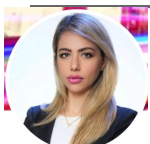




Status of the implementation of EU Directive 2019/1152 by member states and UK update

The **EU Directive 2019/1152 on transparent and predictable working conditions in the European Union** is intended to benefit workers without fixed or guaranteed hours, except those working on average three hours or less a week in a reference period of four consecutive weeks. Workers within the scope of the Directive will benefit from the right to receive information on their working conditions within 7 days of starting work. Other provisions of the Directive include a requirement, where the work pattern is unpredictable, for the employer to set out in a written statement the number of guaranteed hours; a ban on probationary periods exceeding six months, unless justified on exception basis; a ban on exclusivity requirements unless justified by identified reasons; protection for workers with unpredictable patterns to enable them to refuse assignment without adverse consequences if they have not been given reasonable notice; compensation if the employer cancels an assignment without reasonable notice; other measures to prevent abuse on zero hours workers; right to request a more predictable and secure working conditions after 6 months and receive a reasoned written reply within one month. Implementation of the relevant requirements into national law was due by 1 August 2022. Some EU member states have implemented by the deadline, such as Germany, Italy, Finland and Netherlands. Other member states, such as France, have not implemented the Directive yet, even if, as of 1 August 2022, the provisions of their national Labour Code must be interpreted taking into account the requirements of the Directive.

Following Brexit, the UK is not required to implement the EU Directive 2019/1152. However, some of the provisions of the Directive overlap with the UK government proposals for zero hours workers as set out in the Good Work Plan. The Good Work Plan has been published on 17 December 2018 by the UK Government, following the Taylor Review recommendations and intends to set forth the most important package of proposal on UK Labour market in the past 20 years. It includes the right for workers to request a more predictable and stable contract after 26 weeks' service, making it easier for casual staff to establish continuity of employment; written statements for all workers, from day one; support for vulnerable and agency workers; lower thresholds for requesting information and consultation arrangements and increased penalties for aggravated employment law breach. Some of these measures have already been implemented, such as written terms for all workers since first day of employment, including information on length of time a job is expected to last, notice period, eligibility for sick leave and pay, other rights to leave, probationary period, all pay and benefits and specific time and days for work and lowered information and consultation thresholds rights, from 10% to 2% employees, subject to minimum 15 employees (see Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 (SI 2018/1378) and Employment Rights (Miscellaneous Amendments) Regulations 2019 (SI 2019/731). Other measures are currently reviewed under the Workers (Predictable Terms and Conditions) Bill, following its second reading in the House of Commons on 3 February 2023. Under the Bill, a worker may apply for a change to their terms and conditions of employment for the purposes of obtaining a more predictable working pattern if they have been employed for more than 26 weeks by the same employer with the flexible working regime; there is a lack of predictability in relation to the work and in respect to any part of the working pattern and the change relates to the working pattern. The employer has no obligation to agree a request, but must deal with it in a reasonable manner and respond within one month and could reject an application for detrimental effect on customer demand or recruitment of staff. Further regulation would be needed to enact it, so it seems that these rights will take effect in 2024.



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