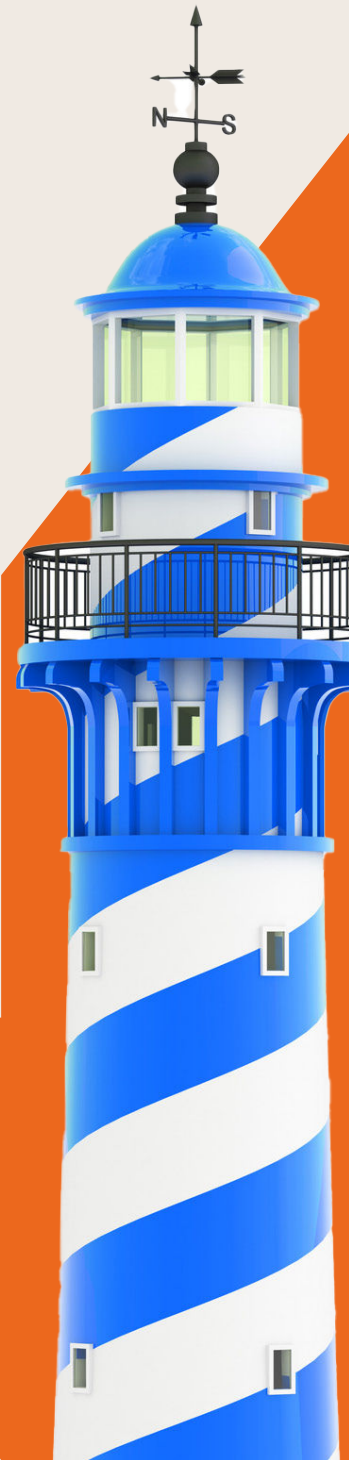


Navigating the Employment Rights Act 2025

Key changes and practical action points for employers

The Employment Rights Act 2025 (Act) received Royal Assent on 18 December 2025. Changes will come into force in stages over 2026 and 2027 and we are still awaiting further detail around some of the higher-impact provisions. This fact sheet is designed to give you a high-level overview of the key changes and some general guidance on steps you can sensibly take to prepare.

¹Note that changes affecting only specific sectors or types of organisation are not dealt with in this fact sheet. This includes changes to public sector outsourcing and collective bargaining, changes affecting ships' crews and changes to the rules applicable to tipping.



Workforce management

1 Unfair dismissal

The Act reduces the current two-year qualifying period for unfair dismissal to six months and removes the cap on compensatory awards. The changes are expected to affect dismissals taking effect on or after 1 January 2027 – they will therefore apply to hires before this date and, depending on the circumstances, dismissals initiated before the end of the year. The changes will put pressure on hiring and probation processes, as it will become more important to get hiring right and deal with any issues early – before employees obtain unfair dismissal protection, which will increase the cost and risk of termination. They will also put more pressure on employers to manage terminations fairly throughout the employment relationship, to limit the exposure to increased compensation demands in light of the removal of the compensation cap.

Actions:

- Review hiring and probation procedures and make targeted enhancements and train managers.
- Update probation policies and contractual wording.
- Audit performance management and disciplinary procedures and consider any necessary enhancements or additional manager training.

2

Flexible Working

The Act strengthens flexible working provisions by providing that employers may refuse flexible working requests on existing permissible grounds only where it is reasonable to do so. Refusals must state the ground for refusal and explain why refusal is reasonable. In due course, there will also be new regulations to prescribe a 'light touch' consultation process to meet existing consultation requirements where flexible working requests are refused. Employee claims for failure to comply remain capped at eight weeks' pay, though there are of course wider risks attached to mismanaging flexible working requests and the changes will likely drive increased scrutiny of employers' reasons for refusing requests. Changes are expected to take effect in 2027.

Actions:

- Once we have clarity on the prescribed consultation process, review and update policies and procedures for managing flexible working requests and train managers.

3

Statutory sick pay (SSP)

Effective 6 April 2026, both the waiting period and the lower earnings limit for SSP will be removed. SSP will be payable at the lower of the prescribed rate or (for low earners) 80% of normal earnings.

Actions:

- Ensure that, where necessary, changes are implemented and SSP is paid correctly.
- Update sickness absence policy and contract wording.

4

Family leave rights

Effective 6 April 2026, statutory paternity and parental leave will become day 1 rights and paternity leave entitlements, previously extinguished by taking shared parental leave, will be preserved. Further changes are expected in 2027, including, firstly, to extend existing parental bereavement leave to cover a wider range of bereavement situations and, secondly, to introduce enhanced dismissal protections that will apply during and after pregnancy and maternity leave (and other core family leave).

Actions:

- Update relevant family leave policies to reflect the 6 April 2026 changes.
- Keep a watching brief on further developments in relation to enhanced dismissal protections.

5

Working time records

Effective 6 April 2026, all employers will be under a legal obligation to keep adequate records to demonstrate compliance with holiday pay rules, which will need to be maintained for a minimum of six years. Non-compliance will be a criminal offence, punishable by a fine. The new Fair Work Agency (see below) will be responsible for enforcement.

Actions:

- Audit current HR record-keeping to understand existing processes and make any necessary changes to ensure compliance.
- Ensure record retention policies are appropriate.

Equalities law

1

Duty to take all reasonable steps to prevent sexual harassment

The Act will enhance the existing duty to take “reasonable steps” to prevent sexual harassment in the workplace, requiring employers in future to take “all reasonable steps”. Failure to comply does not create a standalone claim, but may result in an uplift of up to 25% on compensation awarded in a successful discrimination or harassment claim. The change will make uplifts more difficult to defend and therefore potentially increase exposure in relation to discrimination and harassment claims more generally. It is expected to come into force in October 2026. The government has indicated it will pass secondary legislation setting out what steps will be considered reasonable, but these regulations are subject to consultation and are not expected until 2027/2028. In any event, any guidance is likely to be high-level, as the government has been clear that what is reasonable depends on the individual circumstances of each employer.

Actions:

- Review existing measures to prevent sexual harassment, consider what has worked and what hasn't and update your prevention framework as necessary.

2

Protected disclosures relating to sexual harassment

From 6 April 2026, the concept of a ‘qualifying disclosure’ for the purposes of whistleblower protection will be expanded to include disclosures relating to sexual harassment. Practical impact is likely to be limited.

Actions:

- Update your whistleblowing policy to reflect the change.

3

Third-party harassment

The Act will reintroduce employer liability for third-party harassment of employees in the course of employment, unless (mirroring the duty to prevent sexual harassment) the employer has taken “all reasonable steps” to prevent such harassment. Claims will give rise to the same remedies as ordinary harassment claims. This is a significant new source of exposure, as businesses have limited control over the actions of third parties and seeking to control third-party behaviour (for example by clients or customers) can be commercially sensitive. If you operate in a sector where employees regularly interact with third parties, your business will be particularly affected. The change is expected to come into force in October 2026.

Actions:

- Carry out a risk assessment and create an action plan.

4

Transparency

Employers with 250 or more employees will be required to publish equality action plans describing steps they are taking to address their gender pay gap and support employees going through the menopause. Reporting will be voluntary from 6 April 2026, with mandatory reporting from 6 April 2027. Employers will also be required to publish information about service providers contracted for outsourced services, likely from 2027. The new transparency requirements are expected to be enforced through ‘naming and shaming’ of non-compliant employers.

Actions:

- Assess whether your organisation is affected.
- Consider what information is already published in narratives accompanying gender pay gap reports and what additional reporting will be necessary.

Transformation

1

Collective redundancy

From 6 April 2026, the maximum protective award for failure to comply with collective consultation obligations will double, from 90 days’ pay per affected employee to 180 days’ pay. Separately, the Act will introduce a new trigger for collective consultation, which will sit alongside the existing trigger of proposing 20 or more redundancies at one establishment. The new trigger will look at the number of redundancies proposed across establishments, in the business as a whole. The government is consulting on the details, but we expect the new threshold will be an absolute number (rather than a percentage), and at least 250. The new trigger is expected to come into effect in 2027.

Actions:

- If you are planning a reduction in force, take advice to ensure consultation requirements are fully met in light of increased exposure.
- Assess the impact on your business of a new cross-establishment threshold and, if you may be affected, consider what systems you have in place to track redundancy proposals across the business.

2

‘Fire and rehire’

The Act introduces new rules that will effectively rule out ‘fire and rehire’ as a viable strategy for effecting changes to pay, hours and holiday provisions. Dismissals aimed at forcing changes of terms in these areas will be automatically unfair, subject only to a narrow exemption where the employer is in severe financial difficulty. With the removal of the cap on unfair dismissal awards, this will create significant exposure. The changes are expected to take effect in January 2027.

Actions:

- Take advice if you are considering any changes to contractual terms.
- Assess whether it may be worth seeking to complete any change programmes before the changes take effect – but note that ‘fire and rehire’ is high risk, even under the current regime.

Atypical working

1

Umbrella companies

The Act will bring umbrella companies under the regulatory framework applicable to “employment businesses” (essentially, agencies) and makes provision for that framework to be adapted. Changes are expected to come into effect in 2027. No action for now, but keep a watching brief if you use umbrella companies.

2

Zero- and low-hours contract workers

In future, employers will be required to offer guaranteed hours contracts (which reflect hours actually worked over a reference period) to workers working on zero- or defined low-hours contracts. Depending on the circumstances, guaranteed hours offers will need to be repeated continuously until the worker no longer meets eligibility criteria. The rules will extend to agency workers (subject to carve-outs, which will be defined in secondary legislation) and there are no exemptions in relation to seasonal workers. The new rules will place a considerable administrative burden on businesses using workers engaged on flexible terms, and will particularly affect strongly seasonal businesses. Much of the detail remains to be confirmed, and the changes are expected to take effect in 2027. Compensation for claims for failure to comply with these obligations will be capped, but it is not yet clear where that cap will be set.

Actions:

- Assess the potential impact on your business; the changes are complex – take advice if you think you may be affected.
- If your business is likely to be affected, assess whether resourcing strategies remain appropriate or whether changes are needed.

3

Shift workers

The Act introduces a duty to give workers who meet certain criteria (including zero-hours workers) reasonable notice of scheduled, rescheduled or cancelled shifts. It also makes provision for workers to be compensated where shifts are cancelled or rearranged at short notice. The duty will extend to agency workers, with responsibility for giving reasonable notice shared between agency and end-user, though responsibility for compensating workers for cancelled or rearranged shifts will sit with the agency. Workers can enforce their rights through Employment Tribunal claims, but awards will be capped at a level set out in secondary legislation. The requirements can be varied or excluded in a collective agreement with an independent trade union. Further detail on the operation of the provisions will be provided in secondary legislation and changes are expected to come into effect in 2027.

Actions:

- Assess impact and take advice on next steps if you think your business may be affected.

Disputes and enforcement

1

Fair Work Agency (FWA)

The Act creates the FWA, which will be formally constituted on 7 April 2026 and which will be responsible for enforcing key employment rights, including SSP, holiday pay and minimum wage. It will take over the existing enforcement functions of other bodies charged with employment law enforcement. The FWA will have broad investigative and enforcement powers. Commentators have suggested this marks a fundamental cultural shift in enforcement, from reliance on individual workers enforcing their rights through Tribunal claims to more state-led enforcement. The practical impact for

employers will depend on the FWA's resourcing and on the enforcement strategy that emerges as it beds in, but large employers in particular can expect increased scrutiny especially around minimum wage and holiday pay compliance.

Actions:

- Carry out a compliance audit in relation to key employment rights, including minimum wage and holiday pay (see also Working time records, above).

2

Time limits

The time limit for bringing claims in the Employment Tribunals will increase from three months to six months. The government has stated that it will not take effect before October 2026. The change may result in an increase in claims as employees will have more time to consider their position and take advice, though, on the positive side it will also create a longer settlement window. No action required.

3

Non-disclosure agreements (NDAs)

The Act introduces restrictions on the enforcement of NDAs relating to harassment and discrimination in the workplace. These will be void, unless they meet certain conditions which the government will set out in secondary legislation. It is not yet clear when the changes will come into force, but the government has been clear that they will not apply retrospectively. Depending on where the government lands in relation to the conditions for an NDA to be enforceable, the new rules may alter the dynamics of disputes and settlement discussions involving discrimination or harassment allegations. No action required, but it is worth keeping a close watching brief on these changes.

Trade unions

The Act makes wide-ranging changes to industrial relations law, including repealing minimum service levels legislation introduced by the previous government, simplifying union recognition processes and providing new rights of access to unions. It also creates a simpler and more union-friendly process around industrial action and extends protections for workers taking part in industrial action. The changes are being phased in over 2026/2027. All employers should note the introduction of a new duty to inform workers of their right to join a trade union, expected to be effective in October 2026. The details will be confirmed in secondary legislation, and the duty will be enforced in the same way as the duty to give written particulars of certain matters in or with the employment contract.

Actions:

- Keep a watching brief on the duty to inform workers of their right to join a trade union and, once we have more clarity, update your documentation and processes accordingly.
- Always take advice immediately if you are approached by a trade union about recognition, as recognition processes involve fixed timetables and you may need to act quickly.

How we can help

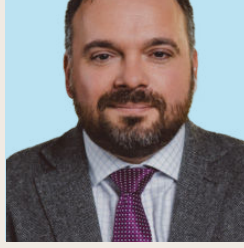
Our Employment and Partnerships team can support you in navigating these changes, assessing their impact on your organisation and putting in place a practical, proportionate action plan.



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