

# Written evidence submission from the Association of Convenience Stores (ACS) to the Employment Rights Public Bill Committee (ERB41).

## Executive Summary

1. ACS (the Association of Convenience Stores) represents 50,387 local shops including thousands of independent retailers, many of which trade under brands such as Spar, Budgens and Nisa. These retailers operate in all locations, such as neighbourhoods, villages, on petrol forecourts and in city centres, but our primary trading location is in secondary shopping areas close to where people live and work.
2. The convenience sector exemplifies two-sided flexibility in the labour market, providing local secure and flexible jobs to 445,000 people, with over 98% of colleagues on permanent contracts. This sector supports local economies by offering stable work close to home, combining job security and flexibility.
3. We support the government's aim to enhance job security; however, some provisions in the Employment Rights Bill could add unnecessary burdens for employers already upholding high standards.
4. For Clause 1, it is critical that the threshold for "low-hours" contracts is not set too high to preserve operational flexibility and avoid unnecessary administrative burdens. Additionally, workers on zero-hours and low-hours contracts must retain the ability to reject guaranteed hours if they prefer the flexibility that their current arrangements provide.
5. Regarding Clauses 2 and 3, the convenience sector already has a strong record, with 90% of employers providing at least one week's notice of shifts and 90% of colleagues reporting no last-minute cancellations. However, requiring compensation for cancelled shifts and applying the right to reasonable notice to workers beyond zero-hours contracts could undermine the flexibility retailers and employees value. To balance worker protections and operational needs, these rights should focus on zero-hours workers and be guided by flexible principles such as Acas recommendations, rather than rigid legislative requirements.
6. An amendment should be made to Clauses 2 and 3 to allow the government to introduce provisions exempting employers from the requirements to provide "reasonable notice of shifts" or "compensation for shift cancellations" in situations beyond their control. This would mirror the exemption already included in Clause 1, which exempts employers from offering guaranteed hours under similar circumstances, ensuring consistency and fairness across the Bill.
7. One of the most significant challenges posed by the Bill is the new sick pay rules and the additional costs retailers will face. Employment costs have already surged, especially with the steady rise in the National Living Wage and recent Autumn Budget measures, including increased employer NICs and a lowered NICs threshold, all of which place considerable financial pressure on small businesses.
8. We are concerned that the new sick pay reforms may lead to behavioural shifts among store colleagues. For convenience stores, increased absenteeism disrupts operations, as covering shifts at short notice is challenging. In stores with just two or three people on shift, even one

absence can bring business operations to a standstill.

9. ACS' Key Recommendations on the Employment Rights Bill are as follows:

- **Reinstate a rebate scheme for Statutory Sick Pay**, drawing inspiration from both the pre-2014 Percentage Threshold Scheme and the more recent Coronavirus Statutory Sick Pay Rebate Scheme. This would allow small businesses to apply for state reimbursement of SSP provided to employees, specifically covering costs incurred during the first three days of sickness absence, alleviating financial pressure on employers. (Suggested amendment further down).
- Provide clear guidance or best-practice frameworks to help employers prevent workplace harassment and **remove liability for those who have taken reasonable steps to protect their employees.**
- **Ensure the threshold for "low-hours" contracts is not set too high** to avoid limiting operational flexibility and imposing unnecessary administrative burdens.
- **Avoid rigid legislative definitions of "reasonable notice";** instead, adopt flexible principles through Acas guidance or best-practice frameworks, allowing businesses to adapt these measures to their specific operational needs.
- Limit the requirement to provide reasonable notice of shifts and compensation for cancelled shifts **to those on zero hour contracts.**
- Introduce an amendment to **exempt employers from the requirement to provide reasonable notice and compensation for cancelled or changed shifts in circumstances beyond their control**, similarly to how exemptions can be introduced on the right to guaranteed hours (Suggested amendments further down).

### **One-Sided Flexibility (Clauses 1-3)**

10. We support the government's aim to enhance job security and ensure fair treatment for workers. However, some of these measures to improve security risk imposing unnecessary burdens on employers who are already upholding high standards in workforce management and employment practices.
11. We believe any new measures should be carefully designed to avoid duplicating existing best practices or creating unnecessary administrative burdens for responsible employers, as this could hinder the flexibility and security that currently benefit both employers and employees in the convenience sector.

#### *Clause 1: Right to Guaranteed hours*

12. In the convenience sector, the vast majority of colleagues work regular and substantial hours, with 83% working 17 or more hours per week<sup>1</sup>. Additionally, 87% of retailers consistently provide contracts that accurately reflect employees' typical working patterns<sup>2</sup>. This demonstrates a strong commitment within the sector to ensuring fair and transparent working arrangements.

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<sup>1</sup> ACS Colleague Survey 2024

<sup>2</sup> ACS Employment Survey 2024

13. Currently, less than 1% of colleagues in the convenience sector are employed on zero-hours contracts, but some colleagues may still be on low-hours contracts. Under Clause 1 of the Bill (Page 2, lines 25–30, (Proposed section 27BA of the Employment Rights Act 1996)), workers on both zero-hours and low-hours contracts are entitled to be offered guaranteed hours based on hours regularly worked over a reference period. Depending on how the threshold for "low hours" contracts is defined in forthcoming regulations, more colleagues in the sector may qualify for such offers.
14. It is crucial, however, that the threshold for low-hours contracts is not set too high. A higher threshold would severely constrain businesses' ability to adjust staffing levels in response to short-term changes in demand. It would also increase administrative complexity by unnecessarily bringing more workers into the scope of the guaranteed hours provision, potentially undermining operational flexibility.
15. Conversely, if the threshold for low-hours contracts is set too low and the length of the reference period too long, retailers will face an ongoing cycle of reassessing and amending employment contracts. This constant administrative burden could divert resources away from core business operations, disrupt workforce stability, and undermine the flexibility that is vital for responding to seasonal peaks, staff turnover, and fluctuating consumer demand in the convenience sector.
16. For many workers, particularly students or those engaged in seasonal work, the two-sided flexibility of zero-hours or low-hours contracts is highly valuable. These arrangements allow employees to manage work around personal commitments while giving retailers the ability to scale staffing levels appropriately.
17. For convenience retailers, demand for staff is far less predictable compared to other areas of the retail sector, where seasonal trends are more consistent. Factors such as extreme weather, sporting events, and fluctuations in tourism—often unpredictable—significantly influence staffing needs. This variability makes it particularly challenging for convenience retailers to offer guaranteed hours, as their ability to adapt quickly to changing demand is crucial to maintaining efficient operations.
18. To preserve this flexibility, it is essential that workers on zero-hours or low-hours contracts can easily reject an offer of guaranteed hours if they prefer to remain on their current arrangements. The Bill already accounts for this under, on Page 8, lines 34–38 (Proposed section 27BE of the Employment Rights Act 1996), and this provision must be maintained to ensure that workers retain control over their working arrangements.

*Clause 2: Shifts: Right to Reasonable Notice*

19. The convenience sector already has a strong record of providing reasonable notice for shifts, with 90% of employers giving at least one week's notice<sup>3</sup>. This demonstrates the sector's commitment to balancing operational demands with fair scheduling practices for employees.
20. Page 27, line 33 of the Bill (Proposed Section 27BI of the Employment Rights Act 1996), grants workers who regularly work more hours than their contract specifies a right to reasonable notice of shifts. As well as those on zero hours contracts, this right also applies to workers under contracts with variable scheduling requirements, particularly where shifts are assigned at short notice or outside the agreed-upon pattern. While this provision aims to

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<sup>3</sup> ACS Employment Survey 2024

address unpredictability, its implementation could challenge the flexibility currently enjoyed by colleagues and retailers.

21. Shift scheduling in the convenience sector is often informal, a necessary approach to meet the operational needs of small stores and store colleagues. Retailers fear that rigid rules imposed by this legislation could undermine the flexibility essential for managing schedules, particularly where cancelled shifts or last-minute adjustments have a significant impact. The ability to adapt quickly is vital in this sector, and overly strict regulations could disrupt the balance that benefits both employers and employees.
22. The Government should consider limiting the requirement to provide reasonable notice of shifts to workers on zero-hours contracts, where scheduling unpredictability is most acute. This would allow employers to continue meeting operational demands while ensuring those with greater need for predictability are protected.
23. The Bill does not explicitly define "reasonable notice," leaving room for interpretation. We suggest that rather than embedding these principles in rigid legislation, they be addressed through guidance, such as Acas recommendations or best-practice frameworks. This would allow businesses, particularly small retailers, to adapt these principles to their unique circumstances without the risk of unintended disruptions to their operations.
24. The absence of reciprocal arrangements for requiring colleagues to provide notice when unable to work scheduled shifts will have significant implications for employers. One of the biggest challenges for retailers is managing last-minute cancellations from employees due to unforeseen reasons such as illness, family emergencies, or transportation issues. When employers are forced to find staff to cover shifts at short notice, it becomes much harder to meet the 'reasonable notice' requirements. We need the government to provide reassurance to employers either through legislation or guidance that they can still approach colleagues to fill shifts at short notice without falling short of these legislative requirements.
25. We therefore propose the following amendment, which would enable the Government to make regulations specifying circumstances where the duty to provide reasonable notice does not apply. This is similar to subsection (5) of new clause 27BD of the Employment Rights Act 1996, which allows the Government to make regulations specifying circumstances where the duty to provide guaranteed hours does not apply.
26. Page 15, line 22, at the end insert –  
  
(c) when the duty imposed by section 27BI and 27BJ does not apply

*Clause 3: Right to payment for cancelled, moved or curtailed shifts*

27. 90% of colleagues in the convenience sector report that they have never had a shift cancelled with less than 48 hours' notice<sup>4</sup>, reflecting a strong track record of responsible scheduling. Furthermore, 86% of retailers state that they always offer alternative hours to employees if a shift is cancelled or reduced, demonstrating the sector's commitment to fair treatment and employee support<sup>5</sup>.

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<sup>4</sup> ACS Colleague Survey 2024

<sup>5</sup> ACS Employment Survey 2024

28. However, the introduction of a right to compensation for cancelled, moved, or curtailed shifts under Clause 3 of the s Bill presents significant challenges for convenience retailers. Shift cancellations or changes often occur in response to fluctuating demand, and the added obligation to compensate workers could disrupt operations, particularly in small stores that rely on flexible, real-time adjustments to manage staffing effectively.
29. To comply with these new measures, businesses will need to implement robust scheduling and communication practices to reduce the likelihood of last-minute changes triggering compensation obligations. While this may provide additional security for workers, it imposes considerable administrative and operational burdens on convenience retailers. Despite the sector's strong track record of positive employment practices, retailers will still need to invest in new procedures and technologies, such as shift management and scheduling tools, to effectively manage shifts and ensure compliance with the legislation.
30. As with the measures outlined in Clause 2, the Government could consider that the right to compensation be limited to workers on zero-hours contracts, who are most affected by unpredictable scheduling. However, page 17, line 23 of the Bill (proposed Section 27BO of the Employment Rights Act 1996) extends this right to workers whose contracts do not specify consistent work hours and may regularly have shifts added, removed, or rescheduled. For retailers, which often rely on such contracts to maintain operational flexibility, this broad application of the provision could create significant challenges.
31. We are concerned that retailers may be unfairly penalised for unavoidable disruptions that are outside their control. Scenarios such as extreme weather, power outages, or criminal activity can disrupt operations unexpectedly.
32. Given that Clause 1 on the right to guaranteed hours already includes a subsection (Page 8, line 4, section 5 (under proposed Section 27BD of the Employment Rights Act 1996)) exempting employers from providing guaranteed hours in situations beyond their control, a similar provision should be introduced in Clause 3. Specifically, an amendment to the proposed subsection within Section 27BO should enable employers to be exempt from the obligation to provide compensation for cancelled, moved, or curtailed shifts when disruptions are caused by factors outside their reasonable control. An example below.
33. Page 18, line 2, at the end insert –  
  
(6) The Secretary of State may, by regulations, make provisions for the duty imposed by section 27BO(1) not to apply, or provide compensation for a cancelled, moved, or curtailed shift, in other specified circumstances.

### **Right to request flexible working (Clause 7)**

34. While ACS broadly supports the principle of making flexible working the default, it is already commonplace in the convenience sector, with 83% of employers offering flexible arrangements, typically on an informal basis. However, we are concerned about the proposal requiring employers to demonstrate if a request for flexible working is “unreasonable,” which could add complexity and create disputes.
35. To address these concerns, there should be a clear definition of the grounds for denying flexible working requests, alongside practical guidance for employers on responding to requests and considering alternative arrangements. Additionally, we oppose any new administrative processes that could burden retailers, as informal, non-statutory

arrangements are often more practical and effective.

### **Sick Pay Reforms (Clauses 8 & 9)**

36. The removal of the three-day waiting period for Statutory Sick Pay (SSP) poses a significant financial burden on small retailers. With an estimated 70% of sickness absences lasting three days or less<sup>6</sup>, removing the three-day waiting period for SSP will drastically increase costs. We estimate the SSP bill for the convenience sector in 2023 was £14.7m, which is likely to increase significantly if the reforms are introduced.
37. To alleviate this strain, we recommend implementing a rebate system for SSP, drawing on both the pre-2014 Percentage Threshold Scheme and the more recent Coronavirus Statutory Sick Pay Rebate Scheme. This system would allow small businesses to apply for reimbursement from the state for SSP provided during the first three days of an employee's sickness absence. Such support would help mitigate the financial impact on small retailers and provide targeted relief for businesses disproportionately affected by staff sickness. Please see a suggested amendment below:
38. *Page 26, line 4, at end insert -*
- (2) Employers categorised as small businesses, as defined in regulations issued by the Secretary of State, may apply for a rebate from the state for the statutory sick pay provided to employees during the first three days of sickness absence, provided that such rebate does not exceed a specified percentage of the sick pay paid for those days.*
39. The Work and Pensions Committee's report on Statutory Sick Pay (SSP) warns that removing the three-day waiting period could have "unpredictable consequences,"<sup>7</sup> which raises concerns for retailers. While we acknowledge that research on this issue is inconclusive and that such a change could help reduce presenteeism, retailers are concerned that offering SSP from day one may result in unintended behavioural changes among employees. This could create operational challenges, making it more difficult to cover shifts at short notice and potentially impacting the reliability and continuity of store operations

### **Protection from Harassment (Clauses 15 to 18)**

40. ACS supports the provisions in the Bill requiring employers to take all reasonable steps to prevent sexual harassment in the workplace. It is essential that these provisions are accompanied by clear and unambiguous guidance to help employers effectively implement these measures.
41. However, we have concerns regarding the proposed measures to make employers liable for third-party harassment. This is particularly significant for the retail sector, where violence and abuse against shopworkers remain a pressing and ongoing issue. ACS' Crime Report 2024 estimates that there have been over 76,000 incidents of violence<sup>8</sup> and 87% of colleagues<sup>9</sup> have experienced verbal abuse.

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<sup>6</sup> [WPI Economics: Modelling Costs for SSP, 2022](#)

<sup>7</sup> [Work and Pensions Committee Report: Statutory Sick Pay](#)

<sup>8</sup> ACS Crime Report 2024

<sup>9</sup> ACS Colleague 2024

42. Retailers have already demonstrated their commitment to tackling workplace violence and abuse by investing over £339 million in colleague safety measures<sup>10</sup>. These investments include installing security equipment, implementing training programs, and adopting robust policies to safeguard employees.
43. While it is necessary for retailers to establish clear policies, train staff on handling difficult situations, and actively address incidents as they occur, it is nearly impossible to prevent harassment from customers entirely. Employers should not bear full liability for behaviour that is beyond their reasonable control. The definition of “all reasonable steps” taken by employers will be central to the practical operation of this possible. This must be developed in close consultation with employers and account for the dynamics of different sectors, such as retail and hospitality.
44. We believe the most effective approach is to provide clear guidance or best-practice frameworks outlining the steps employers should take to maximise staff safety. This would ensure that businesses can take appropriate, proactive measures without being held liable for circumstances they cannot fully control.

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<sup>10</sup> ACS Crime Report 2024