EMPLOYMENT RIGHTS ACT 2025 ***FACTSHEET 1***

The Need for a Single Worker Status

Version 02 - 14th May 2026

IER Institute of Employment Rights

Introduction

The Blair government introduced a statutory recognition procedure whereby an independent trade union may request an employer to recognise it for the purposes of collective bargaining. If the employer refuses to do so, the trade union may apply to the Central Arbitration Committee (CAC) for a declaration of recognition if it can demonstrate sufficient levels of support.

Since it came into force almost 25 years ago the statutory recognition procedure has been beset with problems which have frustrated the ambitions of its authors and the expectations of trade unions. As the Amazon dispute highlighted in 2024, the procedure is not effective when confronted with well organised employer campaigns designed to resist recognition.

What does the Act say?

The Labour Party published *A New Deal for Working People* as a Green Paper in 2021, subsequently modified in 2024 in *Labour's Plan to Make Work Pay: Delivering a New Deal for Working People*. Both documents expressed a clear commitment to 'move towards a single status of worker and transition towards a simpler two-part framework for employment status'. In 2024, Labour promised that it would 'consult in detail on a simpler framework that differentiates between workers and the genuinely self-employed'. The Employment Rights Act 2025 (ERA 2025) does not deliver on this. Though 'full and detailed consultation' within the first year of a Labour government, was promised and, during the passage of the Employment Rights Bill consultation was said to start in the summer of 2025 and conclude by year end, consultation has not so far materialised, although 'publishing a consultation on our plans to tackle employment status problems' is said to remain a priority for this government.

In the absence of a new single worker status, the ERA 2025 allocates some of the new rights it introduces to 'employees' with contracts of employment, some rights to 'limb-b' workers, and some rights to other new 'ad hoc' worker definitions (e.g. workers on 'contractual' or 'non-contractual' 'zero hours arrangements', see s.6 ERA 2025 introducing a new s. 27BZ2(1) ERA 1996; the new definition of 'relevant contract' in s. 24 ERA 2026, in the context of non-disclosure agreements in discrimination and harassment cases, introducing a new s. 202A in ERA 1996).

What are the defects?

Instead of resolving the vexed question of who should be a 'worker' and so entitled to the full suite of statutory employment rights, ERA 2025 actually adds to the complexity arising from the coexistence of several employment statuses (employee, limb-b worker, self-employed) and several legal devices and HR strategies utilised by employers to defeat employment status claims, such as personal service companies, umbrella companies, or broadly worded substitution clauses for 'gig-work'. Recent changes to employers' national insurance contributions, coupled with the demands generated by the new rights that ERA 2025 allocates mainly to 'employees' and 'workers', are likely to make the use of these 'defeat devices' even more alluring for businesses seeking to limit their employment law and tax liabilities. The absence of a new and unified worker definition compromises the effectiveness of several of the new rights introduced by ERA 2025.

What needs to be done?

The following recommendations reflect some of the key provisions on a 'single worker status' contained in the 'Status of Worker Bill' (HL Bill 28, introduced by Lord Hendy and now available in a revised form).

The new 'single worker status' definition should, at the very least, i) unify and expand the concept of worker; ii) clarify the concept of employer; iii) introduce a rebuttable presumption of work for legal proceedings; iv) clarify who is the employer when work is provided through personal service or umbrella companies.

- *Provide that all rights contained in the Bill should apply to workers defined as 'any individual who is engaged by another to provide labour… and is not, in the provision of that labour, operating a business on the employee or worker's own account'*
- *Provide that any right attributable to employers should apply to '(i) every person or entity who engages or engaged the worker, and (ii) every person or entity who substantially determines terms on which the worker or employee is engaged at any material time'*
- *Establish that 'It is for a person who is claimed to be the employer and contests that claim to show in any legal proceedings that— (a) they are not the employer, or (b) the person providing the work is not an employee or a worker'.*
- *Establish that 'where a worker or employee provides labour through a personal service company the employer is the third party for whom the labour is performed' and that 'where a worker or employee provides labour through an umbrella company, the third party for whom the labour is performed and the umbrella company shall each be treated as the employer'.*

For further details and recommendations see Lord Hendy's 'IER Briefing on the Single Employment Status (2026)' here: ***https://tinyurl.com/ERA-WStatus-Briefing***.