Forward thinking
Straight talking

Employment Rights Act 2025
Summary table

Gateley

This guide is designed to act as general guidance and nothing in this document should be taken as legal advice.

The contents of this guide are correct at the time of writing (5 October 2026) and are subject to change. We will review and update this guide on a regular basis. Individual advice should be sought in respect of specific cases.

Use this guide to navigate the key changes, when they are expected to come into effect and how you need to prepare.

If you would like to hear more from Gateley Legal then scan the QR code:

Useful links:

Government Make Work Pay landing page
Make Work Pay - GOV.UK

Implementation roadmap
Plan to Make Work Pay and Employment Rights Act: timeline update - GOV.UK

Summary

December 2025

The Act received Royal Assent on 18 December 2025

Date and details of change	Priority actions	Additional information
The Strikes (Minimum Service Levels) Act 2023 Repealed immediately upon receiving Royal Assent		Minimum service levels in the UK - Personnel Today – sets out what the Act would have entailed

February 2026

Date and details of change	Priority actions	Additional information
Industrial action ballots Simplifying rules regarding industrial action balloting thresholds and provision of information	If employer currently recognises a Trade Union, review new relaxed rules on calling industrial action, including the extended mandate period – ensure new dates are accurately diarised As it will be easier for trade unions to call lawful industrial action, look to improve employee relations where possible/ necessary	Government factsheet (pages 1, 2, 16 & 17) - Repeal of the Trade Union Act 2016 factsheet Transitional guidance - Trade union law: transition to Employment Rights Act 2025 - GOV.UK
Union supervision of picketing during industrial action Removal of the requirements on unions to supervise picketing		Government factsheet (pages 1 & 2) - Repeal of the Trade Union Act 2016 factsheet
Protection from dismissal for taking industrial action Removes the 12-week cap on the period of protection from dismissal for taking part in official industrial action. There is now no limit on the period of protection from dismissal on this ground Employees now only need to show that reason for dismissal was for taking part for it to be automatically unfair	Ensure managers are aware of additional protections for employees taking part in industrial action	Government factsheet (pages 8 & 9) - Repeal of the Trade Union Act 2016 factsheet

April 2026

(In force in full)

Date and details of change	Priority actions	Additional Information
Whistleblowing: including sexual harassment allegations Information disclosed which tends to show, in the reasonable belief of the worker, that sexual harassment has occurred, is occurring or is likely to occur, will be a protected disclosure (subject to other current requirements being met, e.g. the disclosure is in the public interest*). Accordingly, it will be unlawful to subject a worker to a detriment for making such a disclosure and automatically unfair to dismiss for that reason *Note that this is not a particularly high bar for a worker to meet*	Update Whistleblowing and Harassment/ Equal Opportunities policies & procedures to cover new provision Train managers to ensure they are aware of implications of anyone raising issues regarding sexual harassment Consider and start to prepare for further changes regarding harassment due to come into force in October 2026, (see later note)	Government factsheet - Employment Rights Act 2025: strengthening protections for whistleblowers factsheet
Protective awards for failure to collectively consult A failure to collectively consult when obliged to do so can result in protective awards of up to 180 days' gross pay per employee	Ensure that collective processes are carried out lawfully Note that the obligation to collectively consult can also apply to dismissal and re-engagement processes affecting the relevant threshold number of employees (in which case also comply with current Statutory Dismissal and Re-engagement Code of Practice) Also consider changes to fire and rehire, due in January 2027 (see later note)	Only applies to dismissals which take effect on or after 6 April 2026

April 2026

(In force in full)

Date and details of change	Priority actions	Additional Information
Duty to keep annual leave records New duty inserted into Working Time Regulations 1998 (WTR) to: a) keep records which are adequate to show whether the employer has complied with entitlements contained in the WTR relating to annual leave rights, and (b) retain such records for six years from the date on which they were made The records may be created, maintained and kept in such manner and format as the employer reasonably thinks fit	If not doing so already, start to keep accurate records of annual leave entitlement for all workers, when annual leave is taken, how pay is calculated correctly and that it has been paid, and that other annual leave rights have been complied with Carry out audit to assess how leave entitlement and pay is calculated, ensuring that all additional elements that must be included are included. Also ensure that carry over rights are complied with, where applicable	The Fair Work Agency (FWA) (see later note) will eventually have powers to enforce annual leave rights, including enforcing failure to keep these records and issuing enforcement notices for holiday entitlement/pay failures. Not keeping adequate records likely to increase risk of further investigation and action by FWA Gateley Legal article (9 June 2026) - Changes to annual leave requirements: what employers need to know - Gateley
Simplifying trade union recognition Simplification of process for a trade union to apply to the Central Arbitration Committee seeking an order for compulsory recognition Removing and reducing support and turnout thresholds for obtaining statutory recognition	Higher risk if the employer doesn't already recognise a trade union and a trade union looking to obtain statutory recognition Employers should look at improving employee relations – engaged employees may be less likely to want/need a trade union to represent their interests Consider putting in place staff forums to ensure that employee's voices are heard in the workplace If trade union not recognised but is looking to seek recognition, consider benefits of voluntary recognition and whether this is preferable	Government factsheet - Repeal of the Trade Union Act 2016 factsheet *Note: some provisions still need further regulations to bring into force*
Statutory Sick Pay (SSP) Day-one right, i.e. no longer need to wait until fourth day of sickness absence Removal of the Lower Earnings Limit for entitlement to SSP. Eligible employees/workers under this limit now entitled to statutory rate or 80% of average weekly pay (whichever is lower)	Review current sick pay provisions in contracts and policies to ensure they are compliant – note future Fair Work Agency enforcement powers Consider whether enhanced sick pay schemes need to be reviewed because of change (e.g. are trigger points tied to SSP provisions)	Government factsheet - Employment Rights Act 2025: statutory sick pay factsheet Government guidance - Statutory Sick Pay (SSP) : Overview - GOV.UK Transitional guidance - Sickness absences that start before and end on or after 6 April 2026 - GOV.UK
Paternity and parental leave Day one right for both *Note: Doesn't apply to statutory paternity pay*	Review current contracts and policies to ensure they are compliant with new rules Consider whether enhanced family leave schemes need to be reviewed because of change	Government factsheet - Bereavement, paternity and unpaid parental leave

April 2026

Date and details of change	Priority actions	Additional Information
Bereaved partner's paternity leave Day-one right Applicable if a child's "primary carer" dies within 52 weeks' of the child's birth, or placement for adoption (also applies in surrogacy cases), an employee with the "necessary relationship" to the child is entitled to a single period of up to 52 weeks' unpaid leave within the "paternity leave eligibility period" (i.e. 52 weeks after birth/placement) Notice and protection details in government guidance	Put in place policy to cover this type of leave and consider whether enhanced benefits will be provided Train managers regarding entitlement and protections Consider whether other family leave documents need to be reviewed and updated, for example, cross referencing to paternity leave/pay and shared parental leave policies	Government guidance - Bereaved Partner's Paternity Leave: Overview - GOV.UK
Fair Work Agency (FWA) established The FWA will ultimately become responsible for enforcing various employment rights, combining the powers of: • Gangmasters and Labour Abuse Authority • Employment Agency Standards Inspectorate • National Minimum Wage enforcement team • Office of the Director of Labour Market Enforcement	NMW breaches are due to come under remit of FWA in 2027 – HMRC will continue to enforce in the meantime. Review current practices regarding payment of the NMW to ensure compliance Review current compliance with holiday and statutory sick pay requirements – the FWA will eventually have regulatory powers to enforce these in due course (expected 2027)	Strategic plan for 2026/2027 - Strategic Steer to the Fair Work Agency for the Transitional Year of Operation FWA landing page - Fair Work Agency - GOV.UK Government factsheet - Employment Rights Act 2025: the Fair Work Agency factsheet Government consultation on FWA holiday enforcement (closes 22 September 2026) - Make Work Pay: holiday pay compliance and enforcement - GOV.UK *Note: Not all enforcement powers in place yet. First step to bring current enforcement regimes under FWA – see FWA Strategic Steer document for current plans and link above for further news and updates*

25 August 2026

Date and details of change	Priority actions	Additional information
Electronic balloting for Statutory Trade Union Ballots (NB not recognition / derecognition ballots) Previously, industrial action ballots could only be conducted by postal votes. The change allows such ballots to be conducted electronically, by post, in the workplace, or a hybrid of those options	Employers who recognise a trade union should review the draft Code of Practice to understand what is required of trade unions when undertaking such ballots Employers should review and understand their obligations when trade union ballots are required	Government factsheet (pages 1 & 2) - Repeal of the Trade Union Act 2016 factsheet Updated draft Code of Practice - Electronic and workplace balloting: code of practice - GOV.UK

October 2026

(All requi re commencement regulations to confirm, save as stated otherwis)

Date and details of change	Priority actions	Additional Information
1 October 2026		
Employment Tribunal time limits extended to 6 months (confirmed) Currently, workers/employees have 3 months to issue most claims to an Employment Tribunal. This will be extended to 6 months Note that these periods are also subject to the "stop the clock" extensions for Acas conciliation (now up to 12 weeks) and in some cases the additional one month period after the end of early conciliation to issue a claim, meaning that for all practical purposes the time limit could be up to 10 months from the date of dismissal / last incident complained of	Ensure detailed notes of meetings, etc, which could result in Tribunal claims, e.g. disciplinary and grievance meetings, are taken – because of longer time until ET claims are dealt with, witnesses may forget key issues Review diary processes so that time limits can be accurately recorded once change implemented	Broadly, this will apply to causes of action (dismissal, detriments, etc.) which occur on or after 1 October 2026. More details can be found in the Commencement Regulations: The Employment Rights Act 2025 (Commencement No. 5 and Transitional Provisions) (Amendment) Regulations 2026

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Employment - Chambers and Partners 2026

Date and details of change	Priority actions	Additional information
Strengthening trade union right of access to workplaces New right for trade unions to request access to employer workplaces for the purposes of: meeting, supporting, representing, recruiting, or organising workers (whether or not they are members of a trade union), or facilitating collective bargaining Practical details in draft Code of Practice	Employers should start considering: how they will deal with requests from unions how they will be able to respond within the tight timeframes envisaged whether access in some form can be agreed, given access principles weighed towards access being granted by CAC What steps could be taken to improve employee relations and engagement	Government factsheet (pages 10 & 11) - Repeal of the Trade Union Act 2016 factsheet Consultation response - Make Work Pay: trade union right of access - GOV.UK Further consultation response and updated draft Code of Practice - Make Work Pay: draft code of practice on trade union right of access - GOV.UK Gateley Legal article (14 May 2026) - Trade union access to an employer's workforce - Gateley Draft Regulations: The Trade Unions (Right to Access Workplaces) Regulations 2026 The Trade Unions (Right to Access Workplaces) (Required Information) Regulations 2026
New rights and protections for trade union representatives Changes to rights to time off and access to facilities	Review current provision of time off and facilities for trade union representatives	Government guidance (pages 4 & 5) - Repeal of the Trade Union Act 2016 factsheet Updated ACAS Code of Practice - Draft ACAS code on time off for trade union duties and activities - GOV.UK
Trade unions: unfair practices in the recognition process Extending what can amount to "unfair practices", and extending the period in which this will be prohibited during the recognition process	Where there is a possibility of a trade union seeking recognition, employers should review the Code to ensure compliance	Consultation response and updated draft Code of Practice - Make Work Pay: recognition code of practice and e-balloting unfair practices- GOV.UK
Extending protections against detriments for taking industrial action Will provide protection from any detrimental treatment for taking part in industrial action, remedying a current gap in protection Will not apply to deductions from pay currently authorised by case law	Ensure managers are aware of additional protections for employees taking part in industrial action	Government guidance (pages 8 & 9) - Repeal of the Trade Union Act 2016 factsheet Consultation response - Make Work Pay: protection from detriments for taking industrial action - GOV.UK *Note: draft regulations have been issued in line with consultation response – awaiting government approval*

Date and details of change	Priority actions	Additional Information
Enhancing protections against harassment Obligation on employers take all reasonable steps to prevent sexual harassment Introduction of liability for acts of harassment by third parties	Review compliance with current obligations to prevent harassment in the workplace Review risk assessments and consider whether they need updating because of, for example, recent incidences of harassment Consider whether there are any other reasonable steps that could be taken to prevent harassment. Keep an eye out for the regulations to be published by the Government in 2027 specifying what steps should be taken Review risks of third-party harassment and what steps could be taken to prevent that from occurring, e.g. signage	Current EHRC prevent sexual harassment guidance - Sexual harassment and harassment at work: technical guidance | EHRC EHRC Checklist and action plan - Preventing sexual harassment at work: checklist and action plan for employers | EHRC EHRC 8-step guide - Employer 8-step guide: Preventing sexual harassment at work | EHRC
At some point in October		
Procurement – reintroduction of measures which seek to prevent a "two-tier workforce" in public sector outsourcing contracts Further regulations required to reinstate Code once in force – *Note: this has been removed from the Government Implementation Roadmap and may be later than October 2026*	If involved in public sector outsourcing, review factsheet and previous Code to prepare for changes when they finally come into force	Government factsheet - Public Sector Outsourcing Consultation response - Public Procurement: Growing British industry, jobs and skills - consultation on further reforms to public procurement - GOV.UK

By end of 2026

Tightening laws on tipping employees Mandatory duty to consult on and review tips policies	Review compliance with current rules on tipping Update processes to comply with new rules once in force	Government factsheet – Factsheet: Tips and Gratuities Updated draft Code withdrawn (Personnel Today 11 July 2026) - Ministers withdraw draft code of practice on tipping Government consultation issued on draft Code (closes 29 September 2026) - Make Work Pay: revised tipping code of practice - GOV.UK

January 2027

(All require commencement regulations to confirm save as stated otherwise)

Date and details of change	Priority actions	Additional Information
Unfair dismissal protection 6 months' service required Removal of cap on compensation Regulations issued on 26 May 2026 confirming commencement date of 1 January 2027	Note that anyone employed before July 2026 will have accrued 6 months' service by 1 January 2027 and will, therefore, be able to pursue an unfair dismissal. Also remember that statutory notice may need to be added on when calculating length of service for these purposes Review current recruitment and probation review practices to test candidates prior to entry and ensure poor performance or conduct issues are dealt with robustly and in good time before the employee acquires unfair dismissal rights	Government factsheet - Unfair dismissal factsheet
Fire and rehire restrictions Dismissal for refusing to accept a restricted variation will be automatically unfair Dismissal and replacement will also be automatically unfair	Review current contracts to establish what variation clauses are available, and update where necessary Consider whether new contracts contain adequate variation provisions Carry out variation of contractual terms processes in good time before the change comes into force – still ensure compliance with current statutory Code and unfair dismissal rules	Government factsheet - Factsheet: Fire and Rehire Consultation (closed 1 April 2026) - Make Work Pay: fire and rehire – changes to expenses, benefits, and shift patterns - GOV.UK Dismissal and re-engagement: code of practice - Dismissal and re-engagement: code of practice - GOV.UK
Duty on employers to inform workers of their right to join a trade union New duty will require employers to provide certain information to workers about their right to join a trade union at the same time as current S.1 Employment Rights Act 1996 (ERA 1996) statement of particulars	Review compliance with current requirement to provide S.1 ERA 1996 statement of particulars Consider what practical steps to put in place to comply with new requirement, once full details have been decided by government	Government factsheet (page 12) - Repeal of the Trade Union Act 2016 factsheet Government consultation response (25 September 2026), which sets out proposed requirements from 1 January 2027 (see Executive Summary for details) – details to be confirmed in subsequent regulations - Make Work Pay: duty to inform workers of right to join a union - GOV.UK

2027

(All require commencement regulations to confirm)

Date and details of change	Priority actions	Additional Information
Collective redundancy trigger changes Will introduce an additional trigger for when collective consultation may apply to larger employers with multiple establishments		Government factsheet - Collective redundancy Consultation (closed 21 May 2026) - Make Work Pay: threshold for triggering collective redundancy obligations - GOV.UK
Bereavement leave (including miscarriage) Extends the circumstances where an employee will be entitled to bereavement leave	Review applicable policies once details are clarified	Government consultation response (22 September 2026) sets out key proposals (see Executive Summary) - Make Work Pay: leave for bereavement including pregnancy loss - GOV.UK
Zero hours and agency workers right to be offered guaranteed hours and rights regarding shift changes Obligation on employers to offer "guaranteed hours" to zero and low hour workers in certain circumstances Obligation to give "reasonable" notice of shifts, including shift changes, cancellations and curtailment Rights to compensation for shifts cancelled, curtailed, or moved at short notice	Review current use of zero hours contracts and consider whether to change to a different model of resourcing needs to avoid possible issues once new law is in place Review current process regarding issuing and changing shifts – consider whether current notice might be considered "reasonable" and whether more notice could be given, or whether business reasons for why not	Government factsheet - Zero hours contracts Consultation (closed 25 August 2026) - Make Work Pay: ending one-sided flexibility - reforms of zero hours and similar contracts consultation
Flexible working requests Duty on employers to show refusal on statutory grounds is reasonable	Review current approach to rejecting flexible working request – is reasonableness of rejection a current consideration? Start to embed this criterion into the consideration of requests and test rejections internally to prepare for the new duty	Government factsheet - Factsheet: Flexible Working Government consultation response (15 September 2026) - Make Work Pay: improving access to flexible working - GOV.UK
Electronic balloting for Statutory Recognition / Derecognition Ballots Currently, ballots can only be conducted by postal votes, the change will allow ballots to be conducted electronically	Employers who recognise a trade union should review the draft Code of Practice to understand what is required of trade unions when undertaking such ballots Employers should review and understand their obligations when trade union ballots are required	Government factsheet (pages 1 & 2) - Repeal of the Trade Union Act 2016 factsheet Consultation response - Make Work Pay: draft code of practice on electronic and workplace balloting for statutory union ballots - GOV.UK

2027

(All require commencement regulations to confirm)

Date and details of change	Priority actions	Additional Information
Action plans on gender equality (including measures being taken to support employees through the menopause) compulsory for employers of 250+ people	Larger employers should review current government guidance to establish how to comply with obligations once mandatory Consider whether to start reporting on a voluntary basis	Once mandatory, will require large employers to produce action plans in April 2028 for the 2027/28 year Government factsheet - Equality action plans and outsourcing factsheet Government guidance: - Government launches landmark gender pay gap and menopause action plans to help women thrive at work - GOV.UK - Creating an action plan: guidance for employers - GOV.UK - Action plans: list of actions - GOV.UK
Enhanced dismissal protections for pregnant women and new mothers Extends the circumstances in which affected employees will be protected from dismissal	Review compliance with current protections for employees on and returning from statutory family leave	Government factsheet - Factsheet: Enhanced dismissal protections for pregnant women and new mothers Consultation (closed 15 Jan 2026) - Make Work Pay: enhanced dismissal protections for pregnant women and new mothers - GOV.UK
Extending blacklisting protection Extends the types of lists which will be prohibited	Review compliance with current rules Train managers regarding restrictions on blacklisting, where appropriate	Government factsheet - Repeal of the Trade Union Act 2016 factsheet
Specifying steps that are to be regarded as 'reasonable', to determine whether an employer has taken all reasonable steps to prevent sexual harassment Official guidance to be issued on how employers can comply with new legal obligations	See earlier actions and EHRC guidance regarding changes to harassment protection and consider what else needs to be done to comply with the new specified steps	Government guidance - Preventing workplace sexual harassment: enabling regulations about 'reasonable steps'
Non-disclosure agreements (NDAs) Provisions restricting discussion of harassment and discrimination allegations will be void		Government factsheet - Employment Rights Act 2025: non-disclosure agreements factsheet Consultation (closed 8 July 2026) - Make Work Pay: misuse of nondisclosure agreements (NDAs) - GOV.UK

Find out more here: Employment Rights Act timeline

Gateley

Gateley is the business name of Gateley (Holdings) Plc.

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