

**Consultation on implementing  
employee owner status**

OCTOBER 2012

## Contents

Contents .....	1
Implementing Employee Owner Status .....	2
Foreword from the Minister by Jo Swinson .....	3
Executive Summary .....	4
How to respond .....	5
Additional copies .....	5
Confidentiality & Data Protection .....	6
Introduction .....	7
Employment Status .....	7
Creating a new employment status .....	8
Table 1. Current and new employment statuses .....	8
Questions 1 - 2 .....	8
Employee owner status – what it means .....	9
What we are consulting on .....	9
How the new employment status will work in practice .....	10
Forfeiture and other potential restrictions .....	10
Valuing the shares .....	10
Questions 3 - 5 .....	11
Ensuring individuals taking up employee owner status understand implications .....	11
Question 6 .....	11
The employment rights excluded from employee owner status .....	12
1. Unfair Dismissal .....	12
Current Legal Position .....	12
Effect of the Employee Owner Proposal .....	13
Questions 7 - 10 .....	13
2. Statutory Redundancy Pay .....	14
Question 11 .....	14
3. Maternity Leave Notice Periods .....	14
Effect of Employee Owner policy .....	15
Questions 12 - 15 .....	15
4. The Right to Request Flexible Working .....	15
Effect of Employee Owner policy .....	16
Question 16 .....	16
5. Right to Request Time to Train .....	16
Effect of Employee Owner policy .....	17
Question 17 .....	17
Implications for other aspects of law .....	18
1. Company Law .....	18
Question 18 .....	18
2. Tax .....	18
Anti-avoidance .....	19
Questions 19 - 20 .....	19
General Questions 21 - 24 .....	19
Equality Impact Assessment .....	20

# Implementing Employee Owner Status

In May 2010, the Government committed to review employment laws for “employers and employees, to ensure they maximise flexibility for both parties while protecting fairness and providing the competitive environment required for enterprise to thrive”. Since then we have been carrying out a Parliament-long review of employment-related legislation under the umbrella of the Employment Law Review.

The OECD has recognised that the UK labour market is one of the most lightly regulated in the world. The World Economic Forum has also recently cited it as a source of competitive strength. However, the Government believes that more can be done to improve the effectiveness and flexibility of the labour market.

We have therefore brought forward a series of reforms to improve the current framework. This includes increasing the qualifying period for bringing an unfair dismissal claim (from one to two years) and measures in the Enterprise and Regulatory Reform Bill to encourage employers and employees to resolve disputes before they get to a tribunal. We are also making it easier for employers or employees to offer settlement as a means of ending the employment relationship when things are not working out.

This consultation document outlines measures that should build on the approach of our Employment Law Review. These are in line with our overall strategy to give employers and employees more flexibility to reach agreements that suit both parties, rather than being bound by prescriptive Government regulation.

Issued: **18 October 2012**

Respond by: **8 November 2012**

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This consultation is relevant to: employers, employees and their representatives.

## Foreword from the Minister by Jo Swinson



This Government is committed to encouraging growth, to create wealth and jobs. A key facet of this is ensuring that the way we regulate the labour market supports economic stability and growth in the UK, whilst ensuring appropriate levels of employment protection.

Through the Employment Law Review and associated Red Tape Challenge, we want to improve every stage of the employment process: from making the decision to take on the very first member of staff, to ending the employment relationship in a fair and reasonable way.

We also want to give employers greater flexibility in the types of employment status that suit their businesses and to enable individuals to benefit from the choices available. Our proposals on employee owner status will add to the existing employment statuses of 'employee' and 'worker'.

Businesses will be able to offer individuals contracts under this new status, whereby employee owners will receive shares in the company between £2,000 and £50,000 which will be exempt from capital gains tax. These people receive the same employment rights as an 'employee' except for unfair dismissal (apart from where this is automatically unfair or relates to anti-discrimination law), certain rights to request flexible working and training, and statutory redundancy pay. They will also need to give longer notice to return from maternity or adoption leave.

The Government believes that this will be a helpful provision for those companies and individuals who want to participate in a mutually beneficial arrangement, and adds to the flexibility that already exists in the UK labour market.

We look forward to hearing your views and I would like to thank you for taking the time to respond.

A handwritten signature in blue ink that reads "Jo Swinson". The signature is written in a cursive, flowing style.

**By Jo Swinson MP, Minister for Employment Relations and Consumer Affairs**

## Executive Summary

1. The UK has one of the most lightly regulated labour markets in the developed world, and is performing well. The Government is mindful, however, that businesses – particularly smaller businesses – need flexibility and freedom to allow them to grow and take on staff. In particular, the Government wants to remove the perceived barriers around the fear of being taken to employment tribunal which are deterring businesses from hiring.
2. Businesses are currently free to choose the best arrangement for their particular circumstances in relation to the type of contracts they offer. They can choose to use full-time, part-time or fixed-term employees, workers (including agency workers) or self-employed individuals. Their decision when establishing which of these categories is right for them will be a trade-off between flexibility, control and obligation (between the employer and the individual engaged).
3. The Government believes that there is merit in creating a new employment status which will give businesses greater choice about the contracts they can offer to individuals, and ensure appropriate levels of protection are maintained. Under this new status, employee owners will receive shares between £2,000 and £50,000 which will be exempt from capital gains tax. Employee owners will have the same rights as current employees excluding unfair dismissal (except where this is automatically unfair or relates to anti-discrimination law), certain rights to request flexible working and training, and statutory redundancy pay. Individuals will also need to give longer notice to return from maternity leave or adoption leave.
4. Employers can choose to operate this new employment status. The Government intends that all types of shares will be eligible for use under this arrangement. These shares may carry rights to dividends, voting rights, or rights to a share in the company's assets if it is wound-up. The Government expect that this will take effect as part of a contractual arrangement between employer and the employee owner.
5. Companies of any size will be able to use this new status, but it is principally intended for fast-growing companies that want to benefit from the flexibilities available through the new status.
6. This consultation seeks views on how the Government will implement the employee owner status in practical terms. Through this consultation we would also like to understand the implications for employers, individuals, and the labour market in general. In particular we wish to ensure there are no unintended consequences.
7. The Government intends to bring forward legislation through the Growth and Infrastructure Bill to effect this measure. The associated capital gains tax exemption will be legislated as part of the Finance Bill 2013.

## How to respond

When responding please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

For your ease, you can reply to this Consultation online at:

<https://www.surveymonkey.com/s/5QJQ935>

A copy of the Consultation Response form is available electronically at <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/c/12-1215f-consultation-on-implementing-employee-owner-status-form> (until the consultation closes). If you decide to respond this way, the form can be submitted by letter, fax or email to:

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## **Confidentiality & Data Protection**

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide, to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

## Introduction

1. The UK labour market is performing well. Employment and hours worked are almost back at their pre-crisis level. But the risk of being taken to a tribunal over employment rights and the costs of providing some rights are perceived by some as creating a barrier to hiring employees, particularly for fast-growing innovative businesses who need flexible workforces.
2. This new employment status ensures that companies can reduce these risks in a way that is fair to employees. Employee owners will potentially have greater attachment to the success of their employer by virtue of the stake that they own in the company, creating a more engaged workforce.
3. It is not envisaged that the new status will be appropriate for all businesses. It simply adds to the options and flexibility available to companies and employees in determining their employment relationships.

## Employment Status

4. The UK employment law regime enables individuals to choose between various types of employment status. This includes being an employee or a worker, both of which are defined in the Employment Rights Act 1996<sup>1</sup>. These statuses form the basis of an individual's contract and lead to different rights and obligations (see Table 1).
5. The Government does not regulate which type of employment status or type of contract businesses must use to take someone on. This means that businesses are free to choose the best arrangement for their particular circumstances. They can choose to use full-time, part-time or fixed-term employees, workers (including agency workers) or self-employed individuals. The choice businesses face when deciding between these categories is a trade-off between flexibility, control and obligation (between the employer and the individual engaged).
6. Currently if there is a disagreement about a person's employment status then, like any other employment dispute, this can be, as a last resort, resolved at an employment tribunal. The tribunal will base its decision on various factors that have been established through case law: for example, the degree of control the work provider has; whether the work provider's premises, tools and facilities are used; the degree of integration into the workforce; whether the person is paid a salary; and the extent to which the person takes on financial risks in the business.

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<sup>1</sup> The self-employed are not defined in employment law and have very limited rights associated with employment law (restricted to discrimination and health and safety in the workplace).

- Although the contract will be of assistance in determining employment status, the tribunal judge will also look at the factual scenario. If the contract states that the individual is to be treated as self-employed or as a worker, but in fact they were working as an employee, they will be regarded as an employee. The proposal is to create a distinct new employment status that a tribunal would easily be able to distinguish from other forms of employment.

### Creating a new employment status

- The Government will amend the Employment Rights Act 1996 to create a third employment status, that of ‘employee owner’. This will give companies an additional contract type to choose from. Employee owners will have the same rights as current employees except for unfair dismissal (apart from where this is automatically unfair or relates to anti-discrimination law), certain rights to request flexible working and training, and statutory redundancy pay, and will have to give longer notice to return from maternity leave or adoption leave. Importantly employee owners will own part of the company they work for.

**Table 1. Current and new employment statuses**

Right	Employment Law			Outside of Employment Law
	Current Situation		New employee owner	Self Employed (inc. freelancers, consultants, contractors)
Employee (inc. Full-time, Part-time, Fixed-term contracts)	Worker (inc. Agency workers, contractors)			
<i>Unfair dismissal (gained after 2 years in continuous employment)</i>	Y	N	N	N
<i>Unfair dismissal (automatically unfair)</i>	Y	N	Y	
<i>Minimum notice</i>	Y	N	Y	N
<i>Statutory redundancy pay</i>	Y	N	N	N
<i>Collective redundancy consultation</i>	Y	N	Y	N
<i>TUPE</i>	Y	N	Y	N
<i>Maternity/Paternity/Adoption leave and pay</i>	Y	N	Y	N
<i>Flexible working requests</i>	Y	N	N	N
<i>Fixed-term status (less favourable treatment)</i>	Y	N	Y	N
<i>National minimum wage</i>	Y	Y	Y	N
<i>Unlawful deductions from wages</i>	Y	Y	Y	N
<i>Paid annual leave</i>	Y	Y	Y	N
<i>Rest breaks</i>	Y	Y	Y	N
<i>Discrimination</i>	Y	Y	Y	Y
<i>Part-time status (less favourable treatment)</i>	Y	Y	Y	N
<i>Training requests (in companies larger than 250)</i>	Y	N	N	N

### Questions 1 - 2

**Q1. How can the government help businesses get most out of the flexibility offered and the different types of employment status?**

**Q2. Do businesses feel able to use all three employment statuses? If not, what restricts the use of different statuses?**

## **Employee owner status – what it means**

9. The Government will introduce a new employment status in which employee owners will not have all the employment rights of an employee but will have shares in the company they work for. Any gains on those shares will be exempt from capital gains tax (CGT).
10. Companies of any size will be able to use this new status, but it is principally intended for fast-growing companies that want to benefit from the flexibilities available through the new status.
11. The employee owner status has two defining characteristics – an equity share and different employment rights. Under this new arrangement, an employee owner will be given between £2,000 and £50,000 of shares. The employee owner will have reduced rights compared to an employee: These rights are:
  - unfair dismissal rights (except for reasons that are automatically unfair<sup>2</sup> or that relate to discrimination);
  - the right to statutory redundancy pay; and
  - certain rights to request flexible working and time to train.
12. Employee owners would also have to give:
  - 16 weeks' notice of the intention to return early from maternity or adoption leave (compared to 8 weeks' notice for other employees).
13. Any gain on the shares (however large) linked to the status will be exempt from CGT.

## **What we are consulting on**

14. This consultation is on how Government will implement the employee owner status in practical terms. Through this consultation we would also like to understand the implications for employers, individuals, and the labour market in general. In particular we wish to ensure there are no unintended consequences.

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<sup>2</sup> Being dismissed for whistle blowing is an example of an automatically unfair reason to be dismissed.

15. The Government intends to bring forward legislation to effect this measure. The associated CGT exemption will be legislated as part of the Finance Bill 2013.

## How the new employment status will work in practice

16. Employers that choose to operate the new employment status will be able to offer their employees fully paid-up shares worth a minimum of £2,000 and a maximum of £50,000. The Government intends that all types of shares will be eligible for use under this arrangement. These shares may carry rights to dividends, voting rights, or rights to a share in the company's assets if it is wound-up. The Government expects that this will take effect as part of a contractual arrangement between employer and the employee owner.

### Forfeiture and other potential restrictions

17. The Government anticipates that employers would choose to apply restrictions on the shares that they issue, as is common practice with employee share scheme arrangements, in order for employers to protect their companies. The employer would be allowed to include a clause in contracts requiring the employee to surrender the shares when the employee left, was dismissed or made redundant.
18. However, to ensure that employees are also protected, the Government will require that if shares are surrendered, the employer would have to buy back the employee's shares at a reasonable value.

### Valuing the shares

19. For the purposes of the limits on the shares that can be awarded under this status, shares will be valued according to their unrestricted market value at the time that they are awarded. This is the price that the shares might reasonably expect to fetch on the open market, disregarding any restrictions. The Government is aware that valuing company shares may present difficulties in certain cases, particularly for unquoted companies, and it is keen to ensure that this new employment status does not impose any valuation requirements beyond those that already exist when valuing companies for other tax purposes.
20. Depending on the design of the forfeiture and buy-back requirements, and any tax requirements, a further valuation of the shares may be needed.

### Questions 3 - 5

**Q3. What restrictions, if any, do you think should be attached to the issue of shares or types of shares?**

**Q4. When an employer buys back forfeit shares, should this be at full market value or some other level (e.g. a fraction of market value) should some other level be allowed in certain circumstances?**

**Q5. How should a company go about carrying out a valuation of the shares? What would the administrative and cost impact be for a company if an independent valuation was required?**

## Ensuring individuals taking up employee owner status understand implications

21. The Government believes that it is important for individuals taking up employee owner status to be fully aware of how the status will impact their particular circumstances before they accept or reject an offer.
22. The Government believes clear information will be important to help those individuals who may not fully understand either the meaning of shares in a company or how employee owner status might affect their current or future choices.
23. The Government believes, however, that there needs to be a balance between certainty for all parties and the cost and burden on business and individuals. We are therefore seeking views on the appropriate level of information and guidance that individuals might need to ensure they understand the contracts they are signing for employee owner status.

### Question 6

**Q6. The Government would welcome views on the level of advice and guidance that individuals and businesses might need to be fully aware of the implications of taking on employee owner status.**

# The employment rights excluded from employee owner status

## 1. Unfair Dismissal

### Current Legal Position

24. The law on unfair dismissal gives employees a legal right to be treated in relation to dismissal in a fair and reasonable manner. The Employment Rights Act 1996 (s.98) lists fair reasons for dismissal:

- capability (including poor performance)
- conduct
- redundancy
- that continued employment would breach a statutory requirement (e.g. a driver losing his licence).

25. In addition, the law allows for 'some other substantial reason', where an employer has a good reason for dismissing an employee which is not one of the four categories above (which may include reasons such as an irretrievable breakdown in the working relationship). An employer must also follow a fair procedure in order to dismiss an employee fairly.

26. Usually an employee must be employed by their employer continually for two years before the protection from unfair dismissal is activated. There are however, automatically unfair reasons for dismissal, most of which apply from the first day an employee begins work. These include dismissal on the basis of:

- Trade union membership/activities/services /recognition
- The right to be accompanied at a disciplinary or grievance hearing
- Jury service
- Leave for family reasons (e.g. adoption and paternity)
- Certain specified types of action on health and safety grounds
- Subject to certain conditions, refusing Sunday work
- Trustee of occupational pension scheme
- Pension enrolment
- Duties relevant to role or candidacy as, or election of, an employee representative
- Making a protected disclosure, e.g. whistle blowing
- Having sought, in good faith, to assert a statutory employment protection right
- National minimum wage
- Flexible working request
- Official industrial action
- Blacklists, e.g. of individuals who are currently or used to be trade union members or are active in trade unions

- Education and training
- Study or training

27. The dismissal is automatically unfair if the reason relates to certain regulations contained in:

- Working Time Regulations 1998
- Transnational Information and Consultation of Employees Regulations 1999
- Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- European Public Limited-Liability (Employee-Involvement) Company Regulations 2009
- Information and Consultation of Employees Regulations 2004
- Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006
- European Cooperative Society (Involvement of Employees) Regulations 2006
- Companies (Cross-Border Mergers) Regulations 2007
- European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009
- Agency Workers Regulations 2010

### Effect of the Employee Owner Proposal

28. Where the unfair dismissal right relates to an automatically unfair reason for dismissal, this right will be unaffected by the employee owner proposal. For example, an employee owner could not be dismissed for whistle blowing or taking maternity leave.

29. Under our proposal, it would not, however, be automatically unfair for an employer to dismiss an employee owner who requests flexible working, unless they are exercising the right to request flexible working when returning from parental leave. It would also not be automatically unfair to dismiss someone for having made certain requests for time to train (under the right that is available to an employee in companies of over 250 people) where that employee has been employed for at least 6 months.

30. An employee owner would retain the right to bring discrimination claims in relation to dismissal. Anti-discrimination legislation will remain unaffected by these proposals.

### Questions 7 - 10

**Q7. What impact will allowing individuals limited unfair dismissal protection and equity shares have on employers' appetite for recruiting?**

**Q8. What benefits do you think introducing the employee owner status in with limited unfair dismissal rights will have for companies?**

**Q9. Do you think these benefits will be greater for larger, smaller or start-up businesses?**

**Q10. What impact, if any, do you think the employee owner status will have on employment tribunal claims, e.g. for discrimination?**

## **2. Statutory Redundancy Pay**

31. Redundancy occurs where an employee is dismissed by an employer because of a need to reduce the workforce. It may, for example, arise because a particular workplace needs to contract or is closing down.
32. Employees with two years of service who are dismissed due to redundancy (save in very limited circumstances, e.g. share fishermen) are statutorily entitled to a lump sum from their employer, based on their age, length of service (up to a maximum of twenty years) and contractual weekly earnings, subject to a statutory upper limit, payable at, or soon after, the dismissal date.
33. In the event of an employer failing to make payment or disputing entitlement, employees can write to their employer asking for payment and/or take the matter to an employment tribunal. This action must be taken within six months of the date on which the employment ended.
34. Under the new proposal, an employee owner would not be entitled to the statutory redundancy payment.

### **Question 11**

**Q11. What impact do you think introducing the employee owner status with no statutory redundancy pay will have for businesses, in particular, smaller businesses and start-up businesses? What negative impacts do you anticipate and how might these be mitigated?**

## **3. Maternity Leave Notice Periods**

35. Maternity and adoption leave rights are set out in the Employment Rights Act 1996 (s.71). Employee owners will continue to be entitled to 52 weeks of maternity/adoption leave and 39 weeks of maternity/adoption pay.
36. The Maternity and Parental Leave etc. Regulations 1999 (reg 11) and the Paternity and Adoption Leave Regulations 2002 (reg 25) set out the

requirements for employees to give 8 weeks of their intention to return to work early following maternity and adoption leave.

### Effect of Employee Owner policy

37. Employee owners will be required to give 16 weeks' notice of their intention to return early from maternity or adoption leave, instead of the current 8 weeks' notice. If an employee owner does not give the full 16 weeks' notice an employer can delay the employee's return to work until the 16 weeks' notice period has elapsed. This will give employers who appoint employees through the employee owner status additional notice of an individual's plans. Employers can agree to an earlier return if they are content to do so.
38. Planning for maternity periods is often cited as a concern for employers, and the Government is committed to supporting employers to manage these situations more effectively. Ensuring that employees give more notice to employers of their intention to return early from leave will enable employers to manage maternity and adoption leave periods more effectively, particularly in small businesses where there may be no dedicated HR function.

### Questions 12 - 15

**Q12. What impact will this change to maternity notice period have on employers?**

**Q13. What, in your view, would employers do if employees wish to return early without giving 16 weeks' notice?**

**Q14. How will these changes impact on a company's payroll provisions?**

**Q15. What effect will a compulsory 16 weeks' early return notice period have on the length of maternity leave that mothers take or adoption leave that parents take?**

## 4. The Right to Request Flexible Working

39. The statutory right to request flexible working is set out in the Employment Rights Act 1996 (s.80F). It enables parents of children under 17 (under 18 if the child is disabled) and carers of adults within the home or relatives who have worked for their employer for at least 26 continuous weeks, to make a request to change their working pattern with respect to hours or location of work. The employer is required to consider the request following a statutory procedure and may only refuse the request if it cannot be accommodated for one of 8 specified business reasons.

40. The Government is committed to encouraging employers and employees to take up flexible working and has committed to extend the current right to request flexible working to all employees during this Parliament. This right would not be extended to employee owners.
41. Flexible working is beneficial for employees and employers: employees benefit from the ability to manage their work and personal responsibilities more effectively and employers benefit from increased productivity, and staff retention as well as reduced staff absence.

### Effect of Employee Owner policy

42. Employee owners will find it easier to discuss working patterns with their employer because they have a vested interest in the business. The EU Parental Leave Directive requires all employees and employed agency workers to have the right to request flexible working on return from parental leave.
43. We will restrict the right to request flexible working for employee owners to the EU minimum. This means that employee owners will only have the right to request flexible working when they return from the EU derived entitlement to 18 weeks' unpaid parental leave per parent per child. The Directive is silent on how long parents will have after returning from parental leave will have to make a request for flexible working. We propose to restrict this to within 4 weeks of return.
44. Employee owners will still be able to make informal requests to their employer, and there is no restriction on agreements relating to flexible working. This change only removes access to an employment tribunal case for those employees who think their request has not been properly considered according to the statutory provisions.

### Question 16

**Q16. Do you think 4 weeks is the right period? If not, why not? What would be the impact of a shorter or longer period?**

## 5. Right to Request Time to Train

45. The right to request time to train gives employees a statutory right to request training and places a duty on employers to consider the request and respond in a set timeframe. Employers are neither obliged to pay for the training or the time spent training and may turn down requests if they consider that legitimate business reasons preclude the training activity.

46. There are several rights in relation to training. The right that is to be removed is one that is available to employees in businesses with 250 or more employees where the employee requesting the training has worked for the business for 26 weeks continuously (s.63D, Employment Rights Act 1996).

### Effect of Employee Owner policy

47. The removal of this right does not prevent employers from offering training to employee owners. It simply means that employers will not need to follow the administrative procedures specified in this legislation. Employees will still be able to make informal requests to their employer, and there is no restriction on agreed training. This change only removes the access to an Employment Tribunal for those employees who think their request has not been properly considered according to the statutory procedure.
48. Skills and training are important to driving a business forward and we expect that companies who choose to have employee owners will fully integrate training and development considerations into their business planning. On this basis we think that accessing appropriate training will be easier for employee owners and that legislative support is unnecessary.
49. This policy does not seek to remove the right for employees aged 16 or 17 who have not reached a certain standard in their education to have paid time off for study or training. The Education and Skills Act 2008 sets out that from summer 2013, all young people will be required to participate in education or training until the end of the academic year in which they turn 17. From 2015 all 16 and 17 year-olds will be required to participate in education or training. This can be part-time education or training if they are employed.

### Question 17

**Q17. What impact do you think this proposal would have on the ability of employee owners to access support for training?**

## Implications for other aspects of law

### 1. Company Law

50. Company law aims to offer a flexible framework for UK companies to work. A company (limited by shares) may issue new shares to individuals in accordance with the employee owner proposal, subject to its articles and company law.
51. We would expect a company which chooses to have employee owners usually to implement this through an employees' share scheme which is an established concept within company law. These schemes are defined within Section 1166 of the Companies Act 2006. Such schemes are already exempt from some statutory requirements of company law which relate to allotment and buy back of shares.
52. We therefore do not propose to make any amendments to the Companies Act 2006 to make special provisions for the new employee owner status.
53. Companies utilising employee share ownership often need to buy back shares from ex-employees so that they may be distributed to new starters or the existing cohort of employees. The Nuttall Review of employee ownership reported in July 2012 and made recommendations on promoting that business model further. It found these company law provisions around buying back shares could be overly-burdensome. In response to a recommendation made by the Nuttall Review, the Government will separately consult on simplifying that process so that companies and shareholders have fewer regulatory restrictions and processes to comply with.
54. For companies employing employee owners, these proposals may reduce the burden of administering such share schemes.

#### Question 18

**Q18. Do you have any comments on the Government's intention not to amend Company Law to implement the employee owner proposal?**

### 2. Tax

55. Employees taking up the new status will not have to pay CGT on gains arising from the shares that they receive.
56. The shares will, however, be subject to income tax and NICS under the normal rules that apply for shares acquired by reason of employment. The Government expects that the shares will not be eligible for the Enterprise Incentive Scheme (EIS), or any tax-advantaged employee share scheme.

Employers will, however, be able to operate these other schemes alongside the new arrangement, and employees with the new status will not be prohibited from participating in these schemes.

57. At present, the Government intends that corporation tax relief for employee share acquisitions will apply in the normal way where appropriate. The Government also intends that the normal stamp duty rules will apply, and stamp duty will not be payable on the issue of new shares to the employee. However, stamp duty will be payable where shares are sold on at the normal rate of 0.5%.

58. For the purposes of other taxes, owner employees will be treated as employees. The Government is also considering whether other tax legislation also needs to be updated.

### Anti-avoidance

59. The Government will endeavour to keep the new status as simple as possible for employers and employees to use. However, to limit opportunities for abuse, the Government will put safeguards in place.

### Questions 19 - 20

**Q19. The Government welcomes views on particular safeguards that would need to be applied, in order to minimise opportunities for abuse.**

**Q20. The Government welcomes views on whether the existing tax rules which apply to share-for-share exchanges (such as might happen when a company is taken over) and schemes of reconstruction should apply where shares issued in return for taking up the new status are involved**

### General Questions 21 - 24

**Q21. What impact do you think the proposal will have on labour market flexibility – that is, in relation to hiring and letting people go?**

**Q22. Would you be likely to take up the new status? What would the impact of the status be on your business?**

**Q23. What are your views on the take-up of this policy by:**  
a) companies?  
b) individuals?

## Equality Impact Assessment

60. Attached to this Consultation is an [Equality Impact Assessment \(EQIA\)](#) for this measure. We would be interested in your response to the following question on this EQIA:

**Q24. What are your views on the equality impact assessment? Are there other equality and wider considerations that need to be considered?**

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**URN 12/1215**