

Employment Rights Bill¹

Key provisions and impact assessment²

Unfair Dismissal					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change ³	Actions to take
Employees need 2 years' service to bring an ordinary unfair dismissal claim. Whilst there may be a contractual probationary period, employers generally have 2 years to safely dismiss an employee if the relationship doesn't work (providing there is no discrimination or automatic unfair reason).	No minimum service requirement for ordinary unfair dismissal claims. A statutory probation period ('initial period of employment') will apply for the first 9 months of employment. Within this period, a fair reason is still required – poor performance, misconduct, capability, SOSR will have a "light touch" procedure. Redundancy will likely still require the full process.	High	High	2027 Further consultation required	Continue to assess those with less than 2 years' service. Ensure robust recruitment practices and proactively manage the probation period. Consider updating contractual probation period to align with the statutory probation period.
Right to guaranteed hours and protections for zero hours workers					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Employers can freely employ/engage staff on a zero-hours basis with no	Workers (including agency workers) will be given:	High if you employ/engage zero hours/low	High – depending on the reference period and	2027	A big change but should not catch genuine temporary workers if the reference period

¹ <https://bills.parliament.uk/bills/3737>

² Level/frequency of impact will vary according to sector, workplace type and workforce profile.

³ Implementation roadmap published 1.7.25: <https://www.gov.uk/government/publications/implementing-the-employment-rights-bill>

obligation to offer them guaranteed hours providing they do not require exclusivity from the individual.	<ol style="list-style-type: none"> 1. A right to be provided with information on their rights during an 'initial information period' (broadly, the first 2 weeks). 2. A right to be offered a guaranteed hours contract where certain thresholds of hours worked are met (TBC) over a specific reference period (likely 12 weeks). 3. Right to reasonable notice of being required to work a shift or changes to shifts. 4. Right to reasonable notice of shift cancellation and compensation. <p>Under an amendment to the Bill, these rights can now be opted out of under a relevant collective agreement with a trade union.</p>	<p>hours workers and operate shifts. High impact for care, hospitality, leisure, catering sectors.</p> <p>Note 'limited term' contracts will be permitted (if reasonable)</p>	frequency of shift times issued/ cancelled.	Further consultation required	<p>is long enough or 'limited term' exception applies.</p> <p>Model the number of shift cancellations that have taken place over the past 12 months. Improve processes where possible to reduce these occurring in the future.</p>
Harassment by third parties					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Employers are vicariously liable for acts of harassment committed by their employees 'in the course of employment'.	Unless the employer can show it took ' <i>all reasonable steps</i> ' to prevent the harassment, it will be liable for harassment from third parties towards employees.	High	High – particularly for public facing organisations e.g. care, leisure and tourism, retail, public services.	October 2026	<p>Undertake risk assessments. Review current policies and provide training for all staff/managers.</p> <p>Building on the changes that employers should be taking</p>

No liability for third party harassment towards employees.	This includes unwanted contact relating to age, disability, sex, race, religion or belief, sexual orientation, gender re-assignment, sexual harassment (including conduct of a sexual nature and less favourable treatment for submitting to or rejecting unwanted conduct of a sexual nature).				following the introduction of the duty to prevent sexual harassment on 26 October 2024. Increased awareness, risk assessments, recording of incidents and effective resolution is crucial.
Sexual harassment – duty to prevent					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Since 26 October 2024, employers have a duty to take ‘reasonable steps’ to prevent sexual harassment occurring within their workforce and from third parties towards their employees.	‘Reasonable steps’ is replaced with ‘ <u>all reasonable steps</u> ’, bringing it in line with other legislative provisions and increasing the obligation on employers to show the duty is discharged.	High if employer not already compliant.	High – particularly for public facing organisations e.g. care, leisure and tourism, retail, public services.	October 2026 Secondary legislation required	Employers should ensure they are compliant with the new duty now. It is unlikely (subject to further guidance) that there will be substantial changes to make when this comes into force, provided employers are already compliant.
		Low (provided employer already compliant) - it is a tweak to existing provisions. Difficult to see the practical difference between ‘reasonable steps’ and ‘all reasonable steps’ given the guidance.			

Sexual harassment – whistleblowing protection					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Sexual harassment is not expressly included as a 'qualifying disclosure', which means it won't generally attract whistleblowing protection.	Sexual harassment disclosures are added as a potential 'qualifying disclosure' for whistleblowing protection. Applies to detriment and dismissal.	Medium	Low	April 2026	This will give employees a further legal mechanism through which a sexual harassment claim can be pursued. It enhances existing legal protection rather than introducing something completely new.
Non-disclosure agreements					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
There is currently no ban on the use of NDAs by employers (often a confidentiality clause in a settlement agreement), but regulatory requirements applicable to solicitors and in certain sectors place limits on their use, particularly in relation to whistleblowing disclosures.	Any provision seeking to preclude a worker from making an allegation or disclosure of 'relevant harassment or discrimination' will be void. This will apply to current and former workers and includes disclosures about how an employer has responded to allegations.	Medium	High	Not yet confirmed	Employers will need to review the wording of any template agreements incorporating NDAs. This restriction will need to be factored into commercial considerations for settling claims.

Tribunal time limits					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Most tribunal claims have a time limit of 3 months from the date of termination or from the act complained of, subject to the tribunal's discretion to extend the time limit in certain circumstances.	The current 3-month time limit is extended to 6 months across the board.	Medium	Medium. Possible it may increase the number of claims overall (but also provides more time for conciliation and settlement)	October 2026	Continue to ensure procedures are robust and good records maintained to be in the best position to defend any claims. Business planning may need to account for longer period of risk following terminations.
Flexible working					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees already have a day 1 right to request flexible working and an employer must deal with the request in a reasonable manner. Employers can refuse the request for one or more prescribed reasons.</p> <p>Employers do not have to show a reasonable decision is reached (although there are often discrimination risks if refusing a request in certain circumstances).</p>	The same statutory process will apply but in addition the employer will have to show they are reasonable in refusing the request and will have to state their grounds for refusing (probably in writing).	Medium – on the basis that it heightens discrimination risk in certain circumstances e.g. women working part time/ from home to manage caring responsibilities	Low. It is unlikely to result in more requests to work flexibly but note that workplaces are under pressure to embrace this culture.	2027	<p>Review and amend flexible working policies.</p> <p>Consider the culture shift/change to working more flexibly. Employers will need to fully justify saying no – amend any template letters to prompt this to be captured.</p>

Statutory Sick Pay (SSP)					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>No SSP paid for the first three 'waiting days' of absence.</p> <p>No SSP paid at all for those who earn less than the 'lower earnings limit'. This is currently set at £123 per week.</p>	<p>SSP paid from first day of absence.</p> <p>All employees entitled to SSP regardless of earnings. Rate of SSP is currently £118.75 per week (from 1 April 2025). If pay is lower, SSP will be payable at 80% of the employee's normal weekly earnings.</p>	Low	Medium	April 2026	<p>Absence policies and payroll systems will require amendment.</p> <p>Employers encouraged to financially model what the increased cost would be.</p>
Fire and rehire/replace					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Provided a fair process is followed, employers can give notice of dismissal to employees and offer them immediate re-engagement on new terms, allowing the employer to force a change in contractual terms.</p> <p>Employees can choose not to accept the offer of reinstatement, but they usually do.</p>	<p>Dismissal where the employer seeks to vary the contract and the employee does not agree, or where the employer is seeking to employ or engage another person or re-engage the employee under a varied contract of employment to carry out 'substantially the same role' will be automatically unfair.</p> <p>This will apply to 'restricted variations', which includes changes to pay, pensions,</p>	High	Low	<p>October 2026</p> <p>Further consultation required</p>	<p>Review template contracts of employment for future recruits.</p> <p>Review contracts of employment of existing employees and seek to negotiate changes/removal of undesirable clauses with the option of dismissal and re-engagement if necessary (subject to current statutory Code of Practice) prior to 2026.</p>

<p>There is a statutory Code of Practice to safeguard against abuse by employers and the bar for the dismissal to be held fair is high – employers need a strong business case.</p>	<p>hours of work and holiday entitlement. The only exception is where the business is in extreme financial constraints i.e. carrying on business as a going concern is at risk.</p> <p>The maximum protective award will be doubled from 90 to 180 days' pay for a failure to collectively consult.</p>				
Redundancy					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>For the purposes of collective redundancy consultation rules, when looking at whether there are 20+ or 100+ potential dismissals, the employer must count how many are proposed at each 'establishment'.</p> <p>Different places of work, branches and offices can generally be treated as separate establishments.</p>	<p>The Bill now includes a power for separate Regulations to be made specifying a new threshold number of employees to trigger collective consultation across multiple establishments. The 20+ threshold will remain if the proposed dismissals are at one establishment.</p> <p>The maximum protective award will be doubled from 90 to 180 days' pay for a failure to collectively consult.</p>	Medium	Low	<p>April 2026 (2027 for multi-site threshold)</p> <p>Further consultation required</p>	<p>Employers to review redundancy policies and introduce protocol for recording numbers of redundancies across the business (once the new threshold is introduced).</p> <p>Managers and those responsible for strategic decisions will need guidance on the implications of the change.</p>

Pregnancy and family leave					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Enhanced protection for redundancy during pregnancy through to six months after return from maternity and other statutory family leave. Right of 'first refusal' for alternative employment.	Enhanced protection against all forms of dismissal (not limited to redundancy) during pregnancy and six months after return from maternity and other statutory family leave.	High	Low – not usually a regular or universal occurrence.	2027 Further consultation required	Be aware of enhanced protection. Most employers are already wary of dismissing anyone pregnant/on maternity leave, so in practice there is unlikely to be a substantial need for change day to day.
Paternity Leave					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for statutory paternity leave, a parent must have 26 weeks' continuous service.	Parents will be eligible for paternity leave from the first day of their employment.	Low	Low	April 2026	Employers to review family friendly policies. Managers to be made aware of the change.
Parental leave					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for paternity leave, a parent must have	Parents will now be eligible for parental leave from the first day of their employment.	Low	Medium	April 2026	Employers to review family friendly policies.

one year's continuous service.				Managers to be made aware of the change.	
Bereavement Leave					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees whose child dies (including stillbirth after 24 weeks of pregnancy) can take a period of up to two weeks (in blocks of at least a week) of parental bereavement leave in the 56 weeks following their loss.</p> <p>The time off is paid at the same weekly rate as statutory maternity pay.</p>	<p>The right to bereavement leave is extended – the entitlement to leave (but not pay) will apply to a “bereaved person” (to be defined in Regulations).</p> <p>Bereaved employees will be entitled to take at least one week of leave.</p> <p>Bereavement leave will also be extended to include pregnancy loss before 24 weeks.</p>	Low	Low	2027 Further consultation required	<p>Employers to review family friendly policies.</p> <p>Managers to be made aware of the new right.</p> <p>Most employers enhance this to full pay and allow a longer period of leave.</p>
Trade Unions					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Minimum service levels during industrial action in key public services.	Legislation repealed – MSLs will no longer apply.	Low – national industrial action largely subsided.	Low – industrial action usually uncommon.	Immediate on Royal Assent	None
Stringent statutory trade union recognition procedure and strict rules	<ul style="list-style-type: none">Employers to provide all employees with statement	Medium – where there is already TU recognition	Medium – where relations with TU are difficult.	Implemented in stages 2025/2026	Carry out a ‘TU Audit’.

on strike ballots, including minimum 50% membership turnout (plus 40% in favour in key public services).	<ul style="list-style-type: none">• setting out their right to join a TU from day one.• TU can request an ‘access to workplace’ agreement.• TU recognition made easier – removal of 40% support threshold at recognition ballot.• Strengthened protections against unfair practices.• Simplification of industrial action ballots – simple majority vote.• Protection against detriment for participating in lawful industrial action.• 10-day minimum notice of industrial action (down from 14).• Mandates for industrial action to increase from 6 to 12 months.	or potential for TU recognition		Are you at risk of compulsory TU recognition and if so, how is this best managed – consider voluntary recognition?	
Tipping					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
The new Allocation of Tips Act 2023 requires employers to create a tipping policy. Code of Practice in force since 1 October 2024.	This is expanded to state that employee/union representatives (or employees if no reps) should be consulted on review of the policy and that the policy must be reviewed at least once every three years.	Low (provided employer already compliant with existing rules)	Low	October 2026	The additional obligation to consult with employees will need to be flagged on HR systems.

Equality action plans					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Best practice only	Applicable to all employers with 250+ employees. Contents and frequency yet to be determined but will include steps to address gender pay gap and support provided during menopause.	Medium – likely to be codifying what any progressive employer already does.	Low – likely to be reviewed annually	2027 (voluntary from April 2026)	Start to formulate what you are already doing in the equality, diversity and inclusion space including gender pay gap and menopause support.
Working time records					
Current position	Proposed change	Level of impact	Frequency of impact	Date of change	Actions to take
Employers must keep certain records to prove compliance with WTR 1998, including that workers are not working more than the 48-hour weekly maximum and limits for young workers and night workers are not breached.	<p>New obligations for employers to keep adequate records to demonstrate compliance with statutory annual leave and pay entitlements. Records to be maintained for 6 years.</p> <p>Failure to do so will be punishable by fine.</p>	Low – provided statutory holiday entitlements are already met and records maintained	High – applies to all workers	No yet confirmed – likely 2026	Ensure full holiday records are maintained to ensure straightforward compliance when it takes effect.

This table was updated in July 2025 following publication of the Government's 'roadmap' for implementation of the Bill. It does not incorporate all amendments to the Bill tabled by the House of Lords as these have not yet been approved by the House of Commons. The content of this summary document is for general information only. It is not, and should not be taken as, legal advice. If you require any further information in relation to this summary, please contact a member of the Birketts Employment Team. Law covered as at July 2025.

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