

A new government: What next for employers?

September 2024

At the forefront of the government's election campaign was a promise to deliver “A New Deal for Working People” with their plan to “Make Work Pay”. Key proposals include the introduction of legislation to ensure a real living wage, ending exploitative working practices, and enhancing rights from the first day of employment.

What does this mean for businesses?

From new day one rights and broader pay gap obligations, to bolstering enforcement of poor employment pay and practices, the government has set out extensive commitments to reform employment law in their “Make Work Pay” plan, accompanied by a promise to deliver these in the first 100 days of being in power. The plan calls for a new partnership between trade unions, businesses, and the government to foster a fairer and more productive work environment. The Plan has a lot of content which is more easily understood if considered in the following pillars:



Employment rights

The government has committed to introducing new day one rights for all workers from the first day of employment, including:

- Protection against unfair dismissal.
- A right to parental leave, statutory sick pay, and to request flexible working. More recently, there is also a plan to make a 4 day week a ‘default’.

In addition, the government has committed to:

- Reform the “fire & rehire” code of practice.
- Strengthen redundancy rights and protections, including for pregnant women.
- Introduce a right to bereavement leave for all.
- Strengthen TUPE protections.
- Reform the zero hour contracts regime, giving more clarity to protect workers.

KPMG comment

For the individual, these pledges are designed to offer greater flexibility to balance home and work commitments, strengthen employment protection, and provide greater financial support during periods of sickness.

For employers, removing the two-year eligibility for unfair dismissal represents a big cultural change, and one which requires careful employee relations planning. While there are obvious benefits for employees, it will be interesting to see how employers respond and particularly whether these measures lead to a more monitored working environment with tighter performance standards.



Diversity, Equality & Inclusion (DE&I) and Reporting

With ambitions to close the gender pay gap, equality in the workplace and anti-discrimination measures are a central focus for the government’s workplace agenda.

The government has set out numerous policy proposals for increasing DE&I in the workplace. These proposals include:

- A new race equality act introducing equal pay legislation to protect workers on grounds of ethnicity and disability.
- Restrictions on outsourcing to avoid equal pay legislation.
- Mandatory ethnicity and disability pay gap reporting for large employers (adding to obligations to report gender pay gaps).
- Mandatory action plans to reduce pay gaps.
- Introducing menopause action plans.
- Updating and strengthening protections for women who report sexual harassment at work.

KPMG comment

While some of these measures have been anticipated for many years (e.g. ethnicity pay gap reporting), others are less familiar (e.g. extensions to equal pay law). With trends in the EU and globally going much further (relating to Pay Transparency and equal pay auditing), it is very possible that the government will soon come under pressure to become more radical, more quickly.

What does this mean for businesses?



Pay & Tax

National Minimum Wage

National Minimum Wage (NMW) is always a hot topic and the government has pledged to boost it to help bring about a “genuine living wage” for all ages. To achieve this, the government first plans to introduce the cost of living when determining the rate of NMW.

Age bands will gradually (not immediately) be abolished for adults, removing the differentiation between 18 – 21-year-olds, so that all adults will be entitled to the same rate of NMW.

In the interim, a Real Living Wage (RLW) for those aged 21 and over will be introduced.

For those aged under 18, the apprenticeship rate will apply, as will a ban on unpaid internships (unless part of a formal education/training programme).

To bolster these measures, the government has said it will expand the evaluation capabilities of the Low Pay Commission when it makes its recommendations on NMW and RLW rates.

Statutory Sick Pay (SSP) changes will also be introduced, not only as a day one right (abolishing the wait period), but also changing the calculations to make it fairer by disconnecting it from the Lower Earning Limit. Again, there is likely to be more detail in the budget.

KPMG comment

From a business operations perspective, these changes have a major significance: not only do employers bear the costs of these rights but more importantly it is employers who are responsible for ensuring that their systems implement them properly and that there are controls in place to mitigate the risk of errors.

Related tax issues

While not part of the government’s Make Work Pay plan, employers should also consider the following prospective changes as they review their pay and tax systems and processes.

Growth and Skills Levy

Under the current rules an employer with a pay bill of more than £3 million is required to pay the apprenticeship levy (at a rate of 0.5% of their annual pay bill). The government has committed to overhaul the current apprenticeship levy with a new Growth and Skills Levy that they feel will provide businesses with greater flexibility.

While we await further details, we expect the flexibility of sharing unused levy funds with smaller employers to be an ongoing feature of the new levy.

Pensions Tax

More detail on the government’s proposals is expected in the budget. Proposals to re-introduce a tax on excess retirement benefits (the old “lifetime allowance” rules) seem to have been dropped and the government has not as yet set out any further pensions tax proposals.

Non-domicile changes

The government has confirmed that it will implement the new Foreign Income and Gains regime (FIG) as announced by the previous government. This will include the abolition of domicile and the remittance basis of taxation with effect from 6 April 2025.

In the medium term, focus should be given to assignment planning. Depending on an individual’s fact pattern it may be beneficial either to accelerate or delay their arrival in the UK on assignment. There remain details to be ironed out in stakeholder engagement sessions before Budget Day, and employers should ensure that they stay abreast of these developments so that they can plan for the introduction of the new rules from next April.



Further detail on the government's proposals



Trade unions and industrial action

The government has set out the most extensive reforms in this area including:

- A Fair Pay Agreement for those in the adult social care sector which will facilitate fair pay and fair terms and conditions, via collective agreement.
- A plan to extend strengthened trade union rights to self-employed workers.
- Repealing the former government's trade union legislation including its Minimum Services Levels (Strikes) Bill.
- Introducing a new continuing duty on employers that they must inform their employees of their right to join a union.
- Providing representation to trade unions in their new single enforcement body.

KPMG comment

These are likely to be the most controversial reforms but will be core to the government's proposals. Business will be very engaged with the promised consultation process.



Enforcement

One of the government's key aims is to create a new Fair Work Agency that will have powers to ensure that worker employment rights are upheld.

Although consulted upon by the previous administration, the government has set out a firm commitment to create a single enforcement body (the Fair Work Agency) that will have powers to ensure that worker employment rights are upheld. While the extent of its powers has not yet been defined, the government makes clear that at the very least this body will have the power to:

- Inspect workplaces and take actions against exploitative practices.
- Ensure the new government's "genuine living wage" is enforced.
- Bring civil proceedings to uphold employee employment rights.
- Increase the time limit employees can make a claim to an Employment Tribunal from three months to six months.

KPMG comment

This third item is new and the most significant. Further detail on how this might work in practice is required to understand its impact.



Immigration

On 30 July 2024, the Home Secretary, Yvette Cooper, published a ministerial statement setting out the government's ambitions for the legal migration system, which has provided some detail to the government's manifesto.

Key aspects of the statement include:

- Various bodies including the Migration Advisory Committee (MAC), will work together to support a consistent approach to link skills shortages to migration and labour market policy.
- This will require these bodies to engage and work closely with the devolved government to tackle labour market challenges across the whole of the UK in a bespoke way.
- The government will commission the MAC to review the reliance on international recruitment in key sectors, beginning with IT and engineering.
- The government will provide additional resources to the MAC to enable it to work more strategically to forecast future trends. This is in addition to their current work in reviewing and providing independent, evidence-based recommendations on key areas of the immigration system.
- The government will commission the MAC to review the financial requirements in the Family Immigration Rules. The minimum income requirement is currently set at £29,000 per annum.

KPMG comment

In practice, we are likely to see an increased focus on compliance and enforcement, as well as a possible further tightening of sponsor duties and introduction of tougher penalties for non-compliance, to meet the commitment to prevent employers who have breached employment laws from being able to recruit overseas workers.

Employers should anticipate an increase in the number of compliance reviews carried out, including right to work audits, for which the illegal working penalties tripled earlier this year.



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