

Employment Rights Act 2025¹

Key provisions and impact assessment²

2025					
Trade Unions					
Current/former position	Confirmed change	Level of impact	Frequency of impact	Date of change ³	Actions to take
Minimum service levels during industrial action in key public services.	Legislation repealed – MSLs will no longer apply.	Low – not relied on in practice.	Low – not relied on in practice.	Immediate on Royal Assent (18.12.25)	None
2026					
Strict rules on strike balloting procedure.	<ul style="list-style-type: none"> Simplified balloting information and industrial action notices. 	Low – national industrial action mainly subsided (may increase).	Low – industrial action generally uncommon for most employers.	18.2.26	Prepare for the possibility of more frequent industrial action, called at shorter notice.
50% turnout threshold (plus 40% support threshold in key public services).	<ul style="list-style-type: none"> Repeal of 40% support threshold for industrial action ballots in key public services. Industrial action ballot to be effective for 12 months. 10-day minimum notice of industrial action. 	Low – national industrial action mainly subsided (may increase).	Low – industrial action generally uncommon for most employers.	A consultation on creating a modern framework for industrial relations concluded on 4.3.25 Guidance on transitional	Consider appropriate contingency plans for industrial action and maintain dialogue with trade unions.
Industrial action ballots effective for 6 months.	<ul style="list-style-type: none"> Repeal of requirement for union supervision of picketing. 				
Notice of industrial action minimum 14 days.					

¹ <https://www.legislation.gov.uk/ukpga/2025/36/contents/enacted> (Royal Assent granted 18.12.25)

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

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

<ul style="list-style-type: none"> Strengthened protection against dismissal for taking industrial action. 		arrangements published 8.1.26
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Sexual harassment – whistleblowing protection

Current position	Confirmed 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 does not generally attract whistleblowing protection.	<p>Sexual harassment disclosures are added as a 'qualifying disclosure' for whistleblowing protection.</p> <p>Applies to detriment and dismissal protections.</p>	Medium	Low	April 2026	<p>This will give employees a further legal mechanism through which a sexual harassment claim can be pursued.</p> <p>It enhances existing legal protection rather than introducing something completely new.</p>

Statutory Sick Pay (SSP)

Current position	Confirmed 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 increases to £123.25 per week from 1 April 2026. If pay is lower, SSP will be payable at 80% of the employee's normal weekly earnings.</p>	Low	Medium	<p>April 2026</p> <p>A consultation on strengthening SSP concluded on 4.3.25</p>	<p>Absence policies and payroll systems will require amendment.</p> <p>Employers encouraged to financially model what the increased cost will be and monitor short term absences.</p>

Redundancy

Current position	Confirmed 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 Act includes a power for separate Regulations to be made specifying a new threshold number of employees to trigger collective consultation across multiple establishments.</p> <p>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 per employee for a failure to collectively consult.</p>	Medium	Low	<p>April 2026 (2027 for multi-site threshold)</p> <p>A consultation on strengthening remedies concluded on 4.3.25</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. Planning for collective consultation will be critical.</p>

Paternity Leave

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for two weeks of statutory paternity leave, a parent must have 26 weeks' continuous service.	Parents will be eligible for statutory paternity leave from the first day of their employment.	Low	Low	April 2026	<p>Employers to review family friendly policies.</p> <p>Managers to be made aware of the change.</p>

Parental leave

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
To be eligible for statutory parental leave (18 weeks of unpaid leave taken prior to the child's 18 th birthday), a parent must have one year's continuous service.	Parents will be eligible for parental leave from the first day of their employment.	Low	Medium	April 2026	Employers to review family friendly policies. Managers to be made aware of the change.

Trade Unions

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
Stringent statutory trade union recognition procedure.	<ul style="list-style-type: none"> Lower membership threshold to commence application for recognition (between 2% and 10%). 	Medium – particularly where there is potential for TU recognition	Medium – where relations with TU are difficult.	April 2026	Carry out a 'TU Audit'. Draft Code of Practice on electronic balloting
At least 10% bargaining unit must be union members.	<ul style="list-style-type: none"> Removal of 40% support threshold at recognition ballot – simple majority vote. 				Are you at risk of compulsory TU recognition and if so, how is this best managed – consider voluntary recognition?
At least 40% of bargaining unit to vote for recognition.	<ul style="list-style-type: none"> Strengthened protections against unfair practices. Introduction of electronic balloting. 				Further consultation required
No right of digital access or electronic balloting.	<ul style="list-style-type: none"> Repeal of 50% turnout threshold for industrial action (<i>anticipated</i>). 				
Minimum 50% membership turnout.					

Harassment by third parties

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employers are vicariously liable for acts of harassment committed by their employees 'in the course of employment'.</p> <p>No current liability for third party harassment towards employees.</p>	<p>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.</p> <p>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).</p>	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 have taken 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.</p>

Sexual harassment – duty to prevent

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
Since 26 October 2024, employers have a duty to take ' <i>reasonable steps</i> ' to prevent sexual harassment occurring within their workforce and from third parties towards	'Reasonable steps' is replaced with ' <i>all reasonable steps</i> ', 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	<p>Employers should ensure they are compliant with the new duty now.</p> <p>It is unlikely (subject to further guidance) that there will be substantial changes to make</p>

their employees.	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 current statutory guidance.	when this comes into force, provided employers are already compliant.
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Tribunal time limits

Current position	Confirmed 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	<p>Continue to ensure procedures are robust and good records maintained to be in the best position to defend any claims.</p> <p>Business planning may need to account for longer period of risk following terminations.</p>

Fire and rehire/replace

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
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	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	High	Low	October 2026 A consultation on <u>strengthening remedies</u> concluded on 4.3.25	<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</p>

<p>change in contractual terms.</p> <p>Employees can choose not to accept the offer of reinstatement, but they usually do.</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>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, hours of work and holiday entitlement.</p> <p>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 doubles from 90 to 180 days' pay for a failure to collectively consult (from April 2026).</p>		<p>Further consultation required</p> <p>NOTE: maximum protective award doubles from April 2026</p>	<p>undesirable clauses with the option of dismissal and re-engagement if necessary (subject to current statutory Code of Practice) prior to October 2026.</p>
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Trade Unions

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Official of recognised trade union entitled to paid time off for carrying out trade union duties.</p> <p>Trade union learning representative entitled to paid time off to carry out duties.</p> <p>Equality representatives have no current right to time off or facilities.</p>	<ul style="list-style-type: none"> Employers to provide all employees with statement setting out their right to join a TU from day one. TU can request an 'access to workplace' agreement. Facilities (including accommodation) for TU officials and learning 	<p>Medium – where there is already TU recognition or potential for TU recognition</p>	<p>Medium – where relations with TU are difficult.</p>	<p>October 2026</p> <p>Consultations on duty to inform and right of access closed 18.12.25.</p>	<p>Make necessary arrangements to comply with TU workplace access rights and provide representatives with time off, accommodation and facilities.</p> <p>Take steps to ensure compliance with new duty to inform workers of their right to join a TU.</p>

No general right of access to workplaces. No protection against sanctions short of dismissal for taking industrial action.	representatives (plus new Acas Code). <ul style="list-style-type: none">• Time off and facilities for equality representatives• Extended protection against detriment for taking industrial action.		Ensure workers are not subjected to a detriment for taking part in industrial action.
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Tipping

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
The 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 a review of the tipping policy. The tipping policy must be reviewed at least once every three years.	Low (provided employer already compliant with existing rules)	Low	October 2026 Further consultation required	The additional obligation to consult with employees will need to be flagged on HR systems.

Working time records

Current position	Confirmed 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	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.	Low – provided statutory holiday entitlements are already met and records maintained	High – applies to all workers	Not yet confirmed – likely 2026?	Ensure full holiday records are maintained to ensure straightforward compliance when it takes effect.

weekly maximum and limits for young workers and night workers are not breached.	Failure to do so will be punishable by fine.			
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2027

Unfair Dismissal

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Employees need 2 years' service to bring an ordinary unfair dismissal claim.</p> <p>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 for dismissal).</p>	<p>Qualifying period of employment reduced to 6 months.</p> <p>Cap on compensatory awards removed (both statutory maximum award and 52 week limit).</p> <p>Note: proposed day 1 right to claim unfair dismissal and statutory probation period (during which a 'light touch' dismissal process would apply) were removed from the Act prior to Royal Assent.</p>	High	High	1 January 2027	<p>Continue to assess the performance of those with less than 2 years' service into 2026.</p> <p>Employers will need to adjust recruitment procedures and proactively manage probationary periods to reflect 6-month unfair dismissal rights applying to those recruited by 1 July 2026.</p> <p>Removal of cap on compensation will increase importance of following fair processes for senior and highly paid employees.</p>

Right to guaranteed hours and protections for zero hours workers

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
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<p>Employers can freely employ/engage staff on a zero-hours basis with no obligation to offer them guaranteed hours providing they do not require exclusivity from the individual.</p>	<p>Workers (including agency workers) will be given:</p> <ul style="list-style-type: none"> • A right to be provided with information on their rights during an 'initial information period' (broadly, the first 2 weeks). • 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). • Right to reasonable notice of being required to work a shift or changes to shifts. • Right to reasonable notice of shift cancellation and compensation. <p>Following an amendment to the Bill, these rights can now be opted out of under a relevant collective agreement with a trade union.</p>	<p>High if you employ/engage zero hours/low hours workers and operate shifts. High impact for care, hospitality, leisure, catering sectors. Note 'limited term' contracts will be permitted (if reasonable)</p>	<p>High – depending on the reference period and frequency of shift times issued/ cancelled.</p>	<p>2027 Consultation on the application of zero hours measures to agency workers concluded 4.3.25 Further consultation required</p>	<p>A big change but should not catch genuine temporary workers if the reference period is long enough or 'limited term' exception applies. 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>
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Flexible working

Current position	Confirmed 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</p>	<p>The same statutory process will apply but in addition the employer will have to show they are <u>reasonable</u> in refusing the request and will have to state</p>	<p>Medium – on the basis that it heightens discrimination risk in certain</p>	<p>Low. It is unlikely to result in more requests to work flexibly but note that workplaces</p>	<p>2027 Further consultation required</p>	<p>Review and amend flexible working policies.</p>

<p>the request in a reasonable manner.</p> <p>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>	<p>their grounds for refusing (probably in writing).</p>	<p>circumstances e.g. women working part time/ from home to manage caring responsibilities</p>	<p>are under pressure to embrace this culture.</p>	<p>Consider the culture shift/change to working more flexibly.</p> <p>Employers will need to fully justify saying no – amend any template letters to prompt this to be captured.</p>
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Pregnancy and family leave

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
<p>Enhanced protection for redundancy during pregnancy through to six months after return from maternity and other statutory family leave.</p> <p>Right of 'first refusal' for alternative employment.</p>	<p>Enhanced protection against dismissal (not limited to redundancy) during pregnancy and six months after return from maternity and other statutory family leave.</p> <p>This may involve a stricter test of fairness, or removing some of the existing fair reasons for dismissal. Details will be set out in separate Regulations.</p>	<p>High</p>	<p>Low – not usually a regular or universal occurrence.</p>	<p>2027</p> <p>A consultation on enhanced dismissal protections closes on 15.1.26.</p>	<p>Be aware of enhanced protection and look out for confirmed details.</p> <p>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.</p>

Bereavement Leave

Current position	Confirmed change	Level of impact	Frequency of impact	Date of change	Actions to take
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<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	<p>2027</p> <p>A consultation on bereavement leave closes on 15.1.26.</p>	<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>
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Equality action plans

Current position	Confirmed 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 gaps 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.

Non-disclosure agreements

Current position	Confirmed 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	Any provision seeking to preclude a worker from making an allegation or disclosure of	Medium	High	Not yet confirmed	Employers will need to review the wording of any template

<p>confidentiality clause in a settlement agreement).</p> <p>Regulatory requirements applicable to solicitors and in certain sectors place limits on their use, particularly in relation to whistleblowing disclosures.</p>	<p>'relevant harassment or discrimination' will be void.</p> <p>This will apply to current and former workers and includes disclosures about how an employer has responded to allegations.</p>			<p>Further consultation required.</p>	<p>agreements incorporating NDAs.</p> <p>This restriction will need to be factored into commercial considerations for settling claims.</p>
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This table was updated in January 2026 following Royal Assent. The content of this summary document is for general information only and does not cover all the provisions in the Employment Rights Act 2025. 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 January 2026.

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