

Employment Rights Bill: Are you ready?

4th December



Welcome everyone



Laura McHugh
Partner, Employment & HR

E: laura.c.mchugh@forbessolicitors.co.uk

What is the Employment Rights Bill?

Biggest upgrade to workers' rights in a generation comes one step closer



POLITICS

'I take full responsibility for this error' - Angela Rayner's resignation letter in full

A significant number of changes....

Day 1 Unfair Dismissal Rights	Changes to Zero Hours Contracts	Equality Action Plans
Changes to Statutory Sick Pay	Duty to take all reasonable steps to prevent sexual harassment (including third party harassment)	Menopause Action Plan
Flexible Working	Enhanced Protection for Pregnancy and New Mothers	Adult Social Care Negotiating Body
Changes to “Fire and Rehire”	Trade Union Reforms	Ethnicity and Disability Pay Gap Reporting
School Support Staff Negotiating Body	Public Sector Outsourcing	Day 1 Rights for Parental, Paternity and Bereavement Leave
Extension of Employment Tribunal time limits for bringing a claim	Single Worker Status	Non-disclosure agreements
Collective Redundancy Consultation	Fair Work Agency	Tips and gratuities

Bill passage



Bill started in the House of Commons

- ☒ 1st reading
- ☒ 2nd reading
- ☒ Committee stage
- ☒ Report stage
- ☒ 3rd reading



Bill in the House of Lords

- ☒ 1st reading
- ☒ 2nd reading
- ☒ Committee stage
- ☒ Report stage
- ☒ 3rd reading



Final stages

- ☒ Consideration of amendments
- ☐ Royal Assent



INDEPENDENT

Starmer U-turns on Rayner's reforms for workers' rights as Labour scraps key manifesto pledge

Labour campaigned on a pledge to protect workers from unfair dismissals from day one

more than law

Will everything
contained in the ERB
immediately become
law when the Bill
receives Royal Assent?



more than law

Employment Rights Bill - roadmap

Summer to Autumn 2025

Consultations

- Day one unfair dismissal rights and dismissal in the statutory probationary period;
- Trade union measures (including trade unions' right of access, simplifying the trade union recognition process, the duty to inform workers of their rights to joining a union);
- Dismissal and re-engagement (fire and re-hire);
- Bereavement leave;
- Increased rights for pregnant workers;
- Ending the exploitative use of zero hours contracts.

Royal Assent

Come into force on, or soon after Royal Assent

- Repeal of most of the Trade Union Act 2016;
- Repeal of the Strikes (Minimum Service Levels) Act 2023;
- Protection against dismissal for taking industrial action;
- Removal of the ten-year ballot requirement for trade union political funds;
- Simplifying industrial action notices and industrial action ballot notice.

Employment Rights Bill - roadmap

Winter 2025 to early 2026

Consultations

- Further trade union measures, including protection against detriment for taking industrial action and blacklisting;
- Tightening tipping law;
- Collective redundancies;
- Flexible working.

April 2026

The following are due to come into force

- Increase in the maximum period of the collection redundancy protective award;
- Day one rights to paternity leave and unpaid parental leave;
- Whistleblowing protections (the measures of which are not specified in the road map);
- Establishment of the Fair Work Agency;
- Removal of the lower earnings limit and waiting period for SSP;
- Simplifying the trade union recognition process;
- Electronic and workplace balloting.

We also expect to see in April 2026:

Equality Action Plans covering the steps employers are taking to address their gender pay gap and support employees going through the menopause are expected to be introduced on a voluntary basis.

TAKE ACTION NOW!

- Menopause policy?
- Staff training on menopause?
- Health and safety adjustments for menopause?
- Encourage open conversations?

Employment Rights Bill - roadmap

October 2026

- Ban on dismissal and re-engagement (fire and re-hire);
- Requirement for employers to take all reasonable steps to prevent sexual harassment;
- Requirement for employers to prevent third-party harassment of employees;
- New rights and protections for trade union representatives;
- Extension of the tribunal time limits to six months;
- Duty to inform workers of their rights to join a trade union;
- Strengthening of trade unions' rights of access to workplaces;
- Tightening of tipping law;
- Two-tier procurement code for outsourced public sector workers.

Employment Rights Bill - roadmap

2027

- Day one right to protection from unfair dismissal;
- Zero hours contracts measures for zero hours and low hour contract workers and agency workers, including the duty to offer guaranteed hours contracts, provide reasonable notice of shifts and pay compensation for cancelled, moved or curtailed shifts;
- Requirement for employers to produce equality action plans, covering the steps they are taking to address their gender pay gap and support employees going through the menopause;
- Increased rights for pregnant workers;
- Introduction of the power for regulations to be made specifying what steps are to be regarded as reasonable to determine whether an employer has taken all reasonable steps to prevent sexual harassment;
- Industrial relations framework;
- New collective redundancy consultation threshold;
- **Introduction of reasonableness requirement to refuse flexible working requests;**
- Day one rights to bereavement leave.

Consultations already launched and outcomes delivered



more than law

What are the more
imminent changes you
should start to prepare for?



Acas early conciliation period increased from six to 12 weeks from 1 December 2025

Statutory Sick Pay

- **Now:** Statutory sick pay is payable from day four of sickness, and employees need to be earning above the weekly lower earnings limit (currently £123) to qualify.
- **What the ERB says:** SSP will become payable from day 1 of sickness and payable for the first 3 Qualifying Days of sickness. In addition, the lower earnings limit will be removed, meaning that all eligible employees, regardless of earnings, will be entitled to SSP - which will be the lower of the “prescribed weekly rate” and 80% of normal weekly earnings.
- **What next:** It is anticipated this will take effect in April 2026.



Fair Work Agency

- A Fair Work Agency will be formed which brings together the existing enforcement functions of HMRC (in relation to the National Minimum Wage), the Employment Agency Standards Inspectorate and the Gangmasters and Labour Abuse Authority.
- The Fair Work Agency will have responsibility for enforcing “relevant labour market legislation” including payment of SSP, the payment of sums ordered by an employment tribunal or settlement sums agreed in a COT3, payment of the National Minimum Wage and various duties on employers such as the duty to keep records, payment of holiday pay and rolled up holiday pay etc.

Fair Work Agency

- The FWA will have the power to require any individual to attend a meeting and answer questions, as well as to provide information or documents by a specified date.
- Enforcement officers will have the power to enter any business premises to produce documents that are reasonably believed to be on the premises and within the person's possession or control, or to access any computer or other equipment, including software.
- In a case where a worker has the right to bring employment tribunal proceedings and it appears to the Secretary of State that the worker is not going to bring those proceedings, the Secretary of State may, in place of the worker, bring those proceedings.

Day-one rights to family leave

- Paternity leave April 2026
- Unpaid parental leave April 2026
- Bereavement leave 2027



more than law

Collective redundancy-
doubling the amount of the
protective award



Time limits for making an employment tribunal claim

- **Now:** Most tribunal claims need to be brought within three months of the act complained of (e.g. dismissal, discrimination, deduction from wages).
- **What the ERB says:** The Bill has been amended during its progress through parliament to extend time limits for bringing tribunal claims from three to six months. This will apply to all types of claims, including discrimination and unfair dismissal (although not for breach of contract claims arising or outstanding on termination – it is unclear if this exclusion is intentional or not).
- **What next:** The government anticipates these changes will come into force in **October 2026**. Prudent to start checking your data retention policies now!

Duty to take **all** reasonable steps to prevent sexual harassment

On the 26th October 2024, the Worker Protection (Amendment of Equality Act 2010) Act 2023 came into force. Employers are now under a duty to take reasonable steps to prevent sexual harassment of their employees during the course of their employment.

The Employment Rights Bill contains provisions to require employers to take “**all** reasonable steps” to prevent sexual harassment, reflecting the wording originally contained in the Worker Protection Bill, but was removed during the Parliamentary process.

Duty to take all reasonable steps to prevent third party harassment

Now: Employers are not explicitly/directly liable if their employees are harassed by customers/clients/other third parties.

What the Bill says: The Bill would make employers liable for third party harassment unless the employer took all reasonable steps to prevent this. This covers all types of harassment not just sexual harassment.

What next: It's not clear what additional consultation there will be on this measure before it comes into effect. The government anticipates that these provisions will come into force in **October 2026**.

Disclosure of sexual harassment is to be added to the list of qualifying disclosures

Now: Employees who disclose a breach of health and safety obligations or other breach of the law are protected as whistleblowers if they reasonably believe the disclosure is in the public interest. Sexual harassment complaints can already be disclosures which qualify for protection where they meet the public interest test and count as a breach of health and safety obligations or breach of a legal obligation.

What the Bill says: The Bill would add disclosing sexual harassment to the list of what counts as a qualifying disclosure, making it more explicit that this can amount to whistleblowing – as long as it meets the test of reasonable belief that it is made in the public interest (and other tests needed for it to be a protected disclosure).

What next: It is anticipated that this will be brought into force in **April 2026**.

Regulations may specify what reasonable steps an employer should take

The steps specified in regulations will include, but will not be limited to...

- Carrying out assessments of a specified description (likely to be risk assessments)
- Publishing plans or policies of a specified description (likely to be action plans and sexual harassment policies)
- Steps relating to the reporting of sexual harassment
- Steps relating to the handling of complaints.

Note that the government anticipates that the power to make regulations specifying the steps that are to be considered reasonable will come into force in **2027** – this is after the requirement to take all reasonable steps to prevent sexual harassment is due to come into force (**October 2026**).

How can you prepare for this?



- Policies need to be in place e.g. sexual harassment / relationships at work / EDI etc.
- Risk assessments – think about HR Hotspots.
- Training – what is and isn't acceptable behaviour in the workplace.
- Terms & Conditions with contractors– do they say that unacceptable behaviour will not be tolerated etc?
- Steps relating to the reporting of instances of sexual harassment and/or third-party harassment and subsequent action plans.

Which of your policies may be impacted by these proposed changes? Be prepared to amend these.....but only when appropriate.



more than law

Thank you for listening

Laura McHugh
Partner, Public Sector Employment

E: laura.mchugh@forbessolicitors.co.uk
T: 07976 243243



more than law

