes

What's missing?

- Some previous proposals missing from the Plan:-
 - Removing the cap on unfair dismissal compensation
 - Enacting dual discrimination protection
 - Extending equal pay regime to cover ethnicity and disability BUT does propose to extend pay gap reporting from gender to include also ethnicity and disability (250+ employees)



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