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Statutory Rights of Employees and Workers

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Rights during the contractual relationship

The following table summarises the rights that are available to employees and those that are also available to workers. It does not cover specific classes of employees or workers, such as agency workers, for whom different rules apply.

Statutory right	Statutory reference	Employee	Worker
Written particulars of employment	Section 1, ERA 1996	✓	✗
Written statement of reasons for dismissal	Section 92, ERA 1996	✓	✗
Not to be unfairly dismissed	Section 94, ERA 1996	✓	✗
Statutory minimum notice period	Section 86, ERA 1996	✓	✗
Statutory redundancy payment	Part XI, ERA 1996	✓	✗
Collective redundancy consultation	Section 188, TULRCA	✓	✗
Statutory maternity pay (SMP)	Social Security and Benefits Act 1992	✓	✗
Statutory sick pay (SSP)	Statutory Sick Pay (General) Regulations 1982	✓	✗
Protection against unlawful deduction from wages	Section 13, ERA 1996	✓	✓
Itemised pay statement	Section 8, ERA 1996	✓	✗
Guarantee payments	Part III, ERA 1996	✓	✗
Certain payments on insolvency	Part XII, ERA 1996	✓	✗
Remuneration during suspension on medical grounds	Section 64, ERA 1996	✓	✗
National minimum wage (NMW)	Section 1, National Minimum Wage Act 1998 (NMWA)	✓	✓
Paid annual leave	Regulation 13, Working Time	✓	✓

	Regulations 1998 (WTR)		
Rest breaks	Regulation 12, WTR	✓	✓
Maximum working week	Regulation 4, WTR	✓	✓
Parental leave	Regulation 13, Maternity and Parental Leave etc Regulations 1999	✓	✗
Ordinary maternity leave (OML)	Section 71, ERA 1996	✓	✗
Additional maternity leave (AML)	Section 73, ERA 1996	✓	✗
Request flexible working	Section 80F to I, ERA 1996	✓	✗
Not to be suspended on maternity grounds	Sections 66-68, ERA 1996	✓	✗
Protection on the transfer of undertakings	TUPE	✓	✗
Right to be accompanied at a disciplinary or grievance hearing	Section 10, Employment Relations Act 1999 (EReIA 1999)	✓	✓
Protection for making a protected disclosure	Part IVA, ERA 1996	✓	✓
Vicarious liability of the employer for the employees' tortious acts	N/A	✓	✗
Not to be refused employment because of membership or non-membership of a trade union	Sections 137 and 138, TULRCA	✓	✗
Protection under the Data Protection Act 1998	Data Protection Act 1998	✓	✓
Protection under the statutory dispute resolution procedures	Part 3, Employment Act 2002	✓	✗
Right of shop and betting workers to	Part IV, ERA 1996	✓	✗

refuse to work on a Sunday			
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Discrimination

The discrimination legislation gives the term "employee" a wider definition than most employment legislation. It incorporates those individuals that would qualify as employees and workers under the ERA 1996, as well as some individuals who would not qualify as either.

Statutory right	Statutory reference	Employee	Worker
Right to receive equal pay for work of equal value	Section 1 Equal Pay Act 1970	✓	✓
Right not to be discriminated against on the grounds of gender or marital status	Section Sex 1 Discrimination Act 1975 (SDA)	✓	✓
Right not to be victimised for alleging discrimination, or providing information or evidence in a claim, of bringing a claim under the SDA or EqPA	Section 4 SDA	✓	✓
Right not to be discriminated against on the grounds of race	Section 1 Race Relations Act 1976 (RRA)	✓	✓
Right not to be victimised for alleging discrimination, providing information or evidence in connection with a claim or bringing a claim under the RRA	Section 2 RRA	✓	✓
Right not to be discriminated against on the grounds of a disability	Section 3A Disability Discrimination Act 1995	✓	✓
Right not to be discriminated against on the grounds of religion or belief	Section 3 Employment Equality (Religion or Belief) Regulations 2003	✓	✓
Right not to be victimised for alleging	Section 4 Employment	✓	✓

discrimination, providing information or evidence in connection with a claim or bringing a claim under the Religion of Belief Regulations	Equality (Religion or Belief) Regulations 2003		
Right not to be discriminated against on the grounds of sexual orientation	Section 3 Employment Equality (Sexual Orientation) Regulations 2003	✓	✓
Right not to be victimised for alleging discrimination, providing information or evidence in connection with a claim or bringing a claim under the Sexual Orientation Regulations	Section 4 Employment Equality (Sexual Orientation) Regulations 2003	✓	✓
Right as a part-time worker not to be treated less favourably than a comparable full-time worker	Regulation 5, Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000	✓	✓
Right as a fixed-term employee not to be treated less favourably than a comparable permanent employee	Regulation 3, Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002	✓	X
Right not to be discriminated against on grounds of civil partnership status	Section 251 Sex Discrimination Act	✓	X

Time off

Statutory right	Statutory reference	Employee	Worker
Time off for antenatal care (unpaid)	Sections 55, ERA 1996	✓	X
Time off for dependants	Section 57A, ERA 1996	✓	X

(unpaid)			
Time off for trade union activities (paid)	Sections 168 and 168A, TULRCA	✓	X
Time off for public duties (unpaid)	Section 50, ERA 1996	✓	X
Time off to look for work or arrange training in the event of redundancy (paid)	Sections 52, ERA 1996	✓	X
Time off for pension scheme trustees (paid)	Sections 58, ERA 1996	✓	X
Time off for employee representatives (paid)	Sections 61, ERA 1996	✓	X
Time off for young people to undertake study or training (paid)	Sections 63A, 63B and 63C, ERA 1996	✓	X
Time off for members of a national works council (NWC) (paid)	Section 27, Information and Consultation of Employees Regulations 2004	✓	X
Time off for members of a European Works Council (EWC) (paid)	Regulation 25, Transnational Information and Consultation Regulations 1999 (TICE 1999)	✓	X

Detriment

Statutory right	Statutory reference	Employee	Worker
Not to suffer detriment for exercising rights as a part-time worker	Regulation 7, Part-time workers (Prevention of Less Favourable Treatment) Regulations 2000	✓	✓

Not to suffer detriment for exercising rights as a fixed term employee	Regulation 6, Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002	✓	✗
Not to suffer detriment for exercising rights in respect of the WTR 1998	Section 45A, ERA 1996	✓	✓
Not to suffer detriment for exercising rights in respect a protected disclosure	Section 47B, ERA 1996	✓	✓
Not to suffer detriment for exercising the right to be accompanied at a disciplinary or grievance hearing	Section 12, ERcA 1999	✓	✓
Not to suffer detriment for exercising rights in respect of health and safety cases	Section 44, ERA 1996	✓	✗
Not to suffer detriment for exercising rights in respect of Sunday working	Section 45, ERA 1996	✓	✗
Not to suffer detriment for exercising rights as a pension scheme trustees	Section 46, ERA 1996	✓	✗
Not to suffer detriment for exercising rights in respect of acting as an employee representative	Section 47, ERA 1996	✓	✗
Not to suffer detriment for exercising rights in respect of taking time off for study or training	Section 47A, ERA 1996	✓	✗
Not to suffer detriment for exercising rights in respect of trade union membership	Section 146, TULRCA	✓	✗
Not to suffer detriment for exercising rights in respect of family and domestic leave	Section 47C, ERA 1996	✓	✗

Not to suffer detriment for requesting the right to flexible work	Section 47E, ERA 1996	✓	✗
Not to suffer detriment as a result of jury service	Section 43M, ERA 1996	✓	✗
Not to suffer detriment for performing functions of a representative on a European works council (EWC)	Regulation 31, TICE 1999	✓	✗
Not to suffer detriment for exercising rights in respect of the national minimum wage (NMW)	Section 23, NMWA	✓	✓
Not to suffer detriment for performing functions of a representative under a negotiated information and consultation agreement or the standard information and consultation provisions	Regulation 32, Information and Consultation of Employees Regulations 2004	✓	✗