

EMPLOYMENT RIGHTS ACT 2025

December 2025



After a protracted parliamentary process, the Employment Rights Bill has now received Royal Assent. The Employment Rights Act 2025 (the Act) establishes the framework for a multitude of employment law reforms that will be phased in over the next two years.

Much of the detail will follow in secondary legislation. The Government's consultation programme on the reforms is underway, and while the full picture will only emerge after its completion, the substance and implementation timeframe are becoming clearer.

This briefing examines the implications of, and preparatory steps that can be taken in relation to some of the key employment law reforms featured in the Act.

Key issues

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| 1 | Unfair dismissal | 2 | Employment Tribunal claims |
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| 5 | Collective redundancy consultation | 6 | Zero hours contracts |
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UNFAIR DISMISSAL

What: The qualifying period for unfair dismissal protection will be reduced to 6 months from 2 years. In addition, the Government appears to be lifting the cap on unfair dismissal compensation in its entirety; although it is not entirely clear. This will have a significant impact on employers of highly paid employees. While it will remove the current incentive for claimants to make ill-founded (but uncapped) whistleblowing or discrimination claims, it would significantly increase the risk profile of unfair dismissal claims by high earners. If, for example, employees can bring uncapped compensation claims for failure to conduct a full performance management process, that would have a significant impact on how such situations are currently managed in practice.

Proposals for a statutory probation period for new hires are not being taken forward.

When: 1 January 2027.

EMPLOYMENT TRIBUNAL CLAIMS

What: The time limit for all Employment Tribunal claims (other than breach of contract claims) will be increased from three to six months.

When: This change is expected to take effect from October 2026.

FIRE AND REHIRE

What: The Act imposes significant restrictions on an employer's ability to impose changes to key contractual terms (such as pay, hours, pensions, shift patterns, time-off rights, and certain benefits) (so called 'restricted variations') by means of 'fire and rehire'. It will be automatically unfair to dismiss an employee because they have refused to agree to a 'restricted variation' of their contract, or if the dismissal is to enable the employer to re-engage the employee or another individual on different terms to perform substantially the same duties. It will also be automatically unfair to dismiss in order to replace the employee with a non-employee such as an agency worker, to perform substantially the same duties.

A narrow financial difficulty exception applies. It is intended that it should only apply for restructuring where there is genuinely no choice for the employer, not simply where an employer wants to achieve efficiencies or remove outdated terms and conditions.

When: The Government is expected to consult on updating the existing Code of Practice on Dismissal and Re-engagement shortly, with the fire/rehire restrictions coming into effect in October 2026.

TRADE UNIONS: INDUSTRIAL ACTION /RECOGNITION/ACCESS/INFORMATION/PROTECTIONS

What:

- (a) Requirement for minimum 50% trade union members turnout to vote in ballot for industrial actions; and
- (b) Majority of those voting to vote in favour in order for industrial action to be valid; a simple majority voting in favour of the strike will be sufficient.

When: New ballot turnout and support thresholds expected to apply from April 2026 when new electronic balloting measures apply.

What: The Act will make the statutory trade union recognition process easier by:

- (a) Removing the requirement at the application stage for a union to demonstrate that there is likely to be majority support for trade union recognition;
- (b) Removing the 40% support threshold at the recognition ballot stage;
- (c) Reducing the 10% application threshold for the Central Arbitration Committee (CAC) to accept a recognition case.

When: The measures simplifying the trade union recognition process are expected to take effect in April 2026.

What: Trade unions will have the right to access workplaces both physically and digitally to meet, represent, recruit, or organise workers (whether or not they are members of a trade union) and to facilitate collective bargaining but not to organise industrial action.

The 'access regime' will require unions to submit written access requests specifying the group of workers, purpose, and type of access sought, with employers obliged to respond within five working days. Where agreement is not reached, a 15-day negotiation period will follow, after which either party may refer the matter to the CAC for determination. The CAC will also oversee enforcement, including the imposition of fines for breaches (up to £75,000 for a first breach and £150,000 for repeated breaches is currently being mooted), and will be guided by principles designed to balance union access with the need to avoid unreasonable business disruption.

Employers with fewer than 21 workers will be exempt, and the CAC *may* refuse access where a recognised union is already present or where facilitating access would impose disproportionate resource burdens.

Access agreements will have a maximum duration of two years, after which they must be renewed or revised, and the government will prescribe 'model' terms (such as weekly access and minimum 2 days' notice for access events) to guide the CAC's decision-making and invariably will become the base line of any negotiations.

When: The operational detail is subject to [Consultation](#) until 18 December 2025; the implementing legislation is expected to come into force in October 2026.

A further consultation on a statutory Code of Practice providing practical guidance for trade unions and employers is expected in Spring 2026.

What: Employer requirement to inform all new workers in a 'statement of trade union rights' of their right to join a trade union and to regularly inform workers of this right. The content, format, delivery method, and frequency of the required statement is subject to [Consultation](#). The Government's preference is for a standardised statement that would outline trade union functions, relevant statutory rights, any recognised unions in the workplace and signpost workers to a GOV.UK page listing trade unions.

Failure to comply with the new information obligations will not give rise to a freestanding employment tribunal claim; however, such a claim can be bolted on to other employment tribunal claims and a tribunal will be able to award compensation of 2 or 4 weeks' pay in the event of breach.

When: The [Consultation](#) closes on 18 December 2025 with the new information obligation expected to come into effect in October 2026.

What: At present employees who take part in lawful industrial action are protected from dismissal for 12 weeks after the start of the strike. The Act removes this 12-week limit, meaning employees will have ongoing protection from dismissal for the entire duration of any lawful industrial action.

When: The extended protections are expected to apply from the date of Royal Assent, i.e. 16 December 2025.

COLLECTIVE REDUNDANCY CONSULTATION

What: Currently, employers must carry out collective consultation if proposing 20 or more redundancies at a single establishment within 90 days, with failure exposing them to protective awards of up to 90 days' pay. The Act introduces a second threshold test so that collective consultation will also be required where redundancies reach a prescribed level across the business, not just at one site. This new test will be set by regulations and could be based on a percentage of the workforce or a higher fixed number (e.g., the lower of 10% or 100 employees or a fixed number tiered according to size of the employer or some other combination. Employers will not need to consult all representatives together or aim for a single agreement.

The Act also increases the maximum protective award from 90 to 180 days' pay. There has also been some suggestion that the Government may double the minimum consultation period for 100+ redundancies from 45 to 90 days; however, no further details have emerged to date.

When: Government consultation winter 2025 or early 2026. The new threshold test will take effect in 2027, while the increased protective award cap will apply from April 2026.

ZERO-HOURS CONTRACTS AND GUARANTEED HOURS

What: Employers will be required to offer contracts (a 'GHO') that reflect regular hours worked over a reference period (expected to be every 12 weeks) to workers on zero-hours contracts, agency workers and workers with a 'low' number of guaranteed hours, who regularly work more than these hours. There will be a seasonal/temporary worker exception to this GHO obligation.

Employers will also be required to give reasonable notice of any changes in shifts and to pay compensation for any shifts moved, cancelled, or curtailed. The agency and hirer will be jointly responsible for reasonable notice of changes to shifts to agency workers. However, the agency will be responsible for short notice shift cancellation or curtailment payments, but the parties can agree to apportion liability for such compensation. The agency will have the right to recoup a proportion of any compensation payments *reflecting the hirer's responsibility* where there is a pre-existing arrangement with the hirer before the date of Royal Assent +2 months.

Secondary legislation will determine the mechanics of the new obligation addressing amongst other things the timing, content, form and manner of the GHO and worker response, the relevant reference period, the detail of any exceptions and so on.

When: Consultation on the detail of the requirement to offer guaranteed hours was delayed but is now expected shortly. The GHO requirement is expected to come into force in 2027.

FAMILY LEAVE AND ENHANCED DISMISSAL PROTECTIONS

What - Dismissal protections for pregnant employees and new mothers: the Government is [Consulting](#) on how to define the specific circumstances in which it would be lawful to dismiss pregnant employees and new mothers. The two options explored are: 1. A new general test of fairness. This might preclude fair dismissals except in circumstances where dismissal is necessary due to serious business harm, health and safety risks, or significant negative impact on others; or 2. Narrowing and/or removing some of the existing fair dismissal grounds (such as limiting conduct dismissals to gross misconduct scenarios and removing capability as a fair reason, so that poor performance dismissals would no longer be permitted).

The enhanced dismissal protection period will end either 6 months after the employee's return from maternity leave, or 18 months after the birth (the latter would align with the current redundancy protections to offer suitable alternative employment). The commencement of the protection period is yet to be determined but options include from the date the employee is aware that she is pregnant or the date that she notifies her employer.

The introduction of such enhanced dismissal protection is also being considered in relation to employees on other types of family leave including shared parental leave.

When: the [Consultation](#) closes on 15 January; it is anticipated that any new enhanced protections will come into force in 2027.

What - Bereavement leave: A day-one right to unpaid bereavement leave (including following pregnancy loss before 24 weeks) will be introduced in 2027. The Government is currently [Consulting](#) on the implementation mechanics to shape the final details of this new right. It seeks views on eligibility (potentially including non-traditional family members and various forms of pregnancy loss) as well as the timing, duration, flexibility, notice and evidence requirements for taking leave.

Carers' leave: The existing right to 1 week's unpaid carers' leave will be reviewed, with consideration given to introducing paid leave. No timeframe or details have yet been provided.

Paternity and Unpaid Parental Leave: Expected to become day-one rights from April 2026.

SEXUAL HARASSMENT

What: Since October 2024 employers have been under a statutory duty to take 'reasonable steps' to prevent sexual harassment at work. The Act will strengthen this duty by requiring employers to take 'all' reasonable steps, with regulations defining what this means. Employers will also become liable for harassment by third parties (such as customers or clients) unless they have taken all reasonable steps to prevent it.

The Act will make it explicit that disclosures of sexual harassment qualify for whistleblowing protection against unfair dismissal and detrimental treatment.

When: Whistleblowing protections for sexual harassment disclosures will take effect in April 2026. The strengthened duty to prevent sexual harassment and third-party liability provisions are scheduled to take effect in October 2026.

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENTS (NDAS)

What: The Act introduces a ban on non-disclosure agreements (NDAs) that prevent workers from making allegations or disclosures about harassment or discrimination, including disclosures about how an employer responded to such complaints. The scope of the ban includes harassment or discrimination (of any nature not just sexual harassment) by the employer or colleagues and appears broad enough to cover third-party harassment and victimisation, although the wording is not entirely clear on all forms of victimisation.

This prohibition may extend beyond employees to cover independent contractors and individuals on work experience or training programmes. Regulations are expected to define limited exceptions, potentially allowing NDAs at the worker's request where independent legal advice has been obtained.

When: The Government has not yet indicated when this ban will take effect.

EQUALITY ACTION PLANS: PAY GAPS/MENOPAUSE

What: Currently, employers with 250+ employees must publish annual gender pay gap reports, but action plans are voluntary. The Act will require employers to publish 'equality action plans' to close gender pay gaps and to support employees going through the menopause, with penalties for non-compliance. These plans must be updated at least every 12 months. Details about the service providers contracted with for outsourced services will need to be included in gender pay gap reports, although their pay data will not be included.

When: Further consultation is expected on the regulations implementing the equality action plan obligations. Equality action plans are to be introduced on a voluntary basis in April 2026, with mandatory compliance being required from 2027.

FLEXIBLE WORKING

What: The right to request flexible working is an existing day one right for all workers. The employer can reasonably refuse a request on one or more of the unchanged statutory grounds. This will remain unchanged, but the employer will have to state the ground upon which the refusal is made and why it considers that it is reasonable to do so and follow a more prescriptive process. Secondary legislation will specify additional steps that an employer will be required to take in the context of a flexible working request. There is no change to the maximum 8 weeks' pay available by way of remedy for breach.

When: Consultation on the detail of the revised flexible working request regime is expected in Winter 2025 or early 2026. Changes to flexible working are then expected to take effect in 2027.

OTHER EMPLOYMENT LAW REFORMS

Single employment status: The Government will consult on moving to a single status of 'worker' for all but the genuinely self-employed in the medium to longer term.

Non-compete covenants: the Government has published a [Working Paper](#) seeking views on reforming non-compete clauses in employment contracts. It is considering four main policy options: (i) introducing statutory limits on the length of non-compete clauses or introducing statutory limits on the length of non-compete clauses according to company size. Different limits could apply based on company size, e.g., 3 months for companies with more than 250 employees, 6 months for smaller companies, (ii) banning non-compete clauses outright, (iii) banning non-compete clauses below a salary threshold, and (iv) combining a ban below a salary threshold with a statutory limit for higher earners.

The [Working Paper](#) hints that safeguarding measures may be required to prevent the circumvention of any restrictions on the use of non-competes. This might impact on the use of other forms of restrictive covenant, confidentiality clauses and possibly the conditions precedent to good leaver status in variable remuneration arrangements. In addition, although the [Working Paper](#) relates to non-compete clauses in employment contracts it remains to be seen whether the use of non-compete covenants in LLP or other partnership agreements and sale and purchase agreement will be impacted in any way.

The [Working Paper](#) is silent on what is proposed by way of transitional arrangement (if any) in relation to pre-existing non-compete clauses.

Responses to the Working Paper are required by 18 February 2026. Otherwise, there is no indicative timeframe for any consultation or target implementation date.

Right to Switch Off: it is currently unclear whether the Government will introduce a statutory Code of Practice on the 'right for workers to switch off'.

Internships: the Government response to its call for evidence on unpaid internships and its proposal to ban them is expected early 2026.

Holiday pay: employers will be subject to a new obligation to keep records for six years in relation to holiday pay, payments in lieu of holiday and holiday taken. Failure to comply will be an offence punishable by a fine. It is unclear whether this obligation will come into effect in April 2026 when the Fair Work Agency (the body that will become responsible for enforcement of this obligation) is expected to be established. It is also unclear whether the records obligation will apply retrospectively.

Ethnicity and disability pay gap reporting: In March 2025 the Government consulted on how mandatory ethnicity and disability pay gap reporting can be introduced for large employers, mirroring gender pay gap reporting. To date there has been no further indication of the Government's intentions in this regard or any applicable timescale. It may be that it will assess the implementation of the new equality action plan regime in practice before finalising its approach to ethnicity and disability pay reporting.

KEY EMPLOYMENT LAW REFORMS TIMEFRAME

Implementation Date	Employment law reform
On Royal Assent	<ul style="list-style-type: none"> • Removal of 12-week cap on protection against unfair dismissal for taking lawful industrial action.
April 2026	<ul style="list-style-type: none"> • Collective redundancy max. protective award: doubles to 180 days' pay (uncapped). • 'Day 1' Paternity Leave and Unpaid Parental Leave. • Whistleblowing protections. • Statutory Sick Pay: removal of Lower Earnings Limit and waiting period. • Simplification of trade union recognition process. • Removal of requirement for minimum turnout. • Electronic and workplace balloting. • Industrial action ballots: any level of trade union turnout plus simple majority will be permitted.
October 2026	<ul style="list-style-type: none"> • Fire and rehire restrictions. • Duty to inform workers of right to join a trade union. • Trade unions' right of access. • Employers to take 'all reasonable steps' to prevent sexual harassment. • Obligation not to permit harassment by third parties. • New rights and protections for trade union reps. • Employment tribunal time limits (other than breach of contract claims) increase to 6 months. • Protections against detriment for taking industrial action.
2027	<ul style="list-style-type: none"> • New collective redundancy consultation trigger threshold. • Flexible working. • Bereavement leave. • New obligation to make guaranteed hours offer to employees on zero hours contracts and to agency workers. • 1 January - Unfair dismissal qualifying period reduces to 6 months.

Implementation Date	Employment law reform
	<ul style="list-style-type: none"> Enhanced dismissal protection regime for pregnant employees and new mothers. Gender pay gap and menopause action plans (voluntary from April 2026).
Unknown	<ul style="list-style-type: none"> Ban/restrictions on the use of NDAs. Code of Practice on the 'right to disconnect'. Possible reforms to 'parental leave' regime. Introduction of ethnicity and disability pay gap reporting obligations. Consultation on introduction of single 'employment' status. Consultation on reform of non-compete regime. Ban on unpaid internships. Consultation on the use of surveillance technologies by employers.

PREPARATORY STEPS	
Workforce Structure/ Composition	<ul style="list-style-type: none"> Audit the current workforce to ascertain the makeup and ratio of current employees, workers (zero, low hours workers, agency workers) to determine the potential impact of the proposed changes including the guaranteed hours offer obligations and consider alternative staffing models.
Contracts, Policies and Procedures	<ul style="list-style-type: none"> Audit current employment contracts, other contract arrangements (including outsourcing arrangements and settlement agreements), to address restrictions on the use of confidentiality clauses, non-compete clauses and the interaction of contractual probation periods with the reduced unfair dismissal qualifying period of 6 months. Audit current outsourcing and agency staffing arrangements to assess what revisions will be required to address, cancellation/curtailment of shifts notifications requirements, the apportionment of penalty payments and the new guaranteed hours offer obligations in respect of agency workers. Review HR processes (including pre-employment screening) and policies, employee benefit schemes, risk, and compliance procedures, working arrangements, and any payroll arrangements to identify areas that may need revision, particularly in relation to: the new holiday pay

PREPARATORY STEPS	
	<p>record keeping requirements, the duty to notify workers of the right to join a trade union, the new requirement to provide reasonable notice of shift changes, the duty to take all reasonable steps to prevent sexual harassment, liability for third party harassment, the new paternity, parental and bereavement leave rights and any new dismissal protections applicable to pregnant employees and new mothers.</p> <ul style="list-style-type: none"> Data retention policies should be reviewed in light of the extension to tribunal limitation periods; where current retention policies are based on a 3-month limitation period some revision may be required.
Trade Unions	<ul style="list-style-type: none"> Consider how the duty to notify workers of the right to join a trade union will be met. Prepare for the possibility of increased union presence and activity within the workplace as well as industrial action. Set up access request response protocols to meet the statutory timeframes. Consider how trade union access can work in practice; what operational and logistical adjustments may be necessary to achieve physical and digital access, appropriate notice periods, and security arrangements. Train HR and managers on new statutory duties (access/notice of right to join a trade union and the revised protections available to employees that participate in lawful industrial action), the CAC processes, and compliance documentation. Where a recognised union is already present, employers may need to manage requests from additional unions and the potential for workplace disruption or competing representation claims and should ensure equal opportunities to avoid unfair advantage or inducement complaints.
Training	<ul style="list-style-type: none"> Consider what training will be required in due course on the implications of the new rights and protections, including the strengthened protections against dismissing pregnant employees and new mothers, sexual harassment, and restrictions on the use of NDAs.
Flexible working	<ul style="list-style-type: none"> HR/manager (refresher) training and education on grounds/process for declining a FWR, the need for objective justification and

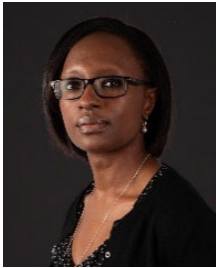
PREPARATORY STEPS	
	clear documentation of decision making and the discrimination risks that may arise.
Unfair dismissal protection after 6 months	<ul style="list-style-type: none"> Tackle any serious performance issues before the unfair dismissal qualifying period reduces to 6 months on 1 January 2027. Review recruitment processes and due diligence to improve selection processes and move away from reliance on probationary periods. Move towards properly managed probationary periods for new recruits (and review approach to extension of probation periods); conduct thorough termination procedures supported by a clear document trail. Audit contracts terms to assess whether revisions to probationary terms are required.
Redundancy/ termination exercises	<ul style="list-style-type: none"> Assess what internal changes are required to ensure awareness around when the collective redundancy trigger threshold is reached across the entire business in 2027. Consider whether education on the definition of 'redundancy' and which terminations may be in scope (expiry of FTC's, fire and rehire, other) and raise awareness of the increase in the maximum protective award.
Equality Action Plans	<ul style="list-style-type: none"> Consider what approach will be taken re objectives, milestones etc, internal and external comms and what implications there are in relation to jurisdictions such as the US where the lawfulness of DEI initiatives could be challenged.

Please see our briefings on the consultations: [Trade Union Right of Access to the workplace](#), [Enhanced dismissal protections for pregnant workers and new mothers](#), [bereavement leave](#) and [the duty to inform workers of their right to join a trade union](#)

For an overview of employment law in a large range of key jurisdictions see our easy-to-use digital guide:

[Clifford Chance Employment Law Guide App](#)

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This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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