

Employment Rights Act 2025

MORE SECURE WORK AND BASIC EMPLOYMENT RIGHTS

FEBRUARY 2026

WHAT'S THE CHANGE?	ANY ADDITIONAL INFORMATION?	WHAT WILL EMPLOYERS HAVE TO DO?	WHEN WILL IT TAKE EFFECT? ¹
Unfair dismissal			
<ul style="list-style-type: none"> The current two-year qualifying period will be reduced to six months. The current statutory compensation cap is being removed, meaning that the potential compensatory award for a successful unfair dismissal claim will be unlimited. 	<ul style="list-style-type: none"> Any subsequent change will require primary legislation, making it harder for future governments to vary. Existing categories of automatic unfair dismissal that do not require any qualifying service will remain unchanged. 	<ul style="list-style-type: none"> Employers will need to consider how the reduced six-month qualifying period will interact with existing contractual probationary periods and whether those provisions should be updated. Removing the compensation cap is likely to benefit higher earners most. At present, underperformance at this level is often resolved swiftly through an exit discussion and a settlement agreement, with a termination package benchmarked against the compensatory cap. Without a cap, assessing and agreeing actual loss will be more complex and is likely to increase costs for employers. 	<ul style="list-style-type: none"> The reduction in the qualifying period will be implemented on 1 January 2027 (according to the Government's factsheet). This is expected to apply to dismissals with an effective date of termination on or after 1 January 2027. Employees who already have six months' service at that date will be able to bring an unfair dismissal claim. The compensation cap will also be removed on 1 January 2027.
"Fire and rehire"			
<ul style="list-style-type: none"> It will be automatically unfair to: (i) dismiss an employee for refusing to agree to a "restricted variation" to their employment contract; or (ii) re-engage or replace the employee with someone (including a non-employee) on terms including a "restricted 	<ul style="list-style-type: none"> A limited exception will apply if the contractual change was unavoidable due to financial difficulties affecting, or likely to affect, the ongoing continuation of the business. 	<ul style="list-style-type: none"> "Fire and rehire" remains an option for employers, but linking the increased risk exposure specifically to "restricted variations" will dilute the impact of the new provisions. These practices should still be used with extreme caution, and as a last resort, in line with 	<ul style="list-style-type: none"> The Government is consulting on two restricted variations (reduction to pay and shift changes). It seeks views on: (i) which expenses and benefits in kind should be excluded from the scope of a "restricted variation"; and (ii) whether there are

¹ Dates reflect the Government's updated implementation timetable, as outlined in its Implementation Roadmap (July 2025) and revised on 3 and 4 February 2026. These timings are indicative and may change as policy proposals move through consultation and development.

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<p>“variation” to do the same or substantially the same duties as they carried out prior to the dismissal.</p> <ul style="list-style-type: none"> “Restricted variations” cover changes to pay, pension, working hours, shift times and length, time off and other categories set by regulations, as well as including clauses for these changes to be made unilaterally. The protective award cap for failing to collectively consult in this scenario will double from 90 days’ to 180 days’ (uncapped) pay per employee. 	<ul style="list-style-type: none"> If this exception is made out, or if the contractual change is not a “restricted variation”, an employment tribunal will still assess whether the dismissal was ordinarily fair, having regard to certain additional statutory factors. In its consultation (see last column), the Government clarifies that this will be the case for dismissals related to changes in non-core terms, such as location or job role. The increase in the protective award cap will also increase the uplift (of up to 25% on a protective award) that an employment tribunal can make for an unreasonable failure to comply with the dismissal and re-engagement code of practice. 	<p>the current statutory code of practice, which requires a more prescriptive approach with workers.</p> <ul style="list-style-type: none"> The protective award cap increase will make breaches of any collective consultation obligations more costly. 	<p>any types of change to shift pattern that should be protected as a “restricted variation”.</p> <ul style="list-style-type: none"> Implementation of the new restrictions has been delayed until January 2027 (the original Implementation Roadmap indicated they would come into force in October 2026). The increase in the protective award cap will take effect on 6 April 2026.
<p>Statutory sick pay</p> <ul style="list-style-type: none"> The current three-day waiting period for statutory sick pay will be removed, making it available from Day One. The earnings threshold will also be removed so that statutory sick pay is available to all workers regardless of their earnings. 	<ul style="list-style-type: none"> All employees will be entitled to the flat weekly rate or 80% of their normal weekly earnings, whichever is lower. 	<ul style="list-style-type: none"> Where statutory sick pay forms part of an employer’s enhanced sick pay offering, policies and guidance notes, as well as payroll software, will need to be updated. 	<ul style="list-style-type: none"> Sick pay changes will take effect on 6 April 2026.
<p>Zero hours and agency workers</p> <ul style="list-style-type: none"> Workers on zero- and low-hours contracts and agency workers will be given the right to a guaranteed-hours contract if they work regular hours over a defined period. The defined period for assessing regular hours is expected to be 12 weeks. 	<ul style="list-style-type: none"> For agency workers, the end user of the workers’ services will have the obligation to offer guaranteed hours. If the agency worker accepts a guaranteed hours offer from an end user, they will become a worker and an employer respectively. 	<ul style="list-style-type: none"> These contracts are prevalent in the hospitality, care and retail sectors. The changes will impose a significant administrative burden on businesses. Current arrangements, work patterns, and shift allocation processes will require a wholesale review. 	<ul style="list-style-type: none"> Consultation is expected. Regulations will provide further detail. The Government is also consulting on how to modernise the regulatory framework for agency work. The final measures will take effect in 2027.

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<ul style="list-style-type: none"> Reasonable notice of a shift and of any changes to shifts must also be given to these workers, as well as compensation for shifts that are cancelled, moved or curtailed at short notice. 	<ul style="list-style-type: none"> The level of pay in an agency worker's guaranteed-hours offer is to be no less favourable than the pay terms they had been receiving, or the pay terms applicable to comparable workers. Both the agency and the end user will be responsible for giving agency workers reasonable notice of shifts, shift changes, and cancellations. Agencies will be responsible for paying agency workers compensation for shifts that are cancelled, moved or curtailed at short notice. 	<ul style="list-style-type: none"> Workers will not have to accept the offer of a guaranteed-hours contract. Currently, end users have no direct contractual relationship with agency workers. The extension of the protections to agency workers changes this and marks a significant divergence from current practice. Agreements between end users and agencies will need to be reviewed and updated to reflect the rebalancing of obligations, liability and cost. 	
Umbrella companies			
<ul style="list-style-type: none"> The definition of employment business under the Employment Agencies Act 1973 will be extended to capture umbrella companies. They will be subject to the regulation of the Employment Agency Standards Inspectorate (and the Fair Work Agency, once established). 	<ul style="list-style-type: none"> The Government's intention is to tackle non-compliance by umbrella companies with employment and tax obligations. 	<ul style="list-style-type: none"> Umbrella companies will face increased scrutiny, risk and due diligence requirements. 	<ul style="list-style-type: none"> The Government is consulting on the extension of the agency work regulatory framework to umbrella companies. The final measures will take effect in 2027.

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