Employment Rights Act 2025
Key provisions and employer considerations

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Topic	Key provisions and reform	Employer considerations

Unfair dismissal	The ERA reduces the qualifying period for unfair dismissal rights from two years to six months.
	
	Employees who have an effective termination date on or after **1 January 2027** will be eligible to bring a claim for unfair dismissal where they have accrued six months' service (i.e. any employee engaged on or before **1 July 2026**).
	
	Both the 52-week gross pay and the statutory compensation cap for unfair dismissal claims will be removed (note that there will no impact on the basic award or statutory redundancy pay). This will take effect from **1 January 2027**, to coincide with the reduction of the qualifying period.
		• Given the increase in employees who will have unfair dismissal protection, the removal of the compensation cap and extension of the time limit for bringing tribunal claims (see below), employers must follow a fair process (and seek early support if needed) when considering dismissals of employees with more than six months' service from **1 January 2027** onwards.
		
		• When a fixed term contract expires it amounts to a dismissal. Therefore, any employee employed under a fixed term contract lasting for six months (less one week, to account for their entitlement to a statutory minimum notice period of one week) or more will have unfair dismissal protection.
		
		• Settlements may also become more costly and difficult, particularly those related to senior exits. However, it seems inevitable that the current backlog in the tribunal system will get worse which has the potential to work in favour of employers from a settlement perspective.
		
		• In terms of action to be taken now, employers should consider:
		
		  ○ updating their HR team and line managers on the change to the qualifying period in good time ahead of it coming into effect;
		
		  ○ progressing any disciplinary/capability proceedings for existing employees without two years' service in good time ahead of **1 January 2027**;

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Unfair dismissal (continued)		○ reviewing their recruitment and selection processes to ensure robustness and give greater assurance about the quality of new hires. This may include training for hiring managers and the recruitment team on the changes to unfair dismissal rights and an additional layer of sign-off prior to sending a job offer; ○ ensuring that all new starters have a contractual probation period that aligns with the qualifying period, and putting in place an internal process that requires employee performance and conduct to be regularly reviewed during this time to ensure that any dismissal decision can be made in good time before six months of service is accrued (e.g. a mandatory mid-probation review and a line manager check-in at around the 4-5 month mark); ○ reviewing the use of fixed term contracts. They can still be useful in setting expectations and covering specific situations, but HR teams/managers should be made aware that a "fair" reason will be needed to support a decision not to renew a contract which is longer than six months and an appropriate "dismissal" process should be followed in order to mitigate the risk of a claim; ○ reviewing disciplinary, performance management and dismissal policies and procedures; and ○ ensuring that managers are adequately trained and updated on successfully managing conduct and performance issues.
Extension of tribunal time limits	Most tribunal claims must currently be brought within a time limit of three months of the act complained of. From **1 October 2026**, in England and Wales this time limit has been extended from three months to six months, and will apply to most types of claims, including claims for discrimination and unfair dismissal. The extended deadline applies to acts (or failures to act) which occur on or after **1 October 2026**. Where the complaint	• HR teams to maintain a secure folder of relevant documents and correspondence relating to any significant employee dispute, grievance and/or dismissal in case a claim is brought (which could be up to nine months later given the currently extended 12-week ACAS early conciliation period). Employers should also review (and update where necessary) any existing data retention policies to ensure documents are retained in accordance with the terms of any such policy. If no such policy exists, this should be implemented.

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Extension of tribunal time limits (continued)	relates to a series of acts (or failures to act), the extended time limit will only apply where the last of those acts or failures occurs on or after **1 October 2026**. For breach of employment contract claims in Scotland this change will take place on **9 November 2026**.	.
Harassment	Currently, employers must take "reasonable steps" to prevent sexual harassment of employees and workers in the course of their employment. Under the ERA 2025, and with effect from **30 October 2026**, employers must now take "*all* reasonable steps". The government is expected to specify the steps that are required in regulations, but it is not expected that these will be issued until **2027**. Employers will also be liable for harassment more broadly by third parties unless they have taken all reasonable steps to prevent it. As of **6 April 2026**, disclosures of sexual harassment have been added to the list of qualifying disclosures, subject to such disclosures meeting the usual test for a protected disclosure. Any agreement (e.g. a non-disclosure agreement) purporting to prevent a worker making disclosures about harassment will be void (and the wording of the provision appears to also cover third party harassment). It is not yet known when this will come into force.	• Clients who have previously adopted a sexual harassment policy to comply with their obligation to take reasonable steps to prevent sexual harassment are unlikely to need to make material changes to that policy, save to ensure that third-party harassment is addressed. • It would be a good time for clients to review the effectiveness of their anti-harassment and sexual harassment policies/ other measures they have in place to prevent harassment, to identify any risk-areas and determine appropriate action. • Whistleblowing policies should also be reviewed to ensure they contain a reference to sexual harassment as a qualifying disclosure. If a disclosure relating to sexual harassment is made, employers will need to make a determination about which policy (i.e. sexual harassment, grievance and/or whistleblowing) it should be managed under. It would be helpful to specify this in the policies. • Client and supplier contracts should be reviewed to ensure sufficient anti-harassment provisions. • Settlement agreement templates should be reviewed and any non-disclosure provisions updated as required. • Line and people managers should receive updated training on whistleblowing and receiving and handling protected disclosures.

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Flexible working	The permitted grounds for refusing a flexible working request are not changing. However, from **2027**, any such refusal will have to be *reasonable*. Employers will also be required to consult with the employee before refusal of a request, with the form of this consultation to be set out in subsequent regulations. Rejections of requests must also be in writing and specify both the grounds and why the rejection is reasonable.	• Employers should review their flexible working policies and procedures to ensure they reflect the new standard, as well as the consultation requirements, once we have further details of what this will look like. • Managers who receive and consider flexible working requests should be reminded to liaise with HR (who should be trained on the updated requirements ahead of the effective date) in responding to the request.
Trade unions	Employers must now provide, as part of the written statement of employment particulars, express notice of the worker's right to join a trade union. The measures apply regardless of whether the workplace is currently unionised and are due to come into force on the revised implementation date of **1 January 2027**. Existing workers must also be informed by **5 April 2027**, either directly or indirectly (e.g. via an intranet or noticeboard, provided it is reasonably accessible). Workers who are informed directly must have the statement repeated annually. Workers who are informed indirectly must have continuous access to the statement, and be provided with annual reminders of where to find it. The content of the written statement will be standardised and established in regulations due to be confirmed by Parliament in **November 2026**. The statement will include a brief explanation of union functions, a list of recognised trade unions and a summary of the worker's statutory rights. Employers must also either include a link to the Certification Officer's list of trade unions within the statement or provide a copy of the list alongside the statement. .	• Employers must update their template employment contract to ensure that clear and compliant notice is given of the right to join a trade union. • Employers should also consider how they will provide notice to existing workers, and prepare for the publication of the standardised written statement in **November 2026**. However, some employers may prefer to take the risk of a low-value supplementary claim in order to avoid encouraging trade union membership. • Employers should familiarise themselves with the form of a standard trade union access request as well as the standard response form (see the **Annexes of this Code of Practice**). • As employers will typically have 15 working days to respond to a request (unless otherwise agreed with the trade union), companies should ensure that any public addresses (email or otherwise) of the business are up to date, in order to facilitate timely receipt of any requests. • Employers may consider negotiating the terms of an access agreement with trade unions, as opposed to waiting for access to be ordered by the CAC.

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	The penalties for failing to comply are limited, and in line with the existing penalty for non-compliance with section 1 of the Employment Rights Act 1996 (two to four weeks' pay, subject to the statutory cap). As with a breach of section 1, it cannot be brought as a standalone claim. From **30 October 2026**, trade unions will gain a wider right of access to workplaces for the purposes of recruitment, organising and collective bargaining. Unions will need to follow a statutory process in order to request access, with employers liable to enforcement action by the Central Arbitration Committee (**CAC**) where they fail to comply. Access can be physical, digital or a combination of both. Employers must respond to access requests within 15 working days of the request being sent, and the employer and union then have 20-25 working days to negotiate an access agreement (current guidance issued by the Government is contradictory, but we anticipate this will be clarified when a more detailed framework is published in **November 2026**). If no agreement is reached, either party can apply for the CAC to determine whether access should take place and on what terms.	
Collective redundancy	Employers must collectively consult if they propose to make 20 or more redundancies within a 90-day period at one establishment or if another, new threshold test is met. The consultation on the new collective redundancy threshold has closed, but the government has not yet published its response, so the final threshold remains subject to secondary legislation. It is likely to be based on the number of redundancies across the whole employing entity, either as a percentage of the workforce or a specified number. This is due to be implemented in **2027**.	• Employers should review their internal process (or consider implementing one if they do not have one) used to track redundancies, and changes to terms and conditions (both on an individual entity and business level if applicable), to ensure that they are aware of when the new thresholds are at risk of being triggered. • HR teams should be made aware of the change, e.g. through a training session. • If an employer is contemplating a reorganisation of its workforce, it should factor the timing and substance of this development into its planning.

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	The maximum protective award for breaching the collective consultation requirement has increased from 90 days' pay, to 180 days' pay per affected employee, as of **6 April 2026**.	
Fire and re-hire	From **1 January 2027**, it will be automatically unfair to dismiss an employee for refusing to agree changes to their employment contract relating to pay, pension, hours of work and holiday entitlement (and further matters to be defined in regulations – possibly extending to benefits). It will also be an automatically unfair dismissal where the dismissal is due to the employer's intention to hire somebody else (whether employee, worker, agency worker or contractor) on the varied terms, to do substantially the same role. Any dismissals made as a result of an employee refusing to agree to the introduction of flexibility clauses in relation to any of the above matters will also be automatically unfair. There is a limited exception to cover situations where the employer is facing financial difficulties likely to affect the ability of the business to continue as a going concern, and where the contractual change could not reasonably be avoided. This will be a high threshold to meet.	• Employers should review their template employment contract for new hires to ensure the terms are appropriate, well-drafted and contain as much flexibility as possible at the outset (particularly in respect of the terms covered by the ban). • Contracts for existing employees should also be reviewed, and any problematic terms dealt with now, before the restrictions come into effect (bearing in mind existing legal obligations/risks).
Family leave	The 26-week qualifying period for paternity leave and one-year qualifying period for unpaid parental leave was removed on **6 April 2026**, instead becoming day one rights. From **6 April 2026**, employees are also entitled to take paternity leave following shared parental leave.	• Employer policies should be updated to reflect these changes.
Bereavement leave	A new right to bereavement leave (extending the current right to parental bereavement leave) will be introduced in **2027**. The government will have the power to introduce, by regulation, a day one right to a minimum of one-week of leave for employees.	• Existing employer policies need to be updated (or a stand-alone policy introduced) to ensure that the new leave is adequately covered, with HR teams trained on the eligibility criteria.

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Bereavement leave (continued)	Subsequent regulations will specify the necessary relationship with the deceased for eligibility, though this is expected to mirror the definition used for time off for dependants. The right will extend to pregnancy loss that occurs before 24 weeks, e.g. a miscarriage.	
Dismissal during or after pregnancy or statutory family leave	The government has been given the power to introduce regulations that offer protection from dismissal (aside from redundancies) during pregnancy, maternity leave or for a set period after a return to work following the same. There is also scope for the government to extend this protection to apply to employees on/returning from adoption leave, shared parental leave, neonatal care leave and bereaved partners' paternity leave. The consultation on protection from dismissal during pregnancy and following statutory family leave has now closed, but the government response and draft regulations remain outstanding. Employers should therefore treat the six-month post-return protection period as likely, but not final. Subsequent regulations will specify some exceptions to this rule, that are as yet unknown. The provisions are expected to be enacted in **2027**.	• Employers must ensure they have adequate recording and monitoring systems in place to identify employees that are on or have recently returned from family leave. • Policies and procedures should be updated (and training provided to HR teams) to ensure compliant processes. • An update from HR to line managers is recommended to ensure risks are fully understood in advance of decisions/actions relating to continued employment.
Statutory sick pay	From **6 April 2026**, the three-day waiting period for SSP was removed, as was the earnings threshold. SSP is set at a rate of 80% of average earnings for workers who earn below the statutory rate of SSP.	• Employers should review their sick pay policies to ensure they reflect the removal of the waiting period, as well as review any wording relating to SSP thresholds and eligibility. • HR teams should ensure their payroll teams are aware of the eligibility and threshold changes to ensure proper administration. External providers should be up to date, but it may be worth checking-in for the first relevant

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		sickness absence following the changes to ensure payment is made correctly.
Zero-hours and low guaranteed hours contracts	Zero and low hours workers will gain a new right to be offered a contract that reflects the actual hours worked where that worker regularly exceeds their existing contractual zero/ minimum hours over a 12-week reference period. The form of the offer, and how long it must remain open for, are to be determined in subsequent regulations. The provisions carve out an exception for short-term labour needs where a limited-term contract is reasonable (i.e. where there are only specific tasks required, or seasonal work). The duty to offer guaranteed hours can be disapplied by collective agreement. Employers will not be able to get round the requirements by simply restricting the hours offered during the reference periods. Zero/low hours workers will also be entitled to reasonable notice of shifts and to compensation for shift cancellations/changes at short notice. These rights will also extend to agency workers, and it will be the responsibility of the hirer (i.e. end client) to offer regular hours contracts, and the liability of the agency to provide shift cancellation compensation. The above changes are due to take effect in **2027**.	• Employers relying heavily on casual/ zero hours workers should review the arrangements to understand who may become eligible for a regular hours contract under the new provisions. • Where fixed-term contracts are required, offers and contracts should be clearly drafted to state why the short-term/ temporary work need is reasonable. Template fixed-term contracts should be updated to include an appropriate prompt in this regard. • HR teams and line managers should receive training on how to manage the risk of an employee becoming entitled to a regular hours contract (e.g. where possible avoid offering additional shifts to an employee that will result in them exceeding their contractual hours and instead try to spread shifts across the workforce) bearing in mind the risk of the employer being found to be manipulating hours worked during the reference period. • Processes for offering, changing, curtailing or cancelling shifts should also be reviewed to ensure sufficient notice can be provided and reduce potential exposure for compensation payments. Again, training will likely be required.
Gender and menopause action plans	Employers with 250+ employees must publish (alongside their gender pay gap report) an "Equality Action Plan" which will cover: • a gender pay gap action plan; and	• Employers should review their gender pay gap data and start thinking about any actions that could form the basis of an action plan. • Employers should consider introducing a menopause policy and start thinking about/take advice on what measures they could put in place to better support employees going through the menopause (which could then

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	• a menopause action plan. Penalties for failing to comply are expected, though the detail of this (as well as the form and regularity of publication) are to be determined in subsequent regulations. The measures are expected to come into force in **2027**, with voluntary reporting introduced from **6 April 2026**.	form part of the menopause action plan). The HR team could discuss any relevant case studies to identify any areas for improvement.
The Fair Work Agency	The Fair Work Agency (FWA) was established on **7 April 2026**. The FWA will uphold compliance with key workplace rights, including the national minimum wage, agency standards and he enforcement of Employment Tribunal and ACAS awards. From **April 2027**, the FWA intends to enforce statutory holiday pay rights on behalf of employees. From 2027, the FWA will also enforce statutory sick pay rights. The FWA has wide powers, including the ability to demand documents and information, take enforcement action on behalf of workers to recover underpaid statutory holiday pay across a 6-year claim period, issue warning letters or financial penalties and instigate civil proceedings and/or criminal investigation where appropriate. Employers have been required to start keeping records of annual leave and holiday pay for six years, since **6 April 2026**. Failure to keep adequate records will be a criminal offence in itself, with penalties including unlimited fines. It is proposed that employers will also be "*named and shamed*" for underpayment of holiday pay, in line with the current naming scheme for breach of national minimum wage. The government consultation regarding the approach to holiday compliance and enforcement, and the role that the FWA will play in providing guidance and supporting compliance, closed on **22 September 2026**. The response has not yet been published.	• Employers should review their holiday and sick pay compliance data to ensure the correct pay is being administered. • Employers should maintain adequate records of annual leave and holiday pay dating back to 6 April 2026 and hold these for six years.

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	Although not yet in force, in time the FWA will have the power to bring employment tribunal proceedings on behalf of a worker, provide legal assistance and recover costs of enforcement.	

