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**Legal Update**

March 2026

# United Kingdom: Employment Rights Act 2025 – Summary and Next Steps

## In brief

The Employment Rights Bill was approved and finalised on 18 December 2025, after many rounds of parliamentary "ping pong", becoming the Employment Rights Act (ERA) 2025. Its final form is substantively very similar to previous versions, with one important exception: the retention of a qualifying period for unfair dismissal rights (albeit reduced from two years to six months) and the removal of any cap on unfair dismissal compensation.

Although we now have a finalised ERA 2025, many key areas of detail are subject to consultations and further regulations. This article summarises the Act's key provisions, the areas of outstanding detail, anticipated timelines (as set out in the government's updated timeline on 4 February 2026), and what organisations could or should be doing now to prepare.

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## Key takeaways

With the exception of unfair dismissal rights, the key policy measures in the Act, and their broad parameters, mostly remain the same as when it was first published in October 2024.

In terms of timescales, the government recently published an updated timeline on 4 February 2026, with some provisions such as the changes to fire and rehire being pushed back.

- The following consultations are currently live: fire and rehire (closing 1 April 2026), trade union recognition/derecognition and unfair practices in electronic ballots (closing 1 April 2026), tipping (closing 1 April 2026), flexible working (closing 30 April 2026), agency work regulatory framework (closing 1 May 2026), collective consultation thresholds (closing 21 May 2026) and protection from detriment for taking part in industrial action (closing 23 April 2026).
- Consultations are due to start imminently in areas including guaranteed hours offers and shift notices. This is in addition to consultations that have recently closed: trade union rights of access and balloting processes; enhanced dismissal protections for pregnant workers and new mothers; and bereavement leave.
- Much of this detail, once decided on, will be put into regulations.
- The coming into force of new rights and obligations under the Act will be staggered; some won't come into force until some time in 2027. This will allow time for the consultations, future regulations, and for businesses to prepare.

Because so much of the detail of the rights and obligations in the Act are yet to be confirmed, there is only so much that organisations can do to prepare at this time. We have included our suggestions below.

## In more detail

In the following table we provide a headline reminder of the Act's provisions, along with timelines and potential action points. Please see the end of the article for links to more detailed summaries that we have published.

| Summary | Timelines | Action points |
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| **Strike action – simplifying process** | | |
| Period for notice of industrial action will reduce to 10 days, down from the current 14. (The government originally proposed reducing it to seven days but later changed to 10 days.)<br><br>Simplification of information requirements in ballot and industrial action notices.<br><br>Removing 50% turnout threshold for valid industrial action ballot.<br><br>Extension of the strike mandate period to 12 months, from the current six.<br><br>Introducing electronic and workplace balloting in addition to the current postal balloting. | In force: 18 February 2026.<br><br>For electronic and workplace balloting:<br>• Consultation closed 28 January 2026; awaiting government response.<br>• Consultation on proposed legislation to prevent unfair practices in electronic ballots: closes 1 April 2026.<br>• Expected: August 2026, and for recognition and derecognition ballots, 2027 (month not specified). | Review industrial relations strategies if necessary as the reforms make it easier for unions to organise strikes. |
| **Collective redundancy consultation – increased penalty for breaches** | | |
| Employers are liable to pay a protective award for breaches of the consultation requirements in a collective redundancy situation. This award will increase from a maximum 90 days' pay per employee to a maximum 180 days' pay. | Expected: April 2026. | Financial risk assessments of collective redundancy processes will need to take this increase into account. Employers may wish to ensure that there is sufficient knowledge of collective redundancy processes within the organisation given the material increase in liability where there is non-compliance.<br><br>It is currently unclear whether there will be any transitional provisions preserving the current maximum, for example for consultation processes that have commenced prior to April 2026. |
| **Paternity leave and unpaid parental leave – day one rights** | | |
| Will become day one rights.<br><br>Statutory paternity pay, however, will continue to require 26 weeks' service. Statutory parental leave will continue to be unpaid in its entirety.<br><br>The Act also removes the prohibition on taking paternity leave after a period of shared parental leave. | In force: 6 April 2026. | Review and update internal policies in time for April.<br><br>The government has stated that the day-one right to paternity leave will apply in respect of babies with an expected week of childbirth on or after 5 April 2026, born on or after 6 April 2026, or children placed for adoption on or after 6 April 2026.<br><br>There are also due to be transitional provisions temporarily shortening the required notice period to 28 days so that parents can take leave from 6 April 2026. Newly eligible parents will be |

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| | | able to give notice of their intention to take leave from 18 February 2026. |
| **Trade unions – increased protections in statutory recognition/derecognition process** | | |
| There is existing protection from unfair practices during a statutory trade union recognition or derecognition process. The Act will extend the period of protection and simplify the claim process.<br><br>It will also curtail potential ways that an employer might seek to thwart recognition. (Such as mass recruitment into the bargaining unit or reaching a voluntary recognition agreement with a non-independent trade union following receipt of an application by an independent union.)<br><br>The Act also allows the government to lower the existing union membership threshold for a recognition application; down from the current 10% to as little as 2%. It also removes the current requirement for the union to demonstrate likely majority support for recognition.<br><br>In short, the process for statutory recognition will remain complex but overall it is likely to be easier to obtain. | Consultation on revised code of practice covering trade union recognition and derecognition processes: closes 1 April 2026.<br><br>Expected: April 2026.<br><br>Measures relating to unfair practices in the trade union recognition process: expected October 2026. | Review existing union relationships and industrial relations strategies if necessary. Consider alternative forms of meaningful employee engagement, thereby potentially reducing future interest in trade union representation and recognition. |
| **Statutory sick pay (SSP) – from day one of sickness** | | |
| SSP will be payable from day one of sickness at a rate of the lower of either the annually fixed flat weekly rate or 80% of weekly earnings.<br><br>The current flat rate of SSP is GBP 118.75. From 6 April 2026, it will be increased to GBP 123.25. | Expected: April 2026. | Update template contracts of employment and relevant policies.<br><br>Ensure absence-recording and payroll systems will be able to process the change. |
| **Fair Work Agency created** | | |
| A Fair Work Agency to be created, taking over existing state enforcement powers in areas such as national minimum wage enforcement.<br><br>In due course, it will also enforce a new obligation to keep records as well as regulate umbrella companies (see end of this table in relation to both matters). | Expected: 7 April 2026. | Start reviewing systems to ensure that the organisation will be able to demonstrate compliance with statutory holiday entitlements. |
| **Sexual harassment disclosures will count as whistleblowing** | | |
| The categories of potential qualifying disclosure for whistleblowing purposes will expressly include disclosures about sexual harassment. The usual tests about the worker's reasonable belief and the public interest will continue to apply.<br><br>Such disclosures might already have qualified under one of the existing categories (e.g., breach of a legal obligation) but the Act will remove any debate on this particular point. Going forward, workers will have dual protections from retaliation for alleging sexual harassment: either under | Expected: April 2026. | Review and update whistleblowing policies to include disclosures about sexual harassment. |

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| whistleblower protections or the long-standing victimisation protections in the Equality Act 2010. | | |
| **Trade unions – increased rights of access** | | |
| The Act will give trade unions a new right of access to the workplace, both physical and digital. Regulations will define what is meant by digital access.<br><br>The purpose of the right of access will be to meet, support, represent, recruit or organise workers, but this will not include organising industrial action.<br><br>The Central Arbitration Committee will be able to impose penalties for non-compliance. | Consultation: closed on 18 December 2025; awaiting government response.<br><br>Expected: October 2026. | Prepare for both physical and digital union access.<br><br>Review working arrangements and how they apply to the right of access.<br><br>Plan for tight response timelines.<br><br>Consider negotiation strategy.<br><br>(For more detail, see this one-pager, and Vlog.) |
| **Right to join a trade union – a duty to inform** | | |
| Employers will be required to inform workers in writing of their right to join a trade union. The content, and form and frequency of delivery are TBC. | Consultation: closed on 18 December 2025; awaiting government response.<br><br>Expected: October 2026. | Once the details of the right are confirmed, ensure systems are in place to ensure compliance. |
| **"Fire and rehire": unlawful, with limited exceptions** | | |
| It will be automatically unfair to dismiss an employee for the sole or principal reason that they did not agree to a "restricted variation" of their employment contract. This covers key things like pay and hours.<br><br>Protection won't apply in certain financial survival situations but would still need to show that a dismissal was fair.<br><br>Similar rules apply to replacing someone who has refused to switch from employment to a non-employment model of working.<br><br>The government considered giving employees the right to claim interim relief for breaches of this right, but this was dropped. | Consultation: closes 1 April 2026.<br><br>Expected: January 2027. | Complete planned contract variation processes in which dismissal and re-engagement is a possibility, before October 2026.<br><br>Proactively consider alternatives to fire and rehire where "restricted variations" are contemplated.<br><br>Note that, even under current rules, such processes can be complex and potentially engage collective consultation obligations. |
| **Duty to prevent sexual harassment – requirement to take all reasonable steps** | | |
| The current duty to take reasonable steps to prevent sexual harassment of employees in the workplace will be "upgraded" to a duty to take all reasonable steps. | Expected: October 2026. | Review operation of processes that were put in place after introduction of existing duty in October 2024. Ensure they cover all steps that could be considered reasonable.<br><br>Check that your risk assessment remains fit for purpose. You may wish to audit complaints received since the introduction of the existing duty in October 2024 to identify if there are any themes and whether additional preventative steps are needed. |

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| **Protection from third-party harassment** | | |
| Employees will gain protection from third-party harassment in relation to all protected characteristics under the Equality Act 2010. (Except marriage and civil partnership status and pregnancy/maternity, which are dealt with differently, in line with existing harassment protections.)<br><br>Employers will have a defence if they can show they took all reasonable steps to prevent the harassment. | Expected: October 2026. | Review and update policies and staff training as necessary.<br><br>Ensure commercial terms with suppliers and contractors make appropriate provision.<br><br>As set out above, it may be necessary to revisit risk assessments to the extent that they did not already address third-party harassment, whether in relation to sexual harassment or the broader categories that will be protected from October 2026. |
| **Time limits for claims increasing** | | |
| The time limit to bring a claim in the employment tribunal is currently three months for nearly all claims. This will increase to six months. | Expected: October 2026. | Employers will need to factor the change into timelines of risk assessment, including in due diligence contexts. |
| **Protection from detriment for taking part in industrial action** | | |
| Workers will be protected against detriments that they are subjected to by their employer to penalise, prevent or deter them from taking official industrial action. | Consultation: closes 23 April.<br><br>Expected: October 2026. | Review industrial action strategy as necessary. |
| **Unfair dismissal: shorter qualifying period and removal of cap on compensation** | | |
| The government had originally planned to make protection from unfair dismissal a day-one right of employment, coupled with new rules on statutory probationary periods. This policy was eventually dropped following protracted parliamentary "ping pong" contesting it.<br><br>The final Act will instead give employees protection from unfair dismissal after six months of employment (down from the current two years). Any service requirement will continue to be disapplied in most instances of automatically unfair dismissal, such as a whistleblowing-related dismissal.<br><br>The caps on compensation will be removed. Most successful unfair dismissal claims are currently capped at the lower of a year's gross pay or GBP 118,223 (this figure increasing each year with inflation). This is in addition to a "basic" award (calculated in the same was a statutory redundancy payment). Currently, the cap is only disapplied in certain automatically unfair dismissal cases, which include whistleblowing and discrimination. | Expected: January 2027. | Ensure that contracts of employment contain probationary periods.<br><br>Through 2026, actively manage poor performance and conduct issues for employees in their first two years of employment. This is already long-standing, good Employee Relations (ER) practice, but the relatively long lead time for this aspect of the Act gives employers an opportunity to deal with matters in a reduced risk environment.<br><br>Also use 2026 to prepare managers for the reduced qualifying period, embedding prompt and effective performance assessment in the first six months of employment.<br><br>Consider your strategy in relation to senior executive exits, which may now require additional procedural steps given the increased potential for litigation now that the cap has been lifted. |

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| **Equality action plans – new reporting obligations for large employers** | | |
| Employers with 250+ employees will be required to publish action plans on the steps they are taking to advance equality of opportunity between male and female employees related to gender equality. This will include the gender pay gap and supporting women during the menopause.<br><br>The detail of this obligation will be subject to regulations, following consultation. | Consultation: 2026.<br><br>Expected: Spring 2027. | No action yet, pending the outcome of consultation and confirmation of the required details. |
| **Protections for zero-hours and agency workers: guaranteed hours and minimum shift notifications** | | |
| Right to receive a guaranteed hours offer (GHO). Applies to zero hours or low hours workers. Many details remain TBC, including thresholds and reference period to trigger the right, and what constitutes low hours.<br><br>GHO must usually be for a permanent contract; fixed term permitted where, broadly speaking, it is reasonable.<br><br>Shift notifications: worker is entitled to minimum notice of shifts, as well as notice of any changes or cancellation. What constitutes short notice is TBC.<br><br>There will be an associated regime of payments for short notice.<br><br>For agency workers:<br>• GHO obligation falls on the end hirer; effectively a temp to perm offer.<br>• There will be some ability to limit the pay offered under a GHO to the levels of comparable direct hires.<br>• Existing rules on transfer fees and extended hire periods remain. (Although unclear how extended hire periods will work in relation to GHOs.)<br>• Both agency and end hirer will be jointly responsible for shift notifications but liability for payment to fall on agency. Commercial recoupment provisions between agency and end hirer to be permitted.<br><br>These new rights can be excluded under a collective agreement with an independent trade union. | Consultation: imminent (overdue from autumn 2025).<br><br>Expected: 2027 (month not specified). | Review usage of zero hours or low hours workers employees to have clear picture of their working patterns in order to be able to identify employees likely to be entitled to a GHO, once the threshold details of new right are confirmed.<br><br>Conduct similar audit of agency worker usage and whether it will be desirable to scale this back in the light of the GHO requirements.<br><br>Ascertain what temp-to-perm fees the company is liable for under commercial terms with agencies.<br><br>In due course, review any relevant contractual terms or policies about shift notifications.<br><br>Consider whether it would be possible or desirable to negotiate a collective agreement excluding these new rights. Such considerations should form part of overall industrial relations strategy. |
| **Collective redundancy consultation – changes to thresholds** | | |
| The obligation to collectively consult will be triggered if the employer proposes to dismiss as redundant:<br>• 20 or more employees at an establishment (i.e., the current test); **or**<br>• A threshold number of employees across the business, regardless of establishment. The threshold is TBC. It could be a specific number or a percentage of the workforce, for example. | Consultation: closes 21 May 2026.<br><br>Expected: 2027 (month not specified). | Ensure systems can track proposed dismissals across all establishments in order to flag if thresholds will be crossed (once the thresholds have been confirmed). |

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| The original proposal was to scrap the current test completely, but this was changed in March 2025. | | |
| **Flexible working – strengthening employee rights** | | |
| The Act will require employers to justify a decision to refuse a request for flexible working. | Consultation: closes 30 April 2026.<br><br>Expected: 2027 (month not specified). | Provide updated training/guidance to managers.<br><br>Update template letters where necessary, to ensure they contain prompts to include explanation for refusal. |
| **Enhanced dismissal protections for pregnant women and new mothers** | | |
| Pregnant women and new mothers already have a number of protections from dismissal. The scope of new, enhanced protections under the Act is TBC. The recent government consultation paper reveals that it could range from an outright ban on certain types of dismissal (e.g., capability-related) through to tightening the standards of fairness (e.g., showing that continued employment would have a significantly detrimental effect on the business or on the wellbeing of others).<br><br>Amendments to the draft Bill during its passage through Parliament had suggested that the enhanced protections might only be procedural in nature (such as the provision of notices and information) but it is now clear that the government is considering more substantive measures.<br><br>The Act also permits the government to create enhanced protections for other family-leave returners. Whether to do so was also covered in the recent consultation paper. | Consultation: closed on 15 January 2026; awaiting government response.<br><br>Expected: 2027 (month not specified). | No action yet.<br><br>In due course, review policies and consider how to manage the potential industrial relations impact of increased protection. |
| **Bereavement leave – expanded rights** | | |
| The existing right to parental bereavement leave will be expanded to a wider category of relationships as well as to cases of pregnancy loss.<br><br>Bereavement leave in respect of a child will be at least two weeks (like the existing entitlement); in other cases it will be at least one week. The possibility of longer durations was the subject of the recently-closed government consultation, as were issues to do with eligibility and scope, as well as more practical issues about how the leave is taken and notice and evidential requirements.<br><br>This entitlement (both in its current form and the extended form under the Act) is distinct to the new bereaved partner's paternity leave entitlement that comes into force in April 2026, via separate legislation. | Consultation: closed on 15 January 2026; awaiting government response.<br><br>Expected: 2027 (month not specified). | No action yet.<br><br>In due course, review policies. |

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| **Umbrella companies – increased regulation** | | |
| The Act enables umbrella companies to be regulated in the same or a similar way to agencies. This will be subject to consultation.<br><br>The new Fair Work Agency will regulate these matters. | Consultation: closes 1 May 2026.<br><br>Expected: 2027 (month not specified). | No action yet. |
| **Non-disclosure agreements and discrimination/harassment – to be banned** | | |
| NDAs will be void insofar as they purport to prevent the making of allegations or disclosures about unlawful discrimination or harassment, or an employer's response to such allegations or disclosures. | TBC | No action yet.<br><br>In due course, template settlement agreements and employment contracts may need to be reviewed. |
| **Holidays – new obligation to keep records** | | |
| Employers will be required to keep records which are adequate to show whether the employer has complied with workers' statutory entitlements to holiday and holiday pay. They will have to keep them for six years. The new Fair Work Agency will be responsible for enforcement. | TBC | Review holiday pay compliance proactively where there has been historic non-compliance and consider a remedial strategy. |
| **Outsourcing information – new reporting obligations for large employers** | | |
| Employers with 250+ employees may be required to name the organisations to which they outsource work. This information would need to be included in the employer's gender pay gap report. | TBC - Implementation is stated to be dependent on broader pay gap reforms, which are being dealt with separately. | No action yet. |

## Unsuccessful, non-government amendments

At various times, the House of Lords voted in favour of a number of non-government amendments. With the significant exception of changes to unfair dismissal policy, these amendments were all rejected by the government and House of Commons, and ultimately abandoned by the House of Lords. We mention them here for completeness.

- GHOs: the Lords first attempted to change this to a right to request guaranteed hours, rather than an obligation to offer them. They later tried to give workers a form of opt-out from receiving GHOs.
- Short notice of shift changes: the Lords tried to include a provision saying that short notice meant 48 hours rather than leaving this to be defined in future regulations.
- Industrial action: the Lords sought to keep the current turnout requirement of at least 50% of membership for a valid vote to take strike action.
- Contributions to trade union political funds: the Lords wanted to retain the current opt-in model, rather than switching to an opt-out model.
- Whistleblowing: the Lords would have required some employers to take reasonable steps to investigate whistleblowing.
- Right to be accompanied in disciplinary/grievance hearings: the Lords attempted to extend the categories of companion to "certified professional companions".

## Further reading/viewing

The following articles have further detail and comment:

Cap on unfair dismissal compensation – proposed removal (December 2025)

Consultation on electronic and workplace balloting for statutory union ballots launched (November 2025)

New rights of trade union access – where are we now and practical points for employers (November 2025)

Vlog: Employment Rights Bill – Rights of access (November 2025)

Government consultations on dismissal protections for mothers, bereavement leave and trade union rights (October 2025)

Important proposed amendments to Employment Rights Bill (July 2025)

Government publishes consultation outcomes and amendments to Employment Rights Bill (March 2025)

Working with unions bulletin, March 2025

There are also other government initiatives that are being dealt with separately. For example, see:

Working paper on reforming non-competes launched (December 2025)

UK government publishes new rules on umbrella companies (July 2025)

Review of family-related leave and pay entitlements — A call for evidence (July 2025)

Government publishes call for evidence on unpaid internships and volunteers (July 2025)

Government publishes consultation on ethnicity and disability pay reporting

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