

EMPLOYMENT RIGHTS ACT 2025 BRIEFING

JULY 2026 ISSUE



The Employment Rights Act ('ERA') received Royal Assent on 18 December 2025.

The ERA contains several areas of reform to employment law in the UK, with most planned to take effect in 2026 and 2027.

Below is an updated summary (as at June 2026), of the expected implementation dates (now and future), the key changes, our comment and actions to take.

PROPOSED IMPLEMENTATION DATE	SUBJECT	CHANGES	DETAILS	COMMENT & ACTION
DECEMBER 2025 (NOW IN FORCE)	INDUSTRIAL ACTION	Repeal of the provisions introduced by the Strikes (Minimum Service Levels) Act 2023	<p>The 2023 Act was repealed with immediate effect.</p> <p>As a result, the government cannot impose minimum service levels (in key sectors), while strikes occur.</p> <p>This means 'work notices' cannot be issued by employers, to require certain staff to continue working while industrial action takes place.</p>	<p>This change has made it easier for trade unions to implement strikes and may lead to an increase in the number of attendees.</p> <p>As employers cannot compel staff to work, it is advisable to negotiate with trade unions. This may promote the resolution of disputes and encourage employees to voluntarily maintain a minimum level of service.</p>
18 FEBRUARY 2026 (NOW IN FORCE)		Ballot changes	<p>The 10-year ballot requirements for political funds are going to be removed.</p> <p>Notices for industrial action and ballots will be simplified.</p>	<p>Although the responsibility of employers in relation to the changes to balloting is limited, they should monitor the development of the code of practice to ensure they have an understanding of what is expected.</p>
		Repeal of parts of the Trade Union Act 2016, such as notice requirements	<p>This change mainly relates to reversing the limitations that had been imposed on strikes and picketing by the 2016 Act. For example, longer notice periods for strikes are no longer required and industrial action mandates will not automatically expire after six months. Instead, mandates will last for 12 months.</p>	<p>Employers should be aware that there is now greater uncertainty about strikes taking place. For example, strikes may last for a longer duration, and employers may not receive as much warning in advance.</p>
		Protection against dismissal for participating in industrial action	<p>The 12-week cap on protection against unfair dismissal, has been removed. This means employees can participate in official and lawful industrial action, without the fear of facing unfair dismissal.</p>	<p>Employers can expect more employees to participate in industrial action, as they are now protected from dismissal for the full duration of industrial action.</p> <p>Employers should not dismiss employees as a result of participating in industrial action.</p>

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6 APRIL 2026 (NOW IN FORCE)	FAMILY RIGHTS	Paternity Leave	<p>Paternity leave is now available to employees from the first day of their employment, as the ERA has removed the current 26-week qualifying period.</p> <p>Paternity leave can be taken after shared parental leave has been taken (rather than requiring an employee to take it first/before).</p>	HR and managers should be aware of these changes, and policies updated to reflect that an employee is entitled to paternity leave from day one of their employment.
		Parental Leave	Unpaid parental leave is available to employees from the first day of their employment, as the ERA has removed the one-year qualifying period.	Please see our comments above.
		Bereaved Partners' Paternity Leave	When a child's primary carer has died within 52 weeks of the child's birth or adoption, the eligible employee is now able to take off 52 weeks (maximum) of unpaid leave.	As above, policies need to be updated to reflect an employee's entitlement, as a result of this change.
	STATUTORY SICK PAY	Day one right	Statutory sick pay (SSP) has now become a day one right (SSP will be payable on the first day of sickness), rather than employees having to wait three days to become eligible and receiving payment on the fourth day.	Employers should have amended their policies and employment contracts to reflect this change and ensure their teams are aware that all employees, regardless of earnings, are now entitled to SSP from the first day of sickness. This will help to minimise disputes around sick pay entitlement.
		Removal of the lower earnings limit	<p>The "lower earnings limit" which was needed before an individual is entitled to SSP has been removed.</p> <p>SSP for an individual, is now equivalent to the value of 80% of their average weekly earnings, or the flat rate (£123.25 a week) - whichever is lower.</p>	<p>Although this change will encourage healthier attendance at work, there will inevitably be increased costs when it comes to SSP, for employers.</p> <p>Employers should ensure their employees are informed about their entitlements and employers should update their HR policies to reflect the changes around eligibility and payment rates.</p> <p>Employers should also ensure their payroll systems have been updated to reflect the changes now in force.</p>

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<p>6 APRIL 2026 (NOW IN FORCE)</p>	<p>COLLECTIVE REDUNDANCY CONSULTATION</p>	<p>Maximum protective award for failure to consult will double</p>	<p>Collective consultation will still be required in circumstances where an employer proposes to make 20 or more employees redundant, within a 90-day period, at one site or establishment.</p> <p>However, if an employer fails to follow the collective consultation requirements, the protective award will double from 90 days' pay to 180 days' pay, per affected employee.</p>	<p>This change will significantly increase the cost to employers for non-compliance with the obligation to consult collectively.</p> <p>Employers should ensure that they understand their obligations to avoid breaches and should also remember that failing to comply with the obligation to file a HR1 notice in respect of collective redundancies is already a criminal offence.</p>
	<p>WHISTLEBLOWING</p>	<p>Inclusion of sexual harassment</p>	<p>Sexual harassment has been added as a 'qualifying disclosure'. These changes build on the Worker Protection Act 2023 which seeks to give employees more confidence to report incidents of sexual harassment and to hold employers accountable.</p>	<p>If it meets the other statutory requirements, disclosing sexual harassment now amounts to a protected act (whistleblowing). Other requirements, such as 'reasonable belief' and that 'the disclosure was made in the public interest', will still be needed as per the Public Interest Disclosure Act 1998.</p>
	<p>TRADE UNIONS</p>	<p>Recognition of Trade Unions</p>	<p>The process of recognising a trade union has been simplified and the threshold for statutory union recognition will be as low as 2% membership within the relevant work force.</p>	<p>Employers can expect that the number of trade unions and employees who are members of trade unions to increase and trade unions will gain recognition more easily.</p>
<p>7 APRIL 2026 (NOW IN FORCE)</p>	<p>ENFORCEMENT</p>	<p>Fair Work Agency</p>	<p>The Fair Work Agency ('FWA') has been established to help enforce workers' rights including sick pay, holiday pay, national minimum wage (NMW) and Employment Tribunal awards that have not been paid. It will also enforce duties on employers.</p> <p>The FWA will be able to ask for information, issue penalties, bring claims on workers' behalf and go onto employers' premises.</p>	<p>The FWA was established on 7 April 2026. However, the full scope of the enforcement powers of the FWA is still being phased in.</p> <p>It has already taken over enforcement of employment agency regulations, gang masters licensing and modern slavery/labour abuse rules. It has also taken over NMW enforcement, although it will be using the existing HMRC enforcement team for this until April 2027.</p> <p>Employers should be auditing their practices in respect of NMW, sick and holiday pay and taking all necessary steps to ensure compliance.</p>

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AUGUST 2026	TRADE UNIONS	Balloting	Electronic balloting will be introduced (except for ballots relating to recognition and derecognition which will potentially be introduced in 2027). Once implemented, this should encourage a method of more fair and secure voting, which will enhance integrity.	Employers should not seek to identify whether employees have used their workplace's resources (e.g. the internet or devices) to participate in voting. Consultation on electronic balloting has progressed and regulations are expected ahead of the August 2026 implementation.
OCTOBER 2026	EMPLOYMENT TRIBUNAL TIME LIMITS	Extension to the time limit to bring an ET claim	The limitation period to bring a claim in the Employment Tribunal will increase from three to six months from the dismissal or act complained of.	<p>This extension will apply to all types of claims, including unfair dismissal and discrimination. Employers may expect to see an increase in employees bringing claims that are better prepared, as they will have a longer lapse of time before they need to approach the Employment Tribunal.</p> <p>There may also be an increased time delay in employers being notified of claims being issued at the Employment Tribunal as this is likely to increase current backlogs and delays already faced by the Tribunal and ACAS. Noting that the ACAS Early Conciliation period has been increased from six to 12 weeks.</p> <p>Employers should ensure processes are in place for preserving (and retaining for longer) documents and taking contemporaneous statements from witnesses, rather than waiting for Tribunal imposed deadlines.</p>
	TIPPING	Increase in duty	<p>Employers will be required to update their tipping policy, every three years.</p> <p>Workers (or their representatives) should be consulted, before an employer creates a policy.</p> <p>This change links to the Government's plan to encourage greater transparency around tipping. For example, as of October 2025, employers are required to pass on 100% of worker's tips. This has been brought into force by the Employment (Allocation of Tips) Act 2025.</p>	<p>Employers in the hospitality, leisure or services sector, as good practice, may already review their tipping policies regularly but this will now become a statutory requirement.</p> <p>In February 2026, the government issued a consultation on the new requirements and potential changes to the statutory code of practice on the fair and transparent distribution of tips. The consultation closed on 1 April 2026 and we are waiting for the government's response.</p>

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OCTOBER 2026	SEXUAL HARASSMENT	Increase in duty	<p>The duty to prevent sexual harassment will now be for employers to take all reasonable steps to prevent sexual harassment.</p> <p>This broadens the obligation on employers from taking 'reasonable steps' as per the Worker Protection (Amendment of Equality Act 2010) Act 2023 and raises the bar to 'all reasonable steps'.</p> <p>The regulations will specify the steps an employer must follow, to demonstrate they have been reasonable.</p>	<p>Employers should turn to the regulations, when published, for guidance on how they can comply with this requirement. The regulations outline the 'reasonable' steps and employers should consider if there are any additional actions that should be carried out (depending on their industry).</p> <p>Employers should ensure their policies are updated to reflect their increased duty and ensure a clear and confidential system is in place for employees to highlight and report concerns.</p>
	THIRD PARTY HARASSMENT		<p>Employers will have to take all reasonable steps to prevent all types of harassment (whether sexual or related to any other protected characteristics) by third parties - including for example, customers, clients and suppliers.</p>	<p>Please see our comments above. Employers should also take measures to be proactive and ensure there are risk assessments in place, have a clear system for reporting incidents, as well as ensuring that managers and employees receive the appropriate training in order to minimise the risk of potential claims.</p>
	TRADE UNIONS	Access to workplace rights	<p>Trade unions can ask employers (both unionised and non-unionised) with 21 or more employees for access to the workplace (both physical and digital), to speak to workers, recruit members and organise more efficiently.</p>	<p>Employers can propose reasonable limits, but the presumption is access should be allowed.</p> <p>If the employer refuses or fails to comply, the CAC (Central Arbitration Committee) will be able to step in, order access and even impose financial penalties.</p> <p>Employers currently in non-unionised workplaces should consider reviewing their current arrangements/practices, e.g. employee forums. If employees feel they have a voice in the business, they are less likely to be interested in trade unions representing them.</p> <p>Employers with an existing trade union presence should consider entering into a voluntary arrangement with the relevant trade union(s) to try to avoid requests being triggered under the statutory framework.</p>

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OCTOBER 2026	TRADE UNIONS	Enhanced protections	Trade union representatives, as well as learning and equality representatives will have their rights strengthened.	Employers will need to ensure that they accommodate these enhanced rights, for example, providing a meeting space and (perhaps) certain IT access if requested.
		Duties on employer	Employer will have a duty to inform their workers and employees that they have the right to join a trade union.	Employment contracts should be reviewed and updated to reflect that employees are entitled to join a union.
1 JANUARY 2027	UNFAIR DISMISSAL	Cap on compensation award removal	<p>Compensatory awards for ordinary unfair dismissal are capped at the lower of one year's salary or the statutory cap (currently £123,543 from 6 April 2026)</p> <p>However, the ERA will remove this cap entirely, as of January 2027.</p> <p>This means there will be no limit on the amount that can be awarded (as is the case for discrimination and whistleblowing claims).</p>	<p>This change may encourage higher earners to bring unfair dismissal claims, as their compensation award will no longer be limited.</p> <p>Claimants may rely solely on unfair dismissal claims which will be more valuable and easier to bring, instead of having to add on a discrimination or whistleblowing element to their claim to boost its value.</p> <p>Removal of the cap is likely to impact on settlement negotiations and the approach to senior executive exits, when it comes to high earners with valuable benefits and bonuses. Employers should expect to see an increase in the value of compensation requested by Claimants, and employers may have to rely more heavily on methods to reduce compensation payouts(e.g. Polkey reduction, failure to mitigate).</p> <p>Employers should review their dismissal processes, as errors in an employee's dismissal could be costly.</p>

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1 JANUARY 2027	UNFAIR DISMISSAL	Service requirement reduced from 2 years to 6 months	<p>After six months of their employment commencing, an employee will have the right to claim unfair dismissal.</p> <p>Therefore, employees no longer have to wait until they have at least two years' service, before they can bring an unfair dismissal claim.</p> <p>Employees who already have six months qualifying service as at 1 January 2027, will immediately have the right to bring an unfair dismissal claim.</p>	<p>Employers may need to tighten their recruitment and onboarding processes, as well as review how they deal with performance management.</p> <p>Employers should also review/add appropriate probationary periods into new starters' employment contracts to ensure that the employee's performance is regularly reviewed.</p>
2027	FIRE AND REHIRE	Further restrictions imposed on employers using this method	<p>As of January 2027, it will be automatically unfair to dismiss an employee who refuses to agree to changes to their contract of employment, where that change relates to time off, pay, hours of work or pension.</p> <p>If employers replace an employee by dismissing them and hiring someone else on varied terms for the same role, or hiring someone who is not an 'employee' as a replacement, this will also be an automatic unfair dismissal.</p>	<p>There is a limited exception to these restrictions.</p> <p>The only time these dismissals will be allowed, is when the dismissals are in response to financial difficulties likely to affect the ability of the business to continue as a going concern and that could not have been reasonably avoided by the employer.</p> <p>There will be more pressure on employers to reach agreement with employees (or their representatives) on any changes.</p> <p>A response to the consultation on which terms and benefits are in scope of the ban is awaited. According to the updated timetable, these changes will now take effect in January 2027 (rather than the originally planned October 2026).</p>

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2027	REDUNDANCY	Changes to thresholds in collective redundancy consultations	In addition to the collective consultation thresholds already in place, a new threshold, that takes into account the amount of redundancies across the entire employer (not just one establishment or single workplace), will be introduced.	<p>Consultation on this change is taking place and regulations on the additional threshold will follow. However, aggregating dismissals across "establishments" could have a significant impact on large multi-site employers.</p> <p>Requirement for multi-site employers to have centralised systems in place to identify proposed redundancies and when the new duty is triggered. Likely removal of site autonomy to make redundancies.</p> <p>The new rules will apply per employer rather than across a corporate group. Greater use of site-specific subsidiaries may follow.</p>
	ZERO HOURS AND LOW HOURS CONTRACTS	Right to be offered a contract reflecting regular hours	'Qualifying workers' will need to be offered a contract that guarantees minimum hours. This will be based on the work they have done in a 'reference period'. The worker can accept or decline. If declined, employers will need to keep offering the contract with guaranteed hours.	Employers should ensure they have systems in place to record hours of work over the reference period (likely to be 12 weeks) and reminders on when contracts should be offered to workers, which means an increased administrative burden and likely financial costs.
		Right to notice of shifts and compensation for cancellation of shifts	<p>This will include when a shift starts and ends and notice of any change to a shift such as when that shift is, being cancelled or shortened.</p> <p>The amount of payment that an employer will have to make will depend on the circumstances – was the shift cancelled, moved or shortened?</p>	Consultations on these changes are ongoing. Many key details are yet to be confirmed and will need to be set out in regulations. For example: the reference period, low hours threshold, the definition of reasonable and short notice.

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2027	FLEXIBLE WORKING	Flexible working requests	<p>Employees have the right to request flexible working from day one of employment.</p> <p>Employers must be reasonable when refusing a flexible working request and provide the employee with an explanation (one or more of the eight business reasons for refusal).</p> <p>Ahead of refusing a request, the employer must consult with the employee. Consultation will become a legal requirement for employers, although some employers may already be implementing now as evidence of good practice.</p>	<p>Employers should formulate a clear strategy as to how they manage flexible working requests and document their reasons for refusal if a request has been denied.</p> <p>Policies should be reviewed and updated to reflect these upcoming changes around flexible working.</p>
	MATERNITY	Employees returning from maternity leave will have enhanced protections	<p>Further protections from dismissal for pregnant women and new mothers will be introduced, prohibiting dismissal up to six months after their return to work, except in specific circumstances.</p> <p>The protection will also apply to those returning from other types of family leave such as adoption, neonatal care and shared parental leave.</p>	<p>We await further details in the regulations, with the measures due to take effect in 2027.</p> <p>Employers' will need to review and update their policies and procedures to reflect the enhanced protection that is coming.</p>
	FAMILY RIGHTS	Right to family bereavement leave	<p>Employees will be entitled to at least one week of bereavement leave, after the death of a family member. This extends beyond parental bereavement leave, which was introduced in 2021, and it will also now cover circumstances such as pregnancy loss before 24 weeks.</p> <p>Unlike parental bereavement leave, this will not be paid.</p> <p>Further details about which family members this change relates to will be specified in the regulations.</p>	<p>Employers should introduce policies (or update their existing policies) to account for this change.</p> <p>Training may also be required, to ensure employers do not unlawfully dismiss employees who are on (or have recently returned from) family leave.</p>

PROPOSED IMPLEMENTATION DATE	SUBJECT	CHANGES	DETAILS	COMMENT & ACTION
2027	INDUSTRIAL ACTION	Protection from Blacklisting	Workers will receive increased protection if they do choose to participate in industrial action.	Employers will need to be aware that any dismissal connected to such industrial action or “blacklisting” is much more likely to be automatically unfair.
		Industrial Relations Framework	More information to follow.	More information to follow.
	UMBRELLA COMPANIES	To become regulated	<p>Umbrella companies will now fall within the scope of the Conduct Regulations, which closes the loophole for low regulation.</p> <p>Umbrella companies will fall under the category of ‘employment businesses’ and become regulated by the Fair Work Agency. The aim is to tackle non-compliance with employment and tax obligations.</p>	<p>Agencies will become more accountable, with potentially greater risks for affected business of non-compliance. For example, they will be jointly liable for unpaid tax.</p> <p>We are waiting for the outcome of the consultation, with measures expected to take effect in 2027.</p>
	PAY GAP REPORTING AND MENOPAUSE ACTION PLANS	Gender Pay Gaps and Menopause	Employers with at least 250 employees will be required to create and publish 'equality action plans' to include addressing the gender pay gap and supporting employees going through menopause.	<p>Employers will need to be more transparent about existing pay gaps in their workplace and demonstrate meaningful ways they are aiming to reduce this gap.</p> <p>Reporting is currently voluntary from 6 April 2026, and will become mandatory by 2027.</p> <p>The Government is intending to provide employers with information and guidance about evidence based actions and support.</p>

PROPOSED IMPLEMENTATION DATE	SUBJECT	CHANGES	DETAILS	COMMENT & ACTION
UNSPECIFIED DATE	NON-DISCLOSURE AGREEMENTS (NDAS)	Allegations of harassment and discrimination	<p>This change will render NDA clauses void if employees are prevented from disclosing harassment or discrimination that they have faced at work.</p> <p>This will not apply to certain 'excepted agreements', however we believe Settlement Agreements will not be classified as 'excepted'.</p> <p>In April 2026, the government opened a consultation on its proposals which closes on 8 July 2026 with the changes expected to take effect some time in 2027.</p>	<p>This change links to the Victims and Prisoners Act 2025, where NDAs are also void if they prevent a victim of crime from disclosing information to certain people for certain purposes.</p> <p>The proposals under consultation include a requirement for prior advice, specific written consent and a cooling off period before an NDA can be valid.</p> <p>Even when an NDA is valid, the government proposes that individuals would always be allowed to disclose harassment to certain people or bodies, including regulators, medical professionals and close family.</p>

What can employers do to prepare?

To prepare for the upcoming changes (and to ensure compliance with those already in force), employers should:

- Review their employment contracts, to ascertain which clauses will need updating.
- Review probationary periods and how they are handled and documented.
- Review policies to ascertain those that will need updating and when.
- Review HR systems and procedures to ensure they robustly handle the changes associated with the Employment Rights Act 2025 being implemented (and those already in force).
- Ensure you have a clear system of retaining and storing documentation for longer periods of time, given the inevitable delays to Employment Tribunal claims.

Get in touch

For advice on how these changes under the new ERA 2025 may affect your organisation, please contact the Gordons Employment Team. We would be delighted to support your business in preparing for these recent and upcoming developments.

*****Please note that the contents of this briefing are for guidance and information only, based on what is known at the time and does not constitute legal advice*****

YOUR GORDONS CONTACTS



MARY WALKER
PARTNER

☎ 0113 227 0306
📞 07876 883 464
✉ mary.walker@
gordonsllp.com



PHILIP PAGET
PARTNER

☎ 0333 987 5575
📞 07787 148 721
✉ philip.paget@
gordonsllp.com



ABBIE LITTLE
SOLICITOR

☎ 0113 227 2118
📞 07345 433 062
✉ abbie.little@
gordonsllp.com



MIKE PATTERSON
SOLICITOR

☎ 0113 227 0307
📞 07827 903 865
✉ mike.patterson@
gordonsllp.com



JESSICA SMITH
SOLICITOR

☎ 0113 227 0382
📞 07827 906 520
✉ jessica.smith@
gordonsllp.com



OLIVER ALLANACH
SOLICITOR

☎ 0113 227 0279
📞 07715 608 746
✉ oliver.allanach@
gordonsllp.com



TEGAN KNAPPY
**CHARTERED LEGAL
EXECUTIVE**

☎ 0333 987 5589
📞 07826 416 736
✉ tega.knappy@
gordonsllp.com