

Employment Relations (Flexible Working) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Business, Energy & Industrial Strategy with the consent of Yasmin Qureshi, the member in charge of the Bill, are published separately as Bill 22-EN.

Employment Relations (Flexible Working) Bill

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Make provision in relation to the right of employees and other workers to request variations to particular terms and conditions of employment, including working hours, times and locations.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Flexible working

- (1) Section 80F of the Employment Rights Act 1996 (flexible working: right to request contract variation) is amended as follows.
- (2) In subsection (2)—
 - (a) at the end of paragraph (a) insert “and”; 5
 - (b) omit paragraph (c) and the “and” preceding it.
- (3) For subsection (4) substitute—

“(4) An employee may not—

 - (a) make more than two applications under this section to the same employer during any period of 12 months; 10
 - (b) make an application under this section to an employer if another such application to the same employer is proceeding.
- (4A) For the purposes of this section an application is “proceeding” during any of these periods—
 - (a) the period— 15
 - (i) beginning when the application is made, and
 - (ii) ending when the application is concluded;
 - (b) any period—
 - (i) beginning when an appeal against a decision to refuse the application is brought, and 20
 - (ii) ending when the appeal is concluded;
 - (c) any period—

- (i) beginning when, in accordance with section 80G(1C)(b), the decision period for an application or appeal is extended with retrospective effect, and
 - (ii) ending when the application or appeal is concluded.
- (4B) For the purposes of this section an application or appeal is “concluded” when any of these events occurs – 5
 - (a) a decision is made on the application or appeal under section 80G;
 - (b) the application or appeal is withdrawn;
 - (c) the application or appeal is disposed of by agreement; 10
 - (d) the decision period specified in section 80G for the application or appeal ends without a decision, withdrawal or agreed disposal.”
- (4) Section 80G of the Employment Rights Act 1996 (flexible working: employer’s duties in relation to application) is amended as follows. 15
- (5) In subsection (1), after paragraph (a) insert –
 - “(aza) shall not refuse the application unless the employee has been consulted about the application;”.
- (6) In subsection (1B)(a), for “three months” substitute “two months”.
- (7) The amendments made by this section apply in respect of – 20
 - (a) an employee’s entitlement, on or after the coming into force of this section, to make an application under section 80F of the Employment Rights Act 1996, and
 - (b) any such application made on or after the coming into force of this section, 25
 regardless of when the employment, contract or other arrangement (as the case may be) began.
- (8) On or after the coming into force of this section, in any determination of the number of applications made under section 80F of the Employment Rights Act 1996 by an employee during a period of 12 months, any such application made before that coming into force (and during that period) is to be included. 30

2 Extent, commencement and short title

- (1) This Act extends to England and Wales and Scotland.
- (2) Section 1 comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint; and different days may be appointed for different purposes. 35
- (3) This section comes into force on the day on which this Act is passed.
- (4) This Act may be cited as the Employment Relations (Flexible Working) Act 2023.

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To make provision in relation to the right of employees and other workers to request variations to particular terms and conditions of employment, including working hours, times and locations.

Presented by Yasmin Qureshi.

*Ordered, by The House of Commons,
to be Printed, 15th June 2022.*

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