

BILLS DIGEST

**EMPLOYMENT RELATIONS (FLEXIBLE WORKING HOURS)
AMENDMENT BILL 2005 (2007 No 253-2)**
(Member's Bill - Sue Kedgley)

**As reported from the Transport and Industrial Relations Committee:
30 July 2007**

Bills Digest No. 1536



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EMPLOYMENT RELATIONS (FLEXIBLE WORKING HOURS) AMENDMENT BILL 2005 (2007 No 253-2)
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Date of introduction:	17 March 2005
Member:	Sue Kedgley
Select Committee:	Transport and Industrial Relations
Date report presented:	30 July 2007

PURPOSE

“The purpose of this bill is to amend the Employment Relations Act 2000 [(the Act)] to provide employees with young and dependent children the statutory right to request part-time and flexible hours, and a framework in which they can negotiate reduced working hours”¹.

The Bill as introduced is described in [Bills Digest No 1236](#).

MAIN CHANGES TO THE BILL

Title of Bill changed

The Select Committee has recommended that the word "hours" in the title of the Bill be replaced by the word "arrangements" so that the title of the bill will be the Employment Relations (Flexible Working Arrangements) Amendment Bill (*amending Clause 1*).

Employee's place of work

The Select Committee has recommended that the right to apply for changes to hours of employment and days of work be extended to include changes to an employee's place of work (*New Clause 6, Inserting New Part 6A of the Employment Relations Act 2000 ("Flexible working"), inserting New Section 69AAA, definition of "working arrangements"*).

Eligibility to request flexible working arrangements

The Bill as introduced gives the right to request flexible working arrangements to an employee (of six months standing) who has full-time care of a child or children under five years or a disabled child or children under 18 years.

The Select Committee has recommended that this right be extended, to include an employee who has care of a dependent relative or relatives. The Select Committee has also recommended that the right should not be available to an employee who during the preceding six months was employed on average, for less than ten hours a week; and for less than one hour a week or forty hours a month (*New Clause 6A, Inserting*

¹ Employment Relations (Flexible Working Hours) Amendment Bill, 2005 No 253-1, Explanatory Note, p. 1.

New Part 6AA of the Employment Relations Act 2000 ("Flexible working"), inserting New Section 69AAB).

Employer may refuse request

The Select Committee has recommended that the grounds on which an employer may refuse an application for flexible working arrangements be extended to include the burden of additional costs, a detrimental effect on the ability to meet customer demand, and the undermining of the terms of a collective agreement where the work done by the employee making the request comes within the coverage clause of the collective agreement (*New Clause 6A, Inserting New Part 6AA of the Employment Relations Act 2000 ("Flexible working"), inserting New Section 69AAE*).

Appeal to labour inspectors and mediation

The Select Committee has recommended that an employee be able to refer the refusal of the request for flexible working arrangements to a labour inspector, who must, to the extent practicable in the circumstances, assist the employee and employer in resolving the matter. If, after doing this, the employee is dissatisfied, on reasonable grounds, with the result, the employee may refer a refusal of a request for flexible working arrangements to mediation under Part 10 of the Act. (*New Clause 6A, Inserting New Part 6AA of the Employment Relations Act 2000 ("Flexible working"), inserting New Sections 69AAG and AAH*).

Limit to award by Employment Relations Authority

The Select Committee has recommended that the amount of the employee's pay the Employment Relations Authority may award that employee, where the Authority has determined that an employer has not complied with New Section 69AAE ("duties of employer"), be limited to eight weeks pay (*New Clause 6A, inserting New Part 6AA into the Employment Relations Act 2000 ("Flexible working"), inserting New Sections 69AAI; Clause 7 amending Section 161 of that Act, substituted subsection (5)*).