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Press Releases

The UK Employment Rights Bill and it’s impact on Employment Practice Liability

Carl Puttock, Rose Sutton • April 01, 2025

On the 10th October 2024 The Employment Rights Bill was introduced to Parliament.

The bill, comprised of 28 employment law reforms, is designed to promote workers' rights and economic growth. We expect the employee friendly reforms to have an impact on the number and type of Employment Tribunal (EPL) claims and resultant Employment Practice Liability insurance claims. Below we comment on the three reforms which we think will have the biggest impact on claims.

1. Removal of qualifying period for unfair dismissal

Currently, an employee needs two years of service before they are eligible to make an unfair dismissal claim. The Employment Rights Bill proposes to remove this qualifying period and make it a day one right to be able to make an unfair dismissal claim. However there will be an "initial period of employment" which will be akin to a probationary period during which the protections will be less onerous and any compensation will have a lower cap.

Despite this period, we expect an increase in unfair dismissal claims being made to the tribunal.

2. Flexible working

Whilst employees already have the right to request flexible working, the new reforms will make it harder for an employer to refuse the request. Currently an employer can only refuse a request for certain statutory reasons that they consider applicable. The new reforms will mean the employer will have to show it is reasonable for them to refuse the application on that ground or those grounds.

When it comes to “hybrid” working, the tide seems to be turning with more companies mandating that employees return to the office full time.. It therefore seems likely that there will be an increase in flexible working requests, which could come hand in hand with increased employment tribunal claims should it be believed requests were denied unreasonably.

3. Protection from harassment at work

Building on The Worker Protection (Amendment of Equality Act 2010) Act 2023 which took effect from the 26th October 2024, this reform would change the current legislation which states that employers have a duty to take “reasonable steps” to prevent sexual harassment of employees, to a duty to take “all reasonable steps” to prevent such harassment. The bill makes employers liable for employees harassed by third parties during the course of employment whereas previously they were only liable when they had been harassed on two occasions previously by that third party. This puts greater onus on employers to ensure employees are protected at work and any harassment is prevented. The bill also gives whistleblowing protection to those who report sexual harassment. With this safeguard in place, claims for harassment may increase and we can also expect harassment claims (which were already amongst the most expensive) to increase in value with the employment tribunal being given the ability to increase compensation for a successful claim of sexual harassment by up to 25%.

Whilst not included in the original draft of the bill, an amendment document published on 27 November 2024 indicates that the government also intends to increase the limitation period to bring an employment tribunal claim from 3 to 6 months. If this reform is approved, again we can expect claim numbers to increase.

An increase in claims?

Anticipating that the reforms will result in an increased number of claims being filed in the employment tribunal, there is a potential for backlogs similar to those experienced during the COVID-19 pandemic. Prolonged claims tend to become more burdensome for the insured and generally lead to higher defence costs. Consequently, we expect both insureds and insurers to favour early settlements to minimise claim values. The bill is, of course, still making its way through parliament and therefore some of the proposed laws may be changed before they come into effect. Further, the majority of reforms are not anticipated to take effect until 2026. Reforms of unfair dismissal will take effect no sooner than autumn 2026.

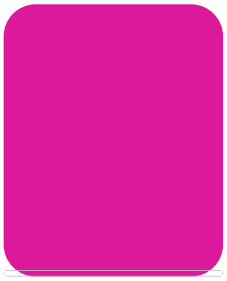
The growing need for EPL

As the EPL risk accelerates, specialty solutions will become increasingly valuable. A policy that delivers access to robust legal advice will is also be key, providing cover for defence costs as well as settlements and awards, ensuring clients are supported by experienced claims managers that help navigate the claims process.

Beazley has partnered with international law firm DAC Beachcroft to provide each of our insureds with access to bespoke employment legal

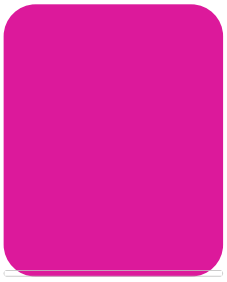
advice as part of their EPL policy, which will help them negotiate this challenging new legal environment. We understand that no two claims are alike, and each claim presents unique challenges requiring individualised case strategies. Our claims managers oversee claims from inception to resolution, working with clients and brokers to service claims efficiently and supportively.

To find out more about the Beazley EPL solution, **click here.**



Carl Puttock

Underwriter - International Management Liability



Rose Sutton

Claims Manager

Sources:

- Employment Rights Bill: update for EPL insurers
- CBP-10109.pdf - Source Commons Library Research Briefing, 23 October 2024
- Employees are being marched back to the office. But why? | Life and style | The Guardian

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