

# Employment Rights Act

In December 2025, following a long period of back and forth between the House of Commons and the House of Lords, the text of the legislation was finalised and the bill received Royal Assent. Not all of the provisions will come into force immediately, so we have set out the key changes, relevant to schools, and when they are expected to take effect:

## **Repeal of minimum service levels during a strike**

Since 2023 the Secretary of State has had the right to prescribe that certain sectors, including education, health and transport, provided a minimum service level of service during a strike. This has been repealed.

**Proposed implementation date**

Immediately – occurred on 18 December 2025

## **Governmental review of time off for public duties**

The government has 12 months from 18 December 2025 to carry out a review of the time off given to employees to undertake public duties, such as being a member of a relevant education body. Similarly, the Office of Rail and Road and the Health and Safety Executive have 12 months to review the public guidance on the employment of children on heritage railways.

**Proposed implementation date**

18 December 2025

## **Industrial action: increased dismissal protection**

Employees participating in industrial action will be provided with increased protection from dismissal.

**Proposed implementation date**

18 February 2026

Employees will also be protected from suffering a detriment which is done to discourage them from taking part in protected industrial action. However, consultation has not yet begun.

**Proposed implementation date**

October 2026



## Trade unions: strikes, picketing supervision, public sector check-off, facilities time and blacklists

A number of trade union laws will be amended or repealed.

### **Proposed implementation date**

18 February 2026



## Paternity leave and unpaid parental leave

Employees will be able to give notices and evidence related to parental leave and paternity leave where the baby is due to be born on or after 6 April 2025 (see below).

### **Proposed implementation date**

18 February 2026

Parental leave becomes a day-one right where it is taken because the mother or adopter has died. Similarly, paternity leave can also be taken after shared parental leave if the child's mother or adopter has died (see below).

### **Proposed implementation date**

18 February 2026

All employees will gain day-one entitlement to both statutory paternity leave and unpaid parental leave for babies born, or due to be born, on or after 6 April 2026 or who are placed for adoption on or after 6 April 2026. The current prohibition on taking paternity leave and receiving statutory paternity leave following receipt of shared parental leave and shared parental pay will be removed.

### **Proposed implementation date**

6 April 2026



## Collective redundancy protective award

The maximum protected award (i.e. the sum paid to employees by employers who fail to inform and consult about collective redundancies) will increase from 90 to 180 days' pay per affected employee.

### **Proposed implementation date**

6 April 2026



## Increased whistleblowing/sexual harassment protection

The definition of a qualifying public interest disclosure (a.k.a. 'whistleblowing') will be widened to expressly cover disclosures that sexual harassment has occurred, is occurring or is likely to occur.

### **Proposed implementation date**

6 April 2026



## Statutory Sick Pay

SSP will be payable from the first day of absence and all employees will be entitled to the lower of the SSP weekly flat rate or 80% of average earnings. Currently, employees must earn a minimum of £118.75 and must be incapacitated for four days to be eligible for SSP.

**Proposed implementation date**

April 2026



## Simplification of trade union recognition & balloting

For a union to successfully apply to the CAC for formal recognition, it must show that 10% of the bargaining unit are members of the union and that the majority of the workers in that unit would support recognition. The threshold for trade union recognition will change from 10% to between 2% - 10% and the requirement for majority support will be removed.

If the CAC orders a recognition ballot, a majority of those voting must agree to recognition.

There are also other changes to the recognition process and to the threshold required for industrial action.

**Proposed implementation date**

April 2026 – although the consultation, which was supposed to begin in autumn 2025, has yet to start



## Fair Work Agency ("FWA")

The FWA will be a public agency that brings together the existing enforcement functions of:

- HMRC in relation to the national minimum wage;
- the Employment Agency Standards Inspectorate (which deals with employment agencies and employment businesses) and;
- the Gangmasters and Labour Abuse Authority.

**Proposed implementation date**

Set up in April 2026 but no date has yet been provided for when the FWA's enforcement powers will be brought into effect



## Worker's statement of trade union rights

When a worker receives their contract (and at other times – yet to be prescribed), the employer will also be required to issue a statement regarding the worker's right to trade union membership.

**Proposed implementation date**

Expected October 2026. Consultation closed on 18 December 2025

## Trade union right of access & facilities

Unions will be able to request "access agreements" to enable union officials to access an employer's workforce for various purposes but excluding organising industrial action. The employer can respond but ultimately the CAC can determine an application.

### **Proposed implementation date**

Expected October 2026. A draft Code of Practice is expected in spring 2026.

Changes to facilities for trade union officials and learning representatives will also be introduced.

### **Proposed implementation date**

Consultation has not yet begun but the changes are expected to come into force in October 2026

## Fire and rehire

Except in cases of financial difficulty, it will be automatically unfair to dismiss an employee for refusing to accept changes to specific contractual terms, such as pay, working hours, holidays and pension. Changes to other terms will not be automatically unfair but may amount to an ordinary unfair dismissal as the legislation will also introduce additional factors to be considered when determining whether the dismissal was fair or not.

### **Proposed implementation date**

October 2026

It will also be automatically unfair to dismiss or to re-engage the employee or replace them with an agency worker or contractor on varied terms to carry out substantially the same role.

### **Proposed implementation date**

Consultation is expected in 2026

## Third-party harassment

Since October 2024, all employers have been required to take proactive 'reasonable steps' to prevent the sexual harassment of their employees from third parties. This will be extended to require employers to take 'all reasonable steps' to prevent third-party harassment due to a protected characteristic.

### **Proposed implementation date**

October 2026. Regulations expected in 2027 will clarify what constitutes to "reasonable steps"

## Non-disclosure agreements

The Academies Handbook has been amended to restrict the use of non-disclosure/confidentiality clauses in settlement agreements. However, this will be extended so that any provision in an agreement which seeks to preclude the worker from making an allegation or disclosure of harassment or discrimination (including the employer's response to such an allegation) will be void. The restriction will not apply to "excepted agreements", but no information has been provided as to what this would cover and this will be the subject of further consultation.

### **Proposed implementation date**

Not yet known. Further consultation is required



## Time limit for bringing a claim

For most types of claims the employee or worker has 3 months to bring a claim but this will be extended to 6 months, giving employees and workers more time to bring claims.

### **Proposed implementation date**

October 2026



## Unfair dismissal

Currently an employee needs to have been continuously employed for 2 years before they can bring a claim for ordinary unfair dismissal. This will now be reduced to 6 months.

### **Proposed implementation date**

1 January 2027

This was initially intended to be a 'day one' right so, as a compromise, the cap on unfair dismissal compensation will be removed.

### **Proposed implementation date**

The date that the compensation cap will be removed has not yet been confirmed



## Bereavement leave

The day-one right to two weeks' parental bereavement leave (a day one right) following the death of a child or a stillbirth after 24 weeks will be widened to a general right for bereavement leave, which is to include pregnancy loss before 24 weeks. If the employee has lost a child, they will be entitled to two weeks' parental bereavement pay but otherwise it will be unpaid.

### **Proposed implementation date**

April 2027. Further regulations are required to detail how the leave is taken and what relationship the employee is required to have to the deceased person



## Collective redundancy

Currently collective redundancy applies where 20 or more people are at risk of being made redundant in a 90-day period in one establishment.

A new 'threshold test' has been added meaning that the trigger will be:

- (i) 20 or more redundancies at one establishment or
- (ii) a new higher threshold trigger (to be defined in regulations) is met, possibly based on a percentage or a higher number of employees across the whole business.

### **Proposed implementation date**

Likely 2027. Consultation is expected to take place in early 2026.



## Enhanced family-friendly rights

The amended legislation allows for the current protection against redundancy during and after a pregnancy to be extended to other reasons for dismissal.

The legislation also enables the Secretary of State to extend the protection to people who have taken other types of statutory leave, such as maternity/adoption leave, shared parental leave, neonatal care leave and bereaved partners' paternity leave.

Consultation has recently taken place on these measures.

### **Proposed implementation date**

Consultation ends in January 2026. It is not yet clear when any legislation will result



## School support staff negotiating body (SSSNB)

The SSSNB, which was previously in place between 2007 and 2010, will be established for school support staff including TAs, caretakers, office staff, technicians, cleaners, in state-funded schools in England and is anticipated to start making pay-related recommendations no later than the 27/28 academic year.

### **Proposed implementation date**

Consultation on reinstating the SSSNB is expected to begin in 2026



## Zero hours contracts

Workers on zero hours contracts as well as agency workers who work regular hours over a defined period, will gain new rights to be offered guaranteed hours. Employers will also be required to give reasonable notice of shifts and shift changes. Compensation will be payable to the worker where changes are made at short notice.

### **Proposed implementation date**

2027. Consultation is expected in 2026



## Flexible working

Employers will need to give clearer consideration to flexible working requests. In addition to relying on one of the permitted statutory grounds for refusal, any refusal must be reasonable and the grounds for refusal must be explained to the employee clearly and in writing.

### **Proposed implementation date**

2027. Consultation is expected in early 2026



## Equality action plans

Employers with 250+ employees will be required to publish equality action plans regarding gender equality, how the gender pay gap is being addressed and how employees going through the menopause are supported.

**Proposed implementation date**

2027



## Working time records

Employers will be required to keep adequate records to show that they have complied with annual leave and holiday pay entitlements.

**Proposed implementation date**

No date has been provided