# Employment Rights Bill – what's changing, when, and why does it matter?

The full legislative detail and our commentary

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FRESHFIELDS

# The full legislative detail and our commentary

The Employment Rights Bill is poised to become one of the most transformative pieces of UK employment legislation in recent decades. Most recently published in full on 23 July, the Bill introduces sweeping reforms across a wide spectrum of employment rights – from new rights for zero hours workers to a changed landscape for industrial action.

This briefing sets out each key provision in detail, explains recent amendments, and highlights the practical implications for employers. You'll find expected timelines for consultation and implementation, along with insights on potential risks, operational challenges, and opportunities to prepare.

Whether you're an HR leader, business owner, or in-house counsel, this guide will help you understand what's changing, when it will happen, and why it matters.

## Contents

# Zero hours workers

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 1 to 8, Schedule 1 | **Right to guaranteed hours offer**<br><br>Employers that engage zero hours workers (or workers on a 'low' number of guaranteed hours) must make a guaranteed hours offer (***GHO***) at the end of every reference period, provided that the worker's hours exceeded the minimum number specified in their contract. Following consultation, the new rules will apply to agency workers where it is the responsibility of the end hirer to make a GHO. A GHO could take the form of a new contract or a variation to an existing contract. *Note that the Lords voted to change the legal requirement to offer a GHO to an employee's right to request a GHO on 14 July, but this amendment was rejected by the Commons.*<br><br>The GHO must reflect the hours worked during the reference period. It must include the days and times when the employer is required to make work available or a working pattern of days and times when work will be available. *Pursuant to recent amendments, where agency workers are concerned, the GHO must match the most favourable pay the agency worker received in the reference period or the pay of comparable workers (ie someone employed by the end hirer to do the same or broadly similar work).*<br><br>It is reasonable for a GHO to not be permanent (ie for a fixed-term contract to be offered) where the worker is only needed to perform a specific task or where there is only a temporary need for the worker to do the work. | Contrary to previous reports, zero hours contracts are not being banned. However, the new laws aim to ensure that zero hours or casual workers who in practice work fairly regular hours can be offered a contract which reflects this. Workers with more predictable income may be more likely to stay, reducing recruitment and training costs for employers. In addition, formalising working patterns and reducing reliance on informal or ad hoc arrangements may mean that employers face fewer disputes over employment status.<br><br>However, as they currently stand, these provisions introduce a notable administrative burden on employers. They will need to closely monitor hours worked by each qualifying worker, track reference periods and shift changes, and issue formal GHOs in a timely manner. The extension of pay parity rights to agency workers will require employers to conduct remuneration audits, potentially requiring new systems or processes. This could be particularly frustrating if many workers refuse the GHO.<br><br>The shift could also curtail operational flexibility, making it more difficult to scale staffing up or down or change shifts quickly. For seasonal industries – such as hospitality and retail – this change could be particularly disruptive. These sectors often rely on flexible staffing to respond to fluctuating demand. The new rules may force employers to offer guaranteed hours even when future demand is uncertain, potentially leading to overstaffing during quieter periods for example. | **Autumn 2025**<br><br>The below are expected to be detailed in regulations:<br><br>▪ what constitutes a 'low' number of hours (the government has indicated 16 hours or less)<br>▪ the reference period (the government expects an initial period of 12 weeks)<br>▪ the information that must be included in a GHO<br>▪ the specified form and manner of a GHO<br>▪ the offer period (Bill amendments state no less than one week)<br>▪ the maximum award in an employment tribunal claim | **2027**<br><br>*Continues overleaf→* |

# Zero hours workers (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 1 to 8, Schedule 1 (cont.) | The obligation to make a GHO ends if the worker resigns, is fairly dismissed during the qualifying period, or a fixed-term contract ends under certain conditions. If the employment ends after the offer but before acceptance, the offer is deemed withdrawn.<br><br>There are complex anti-avoidance provisions which allow workers to claim in an employment tribunal for failure to make a GHO, making a GHO not in accordance with the legislation, terminating a contract to avoid making a GHO, restricting hours to avoid triggering a GHO or reducing the hours offered in a GHO.<br><br>*Pursuant to recent amendments, where an agency worker accepts a GHO, they will become a worker of the end hirer (rather than an employee).*<br><br>**Right to reasonable notice of shifts (and payment for cancelled, moved or curtailed shifts)**<br><br>Employers that engage zero hours workers (or workers on a 'low' number of guaranteed hours) and workers not on a set working pattern must give workers reasonable notice of shifts where they fall outside of days, times or work patterns specified in a contract. This also applies to cancellations of and changes to shifts. Following consultation, the new rules will apply to agency workers (where it is the responsibility of the end hirer and the employment agency to provide reasonable notice of shifts). *Note that the Lords supported a measure to exempt employers from having to make a payment if a shift was cancelled with at least 48 hours' notice on 14 July but this amendment was rejected by the Commons.* | The anti-avoidance provisions are broadly framed and lack detailed guidance, which could make them difficult to interpret in practice. This ambiguity may lead to disputes over what constitutes genuine operational need versus deliberate avoidance.<br><br>Ultimately, the practical significance of these provisions will depend on how the government defines 'low' hours in the regulations as well as the minimum time for reasonable notice. If the threshold is set too high, many workers could become eligible for guaranteed hours and reasonable notice, increasing costs and reducing flexibility for employers. Conversely, a narrower definition could limit the policy's reach and reduce its intended impact. Until these definitions are clarified, employers may face uncertainty in workforce planning and contract structuring. | ▪ whether any obligations will be placed on agencies where agency workers are engaged<br>▪ minimum time for reasonable notice<br>▪ what short notice means (a Lords amendment proposes 48 hours) | *Continues overleaf→* |

# Zero hours workers (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 1 to 8, Schedule 1 (cont.) | Employers must also make a payment to a worker each time that they cancel, move or curtail certain shifts at short notice. As above, the new rules will apply to agency workers (where it is the responsibility of the employment agency to provide compensation).<br><br>Workers may claim in an employment tribunal if reasonable notice is not provided at all, if reasonable notice is not provided in accordance with the legislation, or if the employer has failed to make a relevant payment. | | | |

# Flexible working

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clause 9 | An employer may still refuse a flexible working request on one or more of the same eight grounds as currently, but only if it is reasonable to do so on the relevant ground(s).<br><br>The employer will need to consult with the employee about the request and there will be a specific requirement to explain the rationale for a refusal and why that refusal is considered reasonable. | The government initially stated that it would 'make flexible working the default'. Perhaps a more accurate description is that an employer will need to assume that flexible working requests should be approved, unless it is reasonable to refuse it.<br><br>Whilst a relatively simple change, this is not insignificant. It will mean that employees can bring employment tribunal claims to challenge the reasonableness of their employers' flexible working decisions, rather than simply for procedural breaches. However, it remains to be seen how 'reasonableness' will be determined by an employment tribunal.<br><br>There is still no requirement to communicate the employer's decision in writing, but the Acas Code of Practice recommends it. The Bill may be updated to match this (or associated regulations introduced).<br><br>The eight permissible grounds for refusing a request remain unchanged, as does the penalty an employer will face if found by an employment tribunal to have breached the flexible working provisions (which is set at eight weeks' pay subject to the statutory cap).<br><br>While many employers already do this, the introduction of these provisions is a reminder to document flexible working decision-making processes carefully. This may require training managers and updating internal HR procedures. | **Winter 2025/early 2026**<br><br>Regulations are expected to set out the steps to be taken when consulting with an employee before refusing a request | **2027** |

# Day one rights

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 15, 16, 18 and 25 | Certain employment rights will no longer have qualifying periods and will therefore apply from day one of employment. These include:<br>▪ the right to claim unfair dismissal. *Note that the Lords voted against making unfair dismissal a 'day one' right on 16 July, but this amendment was rejected by the Commons;*<br>▪ paternity leave;<br>▪ parental leave; and<br>▪ bereavement leave (one week of unpaid leave). *Pursuant to recent amendments, the entitlement to bereavement leave will be extended to cases involving pregnancy loss (meaning a miscarriage or stillbirth before 24 weeks or a failed embryo transfer in IVF).* | The expansion of day one rights to employees, specifically the right to claim unfair dismissal, will mean that employers no longer have the same flexibility to dismiss new hires during the early stages of employment. While terminations should always be well-documented and justifiable, these provisions will increase the need for more robust onboarding and performance management processes.<br>They also pose the potential for a significant increase in the number of claims brought by employees against employers in the employment tribunal. Combined with the extension of employment tribunal time limits (see more on this below), employers need to be prepared both when managing the initial stages of an employee's onboarding and when considering dismissing an employee.<br>The statutory probationary period will require employers to formalise their probation management, including setting clear expectations, providing regular feedback, and documenting progress. This will help to ensure that any decision to dismiss during the period is defensible. Employers may want to consider clearly defining the probationary period in employment contracts, including any review points and notice periods. Transparency will be key to managing expectations and avoiding disputes. | **Summer/Autumn 2025** ('day one' protection from dismissal)<br>**Autumn 2025** (bereavement leave)<br>The below are expected to be detailed in regulations:<br>▪ the duration of the probationary period (the government has expressed a preference for nine months)<br>▪ the 'lighter touch' process allowing dismissal during a probationary period<br>▪ precise eligibility for bereavement leave and the circumstances in which it can be taken (likely to align with the definitions used in time off for dependents) | **April 2026** ('day one' paternity leave and unpaid leave)<br>**2027** (bereavement leave and 'day one' protection from unfair dismissal)<br>*Continues overleaf→* |

# Day one rights (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 15, 16, 18 and 25 (cont.) | The government has confirmed that there will be a statutory probationary period, during which employers will be able to follow a 'lighter touch' procedure. This 'lighter touch' process will not apply to a redundancy dismissal (and will therefore only apply where the reason for termination is capability, conduct, illegality or some other substantial reason relating to the employee). A special compensation regime for employees unfairly dismissed during the statutory probationary period is contained in the Bill.<br><br>Employees who have signed an employment contract but have not yet started work do not have a right to claim unfair dismissal unless the dismissal falls under specific exceptions. | In order to ensure that certain leave entitlements are available immediately to employees, employers should consider updating HR systems, contracts and policies, as well as training managers to handle requests appropriately from the outset. | | |

# Protection from harassment

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 20 to 23 | **Strengthened duty to prevent sexual harassment**<br><br>The new duty to take reasonable steps to prevent sexual harassment at work (in force from October 2024) will become a duty to take 'all' reasonable steps to prevent sexual harassment.<br><br>The Bill grants a power enabling regulations to specify steps that employers must take to prevent sexual harassment. Regulations will also be able to specify matters to which employers must have regard when taking steps for the purposes of the sexual harassment provisions. As part of this, the government launched a call for evidence requesting input as to whether there is evidence of effective steps employers can take to reduce and/or prevent sexual harassment.<br><br>For the time being, the Bill includes a list of reasonable steps which align with EHRC guidance (which will be updated in due course) including:<br><br>▪ carrying out assessments;<br>▪ publishing plans and policies;<br>▪ taking steps relating to the reporting of sexual harassment; and<br>▪ steps relating to the handling of complaints. | The strengthening of the duty to prevent sexual harassment raises the standard of care expected of employers. Employers may need to review and update harassment policies and provide comprehensive training to all staff, to ensure that their efforts to prevent harassment have been suitably exhaustive. However, until the government issues regulations specifying what counts as 'reasonable steps' (which confusingly are not due before October 2027 despite the fact that the duty will take effect from October 2026), employers may face uncertainty and will need to rely on the EHRC guidance and best practices, such as risk assessments, reporting procedures, and cultural audits. Many employers will already have bolstered their practices following the introduction of the duty to prevent sexual harassment in October 2024.<br><br>The provisions expanding the duty to prevent sexual harassment to include harassment by third parties will place a greater burden on employers to develop, implement, and monitor health and safety procedures that meet the requirement of 'all reasonable steps' as outlined in the Bill and the EHRC guidance. Employers will need to consider external risks and take steps to protect employees from harassment beyond their direct control – this will be a particular consideration where employees are dealing with clients, customers, suppliers or members of the public. | The below are expected to be detailed in regulations or potentially in guidance:<br><br>▪ specific steps it would be reasonable for employers to take<br>▪ matters to which employers must have regard when taking steps to prevent sexual harassment | **April 2026** (whistleblowing protections)<br><br>**October 2026** (requiring employers to take all reasonable steps to prevent sexual harassment of their employees and introducing an obligation on employers not to permit the harassment of their employees by third parties)<br><br>**October 2027** (introducing a power to enable regulations to specify steps that are to be regarded as 'reasonable' to determine whether an employer has taken all reasonable steps to prevent sexual harassment)<br><br>*Continues overleaf→* |

# Protection from harassment (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 20 to 23 (cont.) | **Liability for harassment by third parties**<br><br>The provisions also cover protection from (all types of) harassment of any kind by third parties via a new requirement that employers must not permit third parties – such as customers, clients or contractors – to harass their employees. An employer will permit harassment if they fail to take all reasonable steps to prevent it from happening.<br><br>**Disclosure of sexual harassment to become qualifying disclosure**<br><br>A disclosure that 'sexual harassment has occurred, is occurring or is likely to occur' will now also become a qualifying disclosure for whistleblowing purposes. | The inclusion of disclosures about sexual harassment as a specified type of qualifying disclosure for whistleblowing purposes arguably does not represent a material change. Disclosures of alleged breaches of the law are already captured, meaning that allegations of sexual harassment could have been swept up under this heading. However, its inclusion as an express limb is a clear demonstration of the prominence that this topic continues to have and the importance for employers of focusing on clear internal reporting mechanisms and anti-retaliation measures. | | |

# Non-disclosure agreements

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| *Clause 24 – amendments approved by the Lords which were amended further by the Commons* | *An amendment to the Bill provides that a provision in an agreement between an employer and a worker is void in so far as it purports to prevent the worker making an allegation of or disclosure of information relating to certain work-related harassment and/or discrimination or how the employer responded to allegations of harassment and/or discrimination.*<br><br>*This broadly applies to harassment or discrimination by the employer or any worker of the employer (regardless of whether the person making the disclosure was the victim).*<br><br>*Any non-disclosure provision is not void where it is contained in an 'excepted agreement'. This will be defined in separate regulations and may still permit workers to make an allegation or disclosure:*<br>▪ *to a specified description of person (we expect this might include regulators for example);*<br>▪ *for a specified purpose; and*<br>▪ *in specified circumstances.*<br><br>*Among its amendments, the Commons proposed to extend the scope of relevant discrimination to include a failure to make reasonable adjustments.* | *For employers, this is a significant shift. Confidentiality clauses in employment contracts, settlement agreements and other documents will need to be reviewed.*<br><br>*The reform casts a wide net. There is no reference in the proposed amendment to qualifying or protected whistleblowing disclosures, so as currently drafted, the provision will presumably apply to any disclosure regardless of who that disclosure is made to. This means that whilst a disclosure may only be protected for whistleblowing purposes if made to the employer in the first instance (see the new qualifying disclosure in relation to sexual harassment above), an employee can still legally disclose details to the press.*<br><br>*That said, it does not encompass every scenario. For example, it appears from the drafting that if the harassment is by a third party (ie not the employer or a fellow worker), then employers can restrict someone from disclosing that.* | *There is no clear indication of consultation timing, but the proposed clause will be in the 'protection from harassment' section of the ERB so will potentially be consulted on alongside one of the other new duties (see more on this above)*<br><br>*The below are expected to be detailed in regulations:*<br>▪ *the specific conditions for an 'excepted agreement'*<br>▪ *disclosures to be protected in an excepted agreement (examples given are disclosures to a lawyer or a medical professional)*<br>▪ *whether there will be mandatory independent legal advice for an excepted agreement* | *There is no clear indication of implementation timing but the proposed clause will be in the 'protection from harassment' section of the ERB so it will potentially come into force alongside one of the other new duties (see more on this above)*<br><br>*Continues overleaf→* |

# Non-disclosure agreements (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| *Clause 24 – amendments approved by the Lords which were amended further by the Commons (cont.)* | | *Baroness Jones has set out a few interesting points on the NDA ban in various letters. According to her, the purpose of the 'excepted agreement' is to ensure that confidentiality clauses can still be used for legitimate purposes. She gives the example of a worker requesting a confidentiality clause to help provide closure following a distressing incident. The government will consult on the regulations and the consultation will help to ensure that the specific conditions for excepted agreements adequately protect workers from the misuse of confidentiality clauses while providing the flexibility for workers to choose what suits them best. It therefore seems likely that the 'excepted agreement' carve-out will be very employee-friendly.*<br><br>*While the reform is designed to enhance transparency and protect workers, it may have unintended consequences. Employers might become more hesitant to resolve discrimination or harassment complaints through settlement if they cannot rely on confidentiality provisions. This could result in more cases progressing to tribunal hearings, increasing costs and potentially stress for both sides.*<br><br>*As expected, the new rules will not apply retrospectively – existing NDAs will remain valid if they comply with current law.* | ▪ *other individuals beyond 'workers' who should fall within the scope of the provision (examples given include agency workers, trainees, people on work experience and certain types of self-employed individuals)* | |

# Family rights

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 17, 18, 25 and 26 | **Dismissal during pregnancy and following family leave**<br><br>Under the current legal framework, employees who are pregnant, on maternity leave, or in an extended protection period following their return (up to 18 months from the child's birth), are given priority in redundancy situations. They must be offered any suitable alternative roles before others.<br><br>The Bill introduces new provisions that will broaden these protections to cover dismissals for reasons beyond redundancy (covering dismissals for any reason) – likely applying the same 18-month protected timeframe. Comparable safeguards will also be extended to individuals taking other forms of statutory family leave (including adoption leave and shared parental leave).<br><br>**Bereavement leave**<br><br>The Bill introduces a 'day one' right to bereavement leave, which will be at least one week of unpaid leave for employees. *Pursuant to recent amendments, the entitlement to bereavement leave will be extended to cases involving pregnancy loss (meaning a miscarriage or stillbirth before 24 weeks or a failed embryo transfer in IVF).*<br><br>**Ability to take paternity leave following shared parental leave**<br><br>Employees will now be able to take paternity leave and pay even after they have taken shared parental leave and pay.<br><br>**See also 'Day one rights'.** | The extended protection for pregnant and family leave returners marks a notable shift in the legal landscape. Employers will need to review dismissal procedures, update HR policies, and ensure that managers are trained to avoid inadvertently breaching these new protections.<br><br>Similar actions will need to be taken to reflect the new right to bereavement leave. Employers will need to update leave policies to reflect this new entitlement and ensure that managers are aware of the criteria and process for granting bereavement leave. Of course, employers will need to handle bereavement leave requests with empathy and sensitivity, which may require additional training and support for managers and HR teams. | **Autumn 2025** (rights for pregnant workers and bereavement leave)<br><br>The below are expected to be detailed in regulations:<br><br>▪ specified notices to be given, evidence to be produced and other procedures to be followed by employees and employers<br><br>▪ consequences of failure to comply with the requirements<br><br>▪ precise eligibility for bereavement leave and the circumstances in which it can be taken (likely to align with the definitions used in time off for dependents)<br><br>▪ whether new parents more generally will be included in the enhanced dismissal protection policy | **2027** (rights for pregnant workers and bereavement leave) |

# Fire and rehire

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clause 28 | It will be automatically unfair for an employer to dismiss an employee for refusing to agree to a variation or because the employer intends to employ another person on varied terms to carry out substantially the same role. *Pursuant to recent amendments, it will be automatically unfair for an employer to dismiss someone to make a 'restricted variation' (a variation of an employee's employment contract of a particular kind) if the reason for the dismissal is that the employee did not agree to the variation. 'Restricted variations' relate to pay or pensions, number of hours, leave entitlement and changes in shift patterns (and will be further specified in regulations). In addition, a variation clause included in an employment contract enabling the employer to make any of those changes without agreement will amount to a 'restricted variation'.*<br><br>*If fire and rehire is used to make a non-restricted variation, the dismissal will not be automatically unfair. A framework for assessing such a case means that a tribunal must consider the following:*<br>▪ *the reason for the variation;*<br>▪ *any consultation carried out by the employer;*<br>▪ *anything offered to the employee by the employer in return for agreeing to the variation; and*<br>▪ *any matters specified in regulations.* | This is a significant change from the current regime governing the practice of fire and rehire, as the current Code of Practice allows fire and rehire only in circumstances where it is the 'last resort'. *However, limiting the clause to 'restricted variations' will allow businesses to retain some flexibility in carrying out legitimate business practices involved in restructuring. Under the new proposals, dismissals in relation to other contractual changes, such as location and job role, will be subject to ordinary unfair dismissal rules, with enhanced protections to ensure that employers meaningfully consult and negotiate with employees when doing so. This should include consultation with trade union representatives where there is a recognised trade union.*<br><br>*The amendments relating to non-restricted variations do not move the dial as they are all considerations that tribunals would already take into account when determining the fairness of a dismissal.*<br><br>Note that the existing Code of Practice will apply to any circumstances where fire and rehire may be permissible (but it will be updated). Since January 2025 in a collective redundancy scenario, where an employer has not followed the Code of Practice, the tribunal may apply an uplift in compensation of up to 25% to a protective award if it considers the employer's failure to comply was unreasonable, and it considers it just and equitable in all the circumstances to do so. This, combined with the increase in the protective award for failure to inform and consult (from 90 to 180 days), will mean that these reforms have a significant affect on employers. The government's view is that this combination provides an effective remedy to strengthen | **Autumn 2025**<br><br>The below are expected to be detailed in regulations:<br>▪ additional factors a tribunal must consider when determining whether an employer has acted reasonably<br>▪ any other 'restricted variations'<br>▪ clarity around whether expenses and certain types of pay may be out of scope<br>▪ defining which changes to contractual benefits (other than pension) are in scope | **October 2026**<br><br>*Continues overleaf→* |

# Fire and rehire (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
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| Clause 28 (cont.) | This new restriction on fire and rehire applies unless the employer is facing financial difficulties affecting or likely to affect their ability to carry on the business as a going concern and the reason for the variation was to eliminate, prevent or significantly reduce, or significantly mitigate, the effect of those financial difficulties. In order for this defence to apply, the employer must have not reasonably been able to avoid the need to make the variation. *Once an employer successfully argues that serious financial difficulties justified the dismissal, the tribunal will revert to applying the standard reasonableness test under unfair dismissal law.*<br><br>*A further provision introduces a new anti-avoidance rule in relation to fire and replace scenarios. This makes it automatically unfair to dismiss an employee with the intention of replacing them with someone who is not an employee (eg an agency worker or contractor), where the new person performs substantially the same duties. There are exceptions to this rule in circumstances where the reason for the replacement is to address financial difficulties of the employer and the employer could not reasonably have avoided the need to replace the employee.*<br><br>*There are some new tests proposed specifically for public sector employers and local authorities specifically.* | compliance with collective consultation obligations. However, it intends to monitor the level of compliance. Following consultation, the government announced that it would not be taking forward proposals that would make interim relief available in claims for protective awards and/or claims of unfair dismissal on the grounds of fire and rehire. | We also expect a consultation on updating the Code of Practice to ensure that it reflects the changes in the Bill | |

# Collective redundancies

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 33 and 34 | **Collective consultation thresholds**<br><br>Collective consultation will be required if there are 20 or more redundancies at one establishment, or a different threshold is met over multiple establishments. The details of the threshold for multiple establishments will be set out in regulations.<br><br>In carrying out collective consultation, the employer does not need to consult all employee representatives together, or try to reach the same agreement with all of the representatives.<br><br>**Collective redundancy protective award**<br><br>The cap on protective awards in collective redundancy situations will be increased from 90 to 180 days. | The new threshold test will likely require employers to track redundancies organisation-wide, not just by location. Therefore, HR and legal teams must be prepared to aggregate redundancy numbers across sites to assess consultation obligations and monitor how those numbers change over time as a result of any ongoing consultation.<br><br>The provision relating to consultation with employee representatives provides greater flexibility for employers in managing complex consultations involving different departments, unions or staff groups. Despite this increased flexibility, it remains important that employers ensure that each group is consulted meaningfully.<br><br>The protective award cap increase will double the financial risk of non-compliance with collective consultation. Employers must therefore ensure timely and thorough consultation to avoid exposure to large protective awards. This change may also strengthen employee bargaining power during redundancy processes. Remember that protective awards are calculated based on an affected employee's uncapped salary, so there is increased scope for a significant financial penalty on an employer for non-compliance. | **Winter 2025/early 2026**<br><br>The below are expected to be detailed in regulations:<br><br>▪ the details of the threshold for multiple establishments (it will not be a number lower than 20)<br><br>▪ whether to double the minimum consultation period when an employer proposes to dismiss 100 or more employees (from 45 to 90 days)<br><br>Guidance is also expected on consultation processes for collective redundancies | **April 2026** (collective redundancy protective award – doubling the maximum award)<br><br>**2027** (collective redundancy – collective consultation thresholds) |

# Equality

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clause 37 | **Equality action plans**<br><br>New regulations will require most employers with 250 or more employees to develop and publish an equality action plan to demonstrate how they will advance equality of opportunity between men and women, including reducing their gender pay gap and supporting employees through the menopause. Details of the requirements (including what should be included in equality and menopause action plans) will be set out in regulations.<br><br>**Provision of information relating to outsourced workers**<br><br>New regulations will require employers to publish the identity of third-party providers who supply contract or outsourced workers. | While not currently required, many employees already publish how they aim to close the gender pay gap as part of mandatory pay gap reporting. Employers who already do this will need to ensure that it complies with the new requirements to be set out in regulations.<br><br>Action plans focusing on the menopause are less common, so employers will need to ensure that they have relevant workforce diversity data, consider targets for improvement and steps taken to address any issues.<br><br>Ultimately, well-crafted action plans will allow employers to demonstrate leadership on equality, diversity and inclusion and may support talent attraction and retention, improve employee engagement and enhance reputation.<br><br>The provision on outsourced workers is intended to shine a light on labour supply chains, making it easier for employment practices to be scrutinised. Requiring public disclosure of identities will likely force employers to vet their labour providers more thoroughly to ensure that they meet legal and ethical standards. Employers will also need to maintain accurate and up-to-date records of all contract worker providers. While the detail will be published in further regulations, employers may want to begin mapping their outsourced workforce, reviewing contracts with labour providers and establishing internal reporting mechanisms. Note that this is simply an obligation to identify third-party providers, not to include contract and outsourced workers in gender pay gap data. | The below are expected to be detailed in regulations:<br><br>▪ the required content of an action plan<br>▪ the form and manner in which a plan must be published<br>▪ when and how frequently a plan must be published or revised (this will be no more regularly than every 12 months)<br>▪ requirements for senior approval before a plan is published<br>▪ descriptions of employers, employees and information<br>▪ penalties for non-compliance<br>▪ format and frequency of publication requirement relating to outsourced workers<br><br>The government confirmed that it would develop menopause guidance for employers and guidance on health and wellbeing | **2027** (gender pay gap and menopause action plans, which will be introduced on a voluntary basis in April 2026) |

# Umbrella companies

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clause 40 | Umbrella companies will be defined to allow for their regulation and to bring them within the scope of the Employment Agency Standards Inspectorate's (and subsequently the Fair Work Agency's) remit.<br><br>Note that, separate from the Bill, from April 2026, where an umbrella company is used in a labour supply chain to engage a worker, the responsibility to account for PAYE/Class 1 NICs will be moved from the umbrella company that employs the worker to the recruitment agency that supplies the worker to the end client. Where there is no agency in a labour supply chain, this responsibility will sit with the end client. | Umbrella companies typically act as intermediaries between recruitment agencies and workers, handling payroll and employment contracts. However, they have historically operated in a regulatory grey area, sometimes outside the scope of direct enforcement, which may have led to issues relating to employment rights and confusion over the legal employer. The government's aim is to ensure that workers employed through umbrella companies can enjoy comparable rights and protections to those working directly for an end client.<br><br>Employers using umbrella companies will need to verify that their providers are compliant with the new requirements. | **Autumn 2025** | **2027** |

# Trade unions and industrial action

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 62 to 81, Schedule 6 | **Right to statement of trade union rights**<br><br>A worker's employer must give the worker a written statement that they have the right to join a trade union at the same time as a section 1 statement of employment particulars is provided.<br><br>**Right of trade unions to access workplaces**<br><br>Trade union officials will have the right to access workplaces and communicate with workers to meet, support, represent, recruit or organise workers, or to facilitate collective bargaining, provided that a specific process is followed.<br><br>A trade union may present an employer with a request for access. The employer may then respond to the trade union within a specified period. The union and employer can then negotiate access terms. If the employer fails to respond or if negotiations are unsuccessful, the union may apply to the Central Arbitration Committee (***CAC***) for a determination regarding access.<br><br>A party to an access agreement may complain to the CAC if the agreement is breached or steps are taken to prevent access. There may ultimately be financial penalties for non-compliant employers.<br><br>The explanatory notes to an earlier version of the Bill confirm that access to workplaces will include digital access – it is unclear whether this will be the case following Royal Assent. | To reflect the new right to a statement of trade union rights, employers will need to update their onboarding documentation. Providing such a statement could potentially lead to higher union membership, particularly in sectors with historically low unionisation.<br><br>Many employers have expressed concerns that the right of access provisions give trade unions an 'unfettered' right of access to workplaces. These changes do present a significant shift from the current regime, creating an expedited route for unions to achieve access and introducing penalties for employers who fail to comply with the process. The government has so far provided very little information on how it intends to extend the regime to cover digital access, although it does give an example of a trade union being permitted to post information on an employer's intranet pages. Digital access has the potential to allow unions to reach much wider groups of employees and it is unclear how extensive this access will be. Again, the right of access could increase union activity and visibility within workplaces, especially in previously non-unionised environments.<br><br>Interestingly, when it comes to trade union recognition, the government recognised in its consultation response that practices such as mass recruitment are not common. Employers may therefore argue that they are being punished unfairly for the behaviour of a few with these new rules. In particular, the requirement to disclose the number of workers within the bargaining unit will create an additional administrative burden. | **Autumn 2025** (e-balloting and workplace balloting, simplifying trade union recognition processes, duty to inform workers of their right to join a trade union, right of access, Acas Code of Practice consultation covering new rights and protections for trade union representatives)<br><br>**Winter 2025/early 2026** (protection against detriment for taking industrial action, blacklisting)<br><br>The following are expected to be detailed in regulations:<br><br>▪ the statutory process for requesting access | **Royal Assent** (repeal of Strikes (Minimum Service Levels) Act 2023, repeal of most of the Trade Union Act 2016 (some provisions will be repealed via commencement order at a later date), simplifying industrial action notices and ballot notices, protections against dismissal for taking industrial action)<br><br>**April 2026** (simplifying trade union recognition processes, e-balloting and workplace balloting)<br><br>*Continues overleaf→* |

# Trade unions and industrial action (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 62 to 81, Schedule 6 (cont.) | **Trade union recognition**<br><br>The time limit for bringing an unfair practice complaint will be increased to five working days (rather than one day) after the ballot has closed. The CAC will also have more powers to intervene where employers engage in unfair practices.<br><br>Employers will be required to share the number of workers (together with names and dates of birth) in the proposed bargaining unit within five working days of an application for recognition being submitted. This number will then remain fixed for the purposes of the recognition process, with the aim of preventing mass hiring to make it more difficult for the union to succeed in achieving recognition.<br><br>The 10 per cent threshold for the CAC to accept a recognition application from a trade union will be replaced with a test of a lower percentage (potentially as low as 2 per cent).<br><br>Currently, there is a condition that, when a recognition ballot is ordered by the CAC, that recognition must be supported by at least 40 per cent of workers constituting the bargaining unit with a majority voting in favour. The 40 per cent threshold will be removed, such that the union need only be supported by a majority of the workers voting.<br><br>**Facilities provided to trade union representatives and members**<br><br>An employer that permits an employee to take time off for carrying out trade union duties must, where requested by the employee, provide accommodation and other facilities for carrying out the duties as is reasonable in the circumstances. | We note, however, that this requirement would not prevent employers hiring new staff, but that those new members of staff would not count towards the bargaining unit for the purposes of the recognition process.<br><br>In relation to blacklists, employers should audit recruitment and HR practices to ensure compliance.<br><br>The new protection against detriment for participating in industrial action is intended to address a gap in the law highlighted by the Supreme Court's decision in Mercer, which confirmed that current legislation does not safeguard workers from detriment (short of dismissal) for taking part in such action.<br><br>Measures such as e-balloting will make ballots more accessible and likely increase turnout, which arguably requires unions to demonstrate a stronger mandate for any industrial action taken. The shortening of notice requirements will mean that employers have less time to prepare for strikes and may reduce the number of challenges to industrial action, but this would also reduce the time and money employers spend on challenging procedural points, allowing them to focus on the substantive dispute. | ▪ the detail of default terms for access arrangements where the parties are unable to reach agreement through negotiation<br><br>▪ detailed framework for financial penalties for non-compliance with the right of access<br><br>▪ the required percentage threshold for the CAC to accept a recognition application from a trade union | **October 2026** (duty to inform workers of their right to join a trade union, strengthen trade unions' right to access, new rights and protections for trade union representatives, extending protections against detriment for taking industrial action)<br><br>**2027** (industrial relations framework)<br><br>*Continues overleaf→* |

# Trade unions and industrial action (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 62 to 81, Schedule 6 (cont.) | An employer must permit an employee who is a member of an independent trade union recognised by the employer and who is an equality representative of the trade union to take time off during the employee's working hours to carry out their duties as an equality representative.<br><br>**Blacklists**<br><br>The government may make regulations prohibiting the use of lists which contain details of members of trade unions, or people who have taken part in trade union activity, for the purposes of discrimination in relation to recruitment or the treatment of workers. This also applies to the sale or supply of such lists.<br><br>**Industrial action**<br><br>A new protection will be introduced such that workers cannot be subjected to detriment by an employer for taking part in protected industrial action. Detriment may be prescribed in further regulations. Where a worker (or former worker) has been subjected to detriment, they may complain to an employment tribunal.<br><br>The new provisions also strengthen and simplify the current protections against dismissal for participating in protected industrial action.<br><br>The notice period required to be given by unions to employers of industrial action will be reduced from 14 days to ten days. | | | *Continues overleaf→* |

# Trade unions and industrial action (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 62 to 81, Schedule 6 (cont.) | The period after which an industrial action ballot ceases to be effective (and a union must hold a new ballot for further industrial action) will be extended from six to 12 months.<br><br>Currently, there is a 50 per cent turnout threshold requirement such that, at least 50 per cent of eligible union members must participate in the ballot for industrial action to be lawful. Of those who vote, a simple majority must vote in favour of the action. The Bill proposes to remove the 50 per cent turnout threshold. *The Lords approved an amendment to retain it but this was rejected by the Commons.*<br><br>The government has confirmed that it intends to introduce e-balloting.<br><br>**Strikes – minimum service levels**<br><br>The Strikes (Minimum Service Levels) Act 2023, which enabled the government to set minimum service levels during strikes in essential services such as transport, will be repealed.<br><br>**Trade Union Act 2016**<br><br>The majority of the Trade Union Act 2016, which introduced several measures to limit the ease with which strikes can be called (including minimum turnout requirements and additional notice and ballot rules), will also be repealed. | | | |

# Labour market enforcement (the Fair Work Agency)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 93 to 154, Schedule 7 | A new labour market enforcement agency will be created to bring together existing enforcement functions for minimum wage, statutory sick pay ***(SSP)***, employment tribunal penalties, labour exploitation and modern slavery, and with new responsibilities for holiday pay enforcement.<br><br>The Fair Work Agency ***(FWA)*** will have the power to obtain documents and information from employers, enter business premises to obtain such documents, conduct investigations and issue undertakings and orders relating to non-compliance.<br><br>**Requirement to produce strategies and reports**<br><br>Every three years, a labour market enforcement strategy must be published by the government, setting out the scale and nature of non-compliance with relevant labour market legislation and a proposal for setting out how enforcement functions will be exercised. Alongside this, at the end of each financial year, an annual report must be published, assessing the extent to which the enforcement functions of the FWA were exercised and how the FWA's strategy effected non-compliance with relevant labour market legislation. | The rationale behind the introduction of the FWA is to consolidate and expand the existing powers of the state to protect employment rights. Employment rights are mostly enforced by individuals through the employment tribunal, individual dispute resolution and sometimes collective agreements. An assortment of agencies already exist to cover areas where workers are considered at a heightened risk. The FWA would bring the functions of these agencies under one roof, in order to create a 'strong recognisable single brand so individuals know where to go for help and lead to a more effective use of resources.'<br><br>Increasing penalties to 200% (subject to a per employee cap of £20,000) could be financially significant for employers who are non-compliant across an entire workforce (which can sometimes happen in complex areas like holiday pay).<br><br>The implications of the FWA's dawn raid powers, together with the power to obtain documents and information, will be particularly felt by those businesses that do not fall under regulatory regimes where such powers are already available or that have never had a brush with competition authorities. For example, financial services firms may have existing document management systems in place to assist with PRA and FCA search and seizure investigations. Employers not currently regulated in such a way will need to consider best practices for dealing with these new investigatory powers. | | **April 2026** (FWA established)<br><br>*Continues overleaf→* |

# Labour market enforcement (the Fair Work Agency) (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 93 to 154, Schedule 7 (cont.) | **Power to obtain documents or information**<br><br>The FWA may be able to compel a person to provide certain information. A FWA enforcement officer will also have the power to enter business premises to inspect documents, require people to produce documents, and check computers or other equipment (effectively, a dawn raid). Any documents found or produced can then be seized by the FWA. If a person produces false information or documents or obstructs an enforcement action this will be a criminal offence.<br><br>**Power to give notice of underpayment**<br><br>The FWA may issue a notice of underpayment where particular payments to individuals (such as National Minimum Wage, SSP and/or holiday pay) have not been paid. A notice would give employers 28 days to pay the employee what is due. Claims for underpayments can go back six years and penalties can be 200% of the sum owed, up to a maximum penalty of £20,000 per employee. This penalty is reduced to 100% if paid within 14 days.<br><br>**Powers to bring proceedings and provide legal assistance**<br><br>The FWA will be able to bring employment tribunal proceedings on behalf of workers, if the workers have the right to bring the claim and appear to not be doing so. Notably, this power extends to all types of employment tribunal claim, not just those relating to breaches that would fall under the FWA's remit. | It remains to be seen how successful the FWA will be in pursuing claims on behalf of disinterested employees. However, where the FWA's investigatory powers can help them uncover strong evidence of wrongdoing, this may become a significant tool in their arsenal.<br><br>It is unclear whether the FWA will have the resources or mandate to focus on anything but the more egregious breaches and/or most high-profile companies. | | *Continues overleaf→* |

# Labour market enforcement (the Fair Work Agency) (cont.)

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 93 to 154, Schedule 7 (cont.) | The FWA will also have the power to provide legal assistance for employment-related proceedings, by providing legal advice, legal representation or any other form of assistance (excluding the settlement of a dispute). Should the party the FWA assists win, the FWA will be permitted to recover any costs incurred from any compensation.<br>**Labour market enforcement undertakings**<br>Where the FWA believes that a person has committed a labour market offence, a labour market enforcement undertaking may be issued to order the person to comply. If a person fails to comply, a court can upgrade the undertaking to an order. A continued failure to comply would constitute a criminal offence.<br>**Ability to recover enforcement costs**<br>The FWA can charge persons who have breached the law as a method of recovering their enforcement costs. | | | |

# Employment tribunal claims

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clause 155, Schedule 12 | Employment tribunal claims will be able to be brought within six months of a relevant date (rather than the current three months). | The stated aims of this proposal are to simplify the employment tribunal system by reducing complexity and rigidity and increase access to justice by allowing for a more 'realistic' timetable for employees.<br><br>In an impact assessment, the government found that this proposal has the potential to increase the costs of managing new employment tribunal cases as more employees would have the time to file their claims with the tribunal. However, the government also suggests the increased time limits may in fact lead to more cases being resolved via internal dispute resolution systems or informal settlements. This may suggest that the impact of this change isn't particularly known. Employers may therefore wish to review their early dispute resolution mechanisms to resolve issues before they escalate, whilst also being prepared for a longer period of potential legal exposure if a dispute does arise. | | **October 2026** |

# Other

| Clause | Details | Commentary | Consultation | Implementation |
|---|---|---|---|---|
| Clauses 10 and 11 (statutory sick pay)<br><br>Clause 14 (tips and gratuities)<br><br>Clause 39 (annual leave records) | **Statutory sick pay**<br><br>Eligibility for SSP will be widened and SSP will be paid from the first day of work missed due to sickness (rather than the fourth) and will be payable for the first three sick days.<br><br>The lower earnings limited will be removed, entitling all eligible employees to SSP. This means that, for lower earners, their rate of SSP will be calculated as 80% of their normal weekly earnings.<br><br>**Tips and gratuities**<br><br>Employers will be required to consult with trade unions, elected representatives or workers before producing a written policy about allocation of tips and gratuities. Such a policy must be reviewed at least once every three years (and consultation must form part of each review). A summary of views expressed during the consultation must be made available (in anonymised form) to all workers.<br><br>**Annual leave records**<br><br>There will be a requirement on employers to keep 'adequate' records to show whether they have complied with annual leave entitlements and maintain those records for six years from the date on which they were made. These records can be created, maintained and kept in such a manner and format as the employer reasonably thinks fit. Failure to maintain these records will constitute a criminal offence, punishable by fines (and the FWA will be able to enforce failure to comply). | The removal of the lower earnings limit and waiting period for SSP means that more employees will qualify for paid sick leave, potentially increasing short-term costs, especially in sectors with high turnover or casual labour. Some commentators are concerned that these changes will increase rates of absenteeism but the government disputes this.<br><br>The new provisions on tips and gratuities will be particularly relevant for businesses in hospitality, leisure and service sectors, where tips and gratuities can be a significant part of employee income. Employers are already required to produce a written policy on allocation of tips and gratuities but the new requirements to consult will create additional obligations. Employers should establish a process for consulting representatives or staff and ensure that such consultation is genuine and meaningful.<br><br>The new record-keeping requirements relating to annual leave is designed to ensure compliance with statutory leave entitlements and will also support enforcement by the Fair Work Agency. They will create additional administrative burdens on employers, so employers will need to implement or update systems to track leave accrual and usage accurately if they don't already do so. | **Winter 2025/early 2026** (tips and gratuities) | **April 2026** (statutory sick pay – removal of the lower earnings limit and waiting period)<br><br>**October 2026** (tips and gratuities) |

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