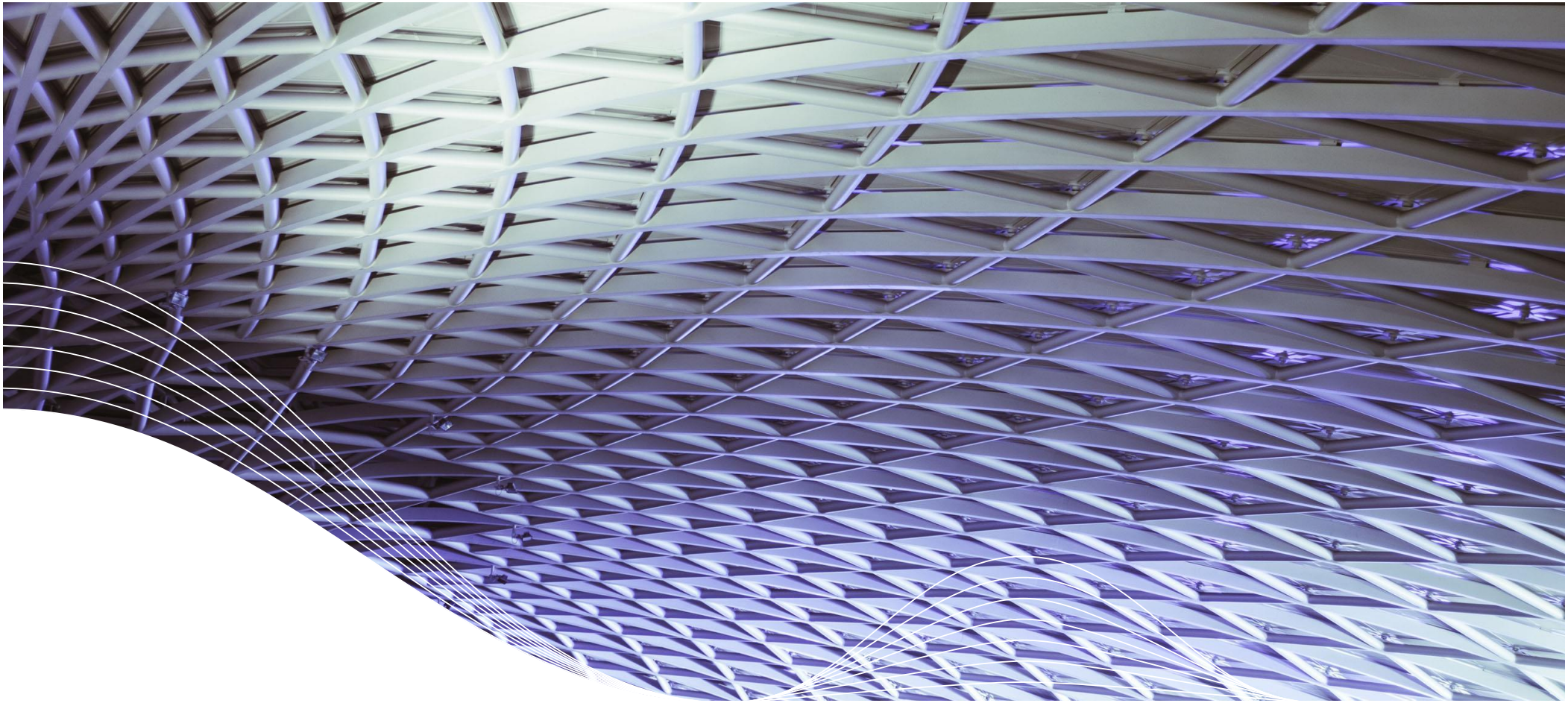

On the horizon

Last updated 3 March 2026

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Details awaited

Open consultation; imminent implementation; ongoing activity

In force

	National Minimum Wage
	Current status The government has changed the remit of the independent Low Pay Commission so that it will take account of the cost of living. From 1 April 2025 the rates of the national minimum wage (**NMW**) are as follows: • National Living Wage (21 and over): £12.21 • 18–20-year-old rate: £10.00 • 16–17-year-old rate: £7.55. • Apprentice rate: £7.55 • Accommodation offset: £10.66 per day From 1 April 2026 the NMW rates will be as follows: • National Living Wage (21 and over): £12.71 • 18–20-year-old rate: £10:85 • 16–17-year-old rate: £8.00 • Apprentice rate: £8.00 • Accommodation offset: £11.10 per day
	Background In Labour's 'Plan to Make Work Pay' the government committed to making sure the minimum wage is a real living wage that people can live on. To achieve this, the government has changed the Low Pay Commission's remit so that alongside median wages and economic conditions, the minimum wage will for the first time reflect the need for pay to take into account the cost of living. The government will in future remove the age bands to ensure every adult worker benefits, and work with the Single Enforcement Body and HMRC and ensure they have the powers necessary to make sure the living wage is properly enforced, including penalties for non-compliance.

	Key publications Plan to make work pay Next steps to make work pay

	Dismissal and re-engagement
	Current status The Code of Practice on Dismissal and Re-engagement came into force on 18 July 2024. The Employment Rights Act 2025 (**ERA**) also addresses the practice of 'fire and rehire'.
	Background Following widespread public controversy regarding the practice of fire and rehire in recent years, a new statutory code of practice on dismissal and re-engagement https://assets.publishing.service.gov.uk/media/65d35c10423931826ab7b8a0/draft-statutory-code-of-practice-on-dismissal-and-re-engagement.pdf (**Code**) was promised by the then Conservative government. During the parliamentary wash-up period, an order was made bringing the new Code into force on Thursday 18 July 2024, meaning it is now in force (although the provisions of the Code do not apply where the prospect of dismissal and re-engagement was raised by the employer with either the employee and/or their representatives on or before 17 July 2024). A failure to follow the Code does not make a person or organisation liable to proceedings. The Code is admissible in evidence in proceedings before a court, employment tribunal or the Central Arbitration Committee, and any provision of the Code which is relevant to those proceedings must be taken into account by the court, tribunal or committee. If an employee brings one of the employment tribunal claims listed in Schedule A2 to the 1992 Act, and the claim concerns a matter to which the Code applies, then the tribunal can: • increase any award it makes by up to 25%, if the employer has unreasonably failed to comply with the Code, or • reduce any award by up to 25%, where it is the employee who has unreasonably failed to comply. Before the election Labour's Plan To Make Work Pay stated: *Labour will end the scourges of 'fire and rehire' and 'fire and replace' that leave working people at the mercy of bullying threats. We will reform the law to provide effective remedies against abuse and replace the inadequate statutory code brought in by the Government, with a strengthened code of practice.*

	The ERA addresses the practice of 'fire and rehire'. The circumstances in which the ERA permits contract changes to be made through dismissal and reengagement are limited. The ERA will amend the law on unfair dismissal so that where an employee is (1) dismissed for failing to agree to a change in their contract of employment; or (2) dismissed and then re-engaged on varied contract terms or replaced with someone on varied terms, the dismissal will be treated as automatically unfair where the change is a restricted variation. Restricted variations are reductions in an employee's pay or time off, changes to the number of hours an employee is required to work and changes to pensions As an exception, an employer can avoid a finding of automatically unfair dismissal if it shows: • evidence of financial difficulties affecting the employer's ability to carry on the business as a going concern; • that the changes were to eliminate, prevent, or significantly reduce or mitigate the effects of the financial difficulties; and • that the need to make the change in contractual terms was unavoidable. Even where the business's situation fits within this strict exception, the employment tribunal will still assess if dismissal was fair in the circumstances. Relevant factors will be whether the business consulted with the employee, trade union or other employee representatives, and whether the employee was offered anything in return for agreeing to the variation. Where the change is not a restricted variation, ordinary unfair dismissal rules will apply. The Next Steps document published alongside the ERA says: *As key remedies to end this practice, we are committed to consult on lifting the cap of the protective award if an employer is found to not have properly followed the collective redundancy process as well as what role interim relief could play in protecting workers in these situations.* A statutory instrument giving ETs the power to uplift a protective award by up to 25% for failure to follow the code of practice came into force on 20 January 2025. Pending the provisions of the ERA on 'fire and rehire' coming into effect, this change to the protective award regime slightly increases the financial risk for employers making changes to terms and conditions. **Key publications** Employment Rights Act 2025 Statutory Instrument giving ETs power to uplift protective award Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay Code of Practice on Dismissal and Re-engagement

Sexual harassment and non-disclosure agreements (NDAs)

Current status

The Worker Protection (Amendment of Equality Act 2010) Act 2023 came into force on 26 October 2024. Further changes will be brought into force under the Employment Rights Act 2025 (**ERA**).

Background

Throughout the course of 2018 and 2019 there were a series of reports and consultation papers relating to the strengthening of protection against workplace sexual harassment, and the tighter regulation of NDAs.

In July 2021, the government published its response to consultation on sexual harassment in the workplace and stated:

- The government would introduce a duty requiring employers to take 'all reasonable steps' to prevent sexual harassment.
- Explicit protections from third-party harassment (for example, harassment by a customer or a supplier) would also be introduced. Employers would have a defence to claims of this type if they are able to demonstrate that they took 'all reasonable steps' to prevent harassment occurring.
- Explicit protections would not be extended to volunteers and interns. In most cases interns are covered by the existing legislation and the government considered that extending protection to volunteers would create a disproportionate level of liability and difficulty for organisations.
- The government would look closely at the option of extending the time limits for bringing Equality Act based claims to an employment tribunal from three to six months.
- The government would encourage further EHRC strategic enforcement action so that enforcement will not rely solely on individuals pursuing employment tribunal claims.

However, under the ERA the duty to take reasonable steps to prevent sexual harassment in the workplace will become a duty to take **all** reasonable steps to prevent sexual harassment in the workplace. The ERA says that Regulations may set out steps that are to be regarded as 'reasonable' (such as carrying out assessments, publishing plans or policies and implementing steps relating to the reporting of sexual harassment and the handling of complaints) and the Explanatory Notes make clear that employers will need to take all those steps, plus any other steps which are reasonable in the circumstances. The remedy for non-compliance will not change.

The ERA will also reintroduce protection against third party harassment (all harassment, not just sexual harassment). The new protection against third party harassment will be is a standalone claim which employees can bring in the tribunal in its own right.

A final point in relation to sexual harassment is the ERA's inclusion of a provision which will make a disclosure that "*sexual harassment has occurred, is occurring, or is likely to occur*", a qualifying disclosure for the purposes of whistleblowing protection.

Under the ERA any provision in an agreement between an employer and a worker will be void where it attempts to prevent the worker from making an allegation or disclosure relating to work-related harassment or discrimination. There will be exceptions for an 'excepted agreement' which meets conditions to be specified in regulations.

	It remains to be seen what the conditions for an excepted agreement will be and how these will differ from the existing conditions for a valid settlement agreement. The change to the sexual harassment duty will come into force in October 2026. **Key publications** Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Worker Protection (Amendment of Equality Act 2010) Act 2023 Consultation on sexual harassment in the workplace: Government response Non-disclosure agreements: ACAS guidance GEO: Consultation on sexual harassment in the workplace BEIS: Confidentiality clauses: Government response to consultation on measures to prevent misuse in situations of workplace harassment or discrimination Women and Equalities Committee report: The use of non-disclosure agreements in discrimination cases BEIS: Confidentiality clauses – Consultation on measures to prevent misuse in situations of workplace harassment or discrimination WEC's report on sexual harassment in the workplace Government response to sexual harassment in the workplace report Women and Equalities Committee report: Sexual harassment in the workplace

	Reform of non-compete clauses
	Current status On 26 November the government published a working paper on options for reform of non-compete clauses in employment contracts. The options considered are: • Statutory limit on length (for example, 3 months, possibly varying by company size). • Complete ban on non-compete clauses. • Ban below a salary threshold (protecting lower-paid workers). • Combination of salary threshold ban and a statutory time limit for those who earn above the threshold. The government is also seeking views on:

	• Whether restrictions should be limited to non-compete clauses only or should also apply to other restrictive covenants. • How the government can ensure that other restrictive covenants, for example non-dealing clauses, are not used in a way that would have a similar effect as a non-compete clause, if restrictions were limited to non-compete clauses only. • Whether restrictions on non-compete clauses should be limited to employment contracts or whether the government should consider applying them to wider workplace contracts • Whether the threat of high legal costs presents an obstacle to bringing claims on restrictive covenants, including non-compete clauses. The working paper closed for responses on 18 February 2026. **Background** Extensive research and consultation on the use of non-compete clauses in employment contracts was undertaken by the previous government. On 10 May 2023, the previous government announced that it would introduce a statutory limit on the length of non-compete clauses of 3 months. However, no action was taken. **Key publications** Working paper on options for reform of non-compete clauses in employment contracts

	Increased dismissal protection for women and new parents
	Current status The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 came into force on 6 April 2024. **Background** The 2017 Taylor Review of Modern Working Practices recommended consolidation of the protections for pregnant women and new parents to make it easier for businesses and individuals to understand their rights. In early 2019 the government consulted on proposals to extend redundancy protection and, in July 2019, committed to: • Ensuring that the period during which pregnant women benefit from redundancy protection applies from the point the employee informs the employer that she is pregnant; • Extending the redundancy protection period for six months once a new mother has returned to work from maternity leave; • Extending redundancy protection for a six-month period following return to work for those taking adoption leave; and • Extending redundancy protection into a period following return to work for those taking shared parental leave, proportionate to the leave taken and the threat of discrimination. In May 2021, the government indicated in its response to a Women and Equalities Committee report that it would bring these proposals into effect 'when parliamentary time allows'. However, the government then confirmed that it would instead back a Private Members' Bill seeking to

	implement these reforms. This Bill completed its journey through the legislative process and received Royal Assent on 24 May 2023. The government has now published secondary legislation to implement the new entitlements, and this came into force on 6 April 2024. The legislation extends the enhanced protection against redundancy to the period of the pregnancy once the employer is notified of the pregnancy, and for a further 18 months after the end of statutory maternity leave (for pregnancy) and for 18 months after the child is placed for adoption (with corresponding periods for shared parental leave). Under the ERA protection against dismissal will be strengthened further. The ERA will enable regulations to be made to ban dismissals of women who are pregnant, on maternity leave, and during a six-month return-to-work period except in specific circumstances. It will also expand existing powers in relation to adoption leave, shared parental leave, neonatal leave and bereaved partner's paternity leave to enable regulation of dismissal in the period after a person returns to work after taking one of these forms of leave. A consultation paper published on 23 October asked for views on the situations in which employers should still be permitted to fairly dismiss individuals in the protected group. The options considered are: • A new general test for fairness. The existing potentially fair reasons for dismissal would apply, but employers would be required to meet a stricter standard when relying on those reasons. • Limiting the potentially fair reasons for dismissal eg removing capability or some other substantial reason or narrowing the scope of conduct. • Whether the protections should be a day one right. • When the protected period should start and when it should end, including for those not entitled to maternity leave. • Whether the enhanced dismissal protections should also cover other parents. The consultation also seeks views more widely on the extent of unfair treatment of pregnant women and new mothers. **Key publications** Consultation paper on enhanced dismissal rights for pregnant women and new mothers Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Plan to make work pay (May 2024) Next steps to make work pay (October 2024) The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 Protection from Redundancy (Pregnancy and Family Leave) Act 2023 Unequal impact? Coronavirus and the gendered economic impact: Government response

	Unequal impact? Coronavirus and the gendered economic impact (WEC report) Good Work Plan: Pregnancy and maternity discrimination consultation: Government response Pregnancy and maternity discrimination: Consultation on extending redundancy protection for women and new parents Taylor report (July 2017)

	Worker status
	Current status The Workers (Predictable Terms and Conditions) Act 2023 (**WPTCA**) did not come into force in autumn 2024 and was repealed by the Employment Rights Act (**ERA**). The ERA will instead introduce rights to guaranteed hours for zero and low hours workers (including agency workers). **Background** The Conservative government had planned to make changes to: • Align the employment status frameworks for the purposes of employment rights and tax. • Improve the clarity of the employment status test and improve guidance and online tool. • Introduce a right to request a more stable contract. • Increase the time required to break a period of continuous service. • Currently a gap of one week in employment with the same employer can break what counts towards continuous service, making it difficult for some employees to accrue employment rights. The government proposed to allow a break of up to four weeks before continuity is affected. In July 2022, the government confirmed that it would not introduce legislation to reform employment status. Instead, it issued new guidance which purports to bring together employment status case law into one place for businesses and individuals to access. The aim is that the guidance will support workers by improving their understanding of what rights they are entitled to at work, enabling them to have informed discussions with their employer and take steps to claim or enforce them where necessary. In February 2023, the government confirmed that it was backing the Private Members' Workers (Predictable Terms and Conditions) Bill. The Bill received Royal Assent on 18 September 2023 becoming the Workers (Predictable Terms and Conditions) Act (**WPTCA**). The new legislation sought to ensure that all employees, including agency workers, are able to request a more predictable working pattern. It provides that if an employee's existing working pattern lacks certainty in terms of the hours they work, the times they work, or if it is a fixed term contract for less than 12 months, they may make a formal application to change their working pattern to make it more predictable. Employers must consider the request reasonably but are able to rely on one of a number of statutory grounds for refusal to turn the request down. The new rules were expected to come into force in autumn 2024. However, the new Labour government announced that it would be repealing the WPTCA. Instead, the ERA will

	introduce new rights for zero and low hours workers to a guaranteed hours contract which reflects the hours actually worked over a reference period. The ERA also introduces rights to reasonable notice of shifts and compensation for cancelled shifts. These provisions will not come into force until 2027. At present, there is no further news on the proposals relating to continuous service. The government will consult on a simpler framework that differentiates between workers and the genuinely self-employed, ensuring that all workers know their rights and have the comfort of protection at work. **Key publications** Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay (October 2024) Workers (Predictable Terms and Conditions) Act 2023 Employment status and rights: Support for individuals Employment status consultation Good work: A response to the Taylor Review of Modern Working Practices

	Family-friendly leave
	Current status The Neonatal Care (Leave and Pay) Act 2023 came into effect on 6 April 2025. The Paternity Leave (Amendment) Regulations 2024 apply to employees whose EWC was on or after 6 April 2024. The Carer's Leave Regulations 2024 took effect from 6 April 2024. A Call for Evidence on parental leave and pay closed on 25 August 2025. A consultation paper on enhanced dismissal rights for pregnant women and new mothers was published on 23 October 2025 and closed on 15 January 2026. **Background** In July 2019, a consultation was launched on changes to parental leave entitlements as the government said it wanted these to 'better reflect our modern society and the desire to share childcare more equally'. The consultation:

	• Questions whether statutory paternity leave for fathers and same sex partners should be changed. • Seeks suggestions on ways in which shared parental leave (introduced in 2015) could be improved. • Proposes a new Neonatal Care Leave and Pay entitlement for parents of premature and sick babies who need to spend a prolonged period in neonatal care following birth. Proposes that employers should publish their pay and flexible working policies and questions whether there should be a requirement for employers to consider advertising jobs as flexible. In March 2020, the government published a response to its consultation proposals on **neonatal care leave and pay**, confirming that it will introduce neonatal leave and statutory pay for parents of babies in neonatal care. The relevant provisions were intended to be included in a new Employment Bill; however, instead, the government chose to support a Private Members' Bill seeking to bring these provisions into force. This Bill completed the legislative process and received Royal Assent on 24 May 2023, with the entitlements due to take effect in April 2025. The Regulations implementing Neonatal Care Leave and Pay have now been laid before Parliament and will come into force on 6 April 2025, in respect of children born on or after that date. A response on **unpaid carer's leave** was published in September 2021. This indicated the following: • One working week of unpaid carer's leave (per employee, per year) will be available as a day one right for employees managing caring responsibilities for those with long-term care needs alongside work. • Eligibility in terms of who the employee is caring for will be broadly defined (following the definition of dependant used in the right to time off for dependants). • The long-term care need person of the being cared for will be defined by reference to disability or issues related to old age, with limited exemptions. • Leave will be available to be used for providing, or making arrangement for, the provision of care. • The leave will be available to take flexibly (from half day blocks to a whole week). • The administrative process to ensure legitimacy of requests to take carer's leave will be light touch. • The leave will be subject to a minimum notice period of twice the length of time being taken, plus one day (in line with annual leave notice periods). The government originally indicated that this new carer's leave entitlement would be introduced 'when parliamentary time allows'. However, the government then confirmed that it would support a Private Members' Bill seeking to introduce this new entitlement to leave. This Bill received Royal Assent on 24 May 2023. Regulations to implement the provisions of the statute were published in December 2023 and came into force on 6 April 2024. On 29 June 2023, the government published its response to proposed reforms for **paternity leave, unpaid parental leave** and **shared parental leave**. It confirmed that there will be no changes at this time to unpaid parental leave and shared parental leave. In relation to **paternity leave**, the government confirmed it would:

	• Allow fathers and partners to take their two-week paternity leave entitlement in two separate blocks of one week (instead of the previous requirement to take either one week or two consecutive weeks); • Allow fathers and partners the ability to take paternity leave at any time in the first year of the child's birth, rather than in just the eight weeks (56 days) following birth; and • Change the notice requirements for paternity leave to make them more proportionate to the amount of time the father or partner plans to take off work. This changed the current requirement (to give notice of leave dates 15 weeks before the EWC) to a new requirement to give notice of entitlement 15 weeks before birth and notice of the dates intending to be taken 28 days before each period of leave. This now applies to employees whose expected week of childbirth was on or after 6 April 2024. The government launched a review of the parental leave regimes in July 2025. Under the Employment Rights Act (**ERA**) parental leave and paternity leave will become a day one right and bereavement leave will be extended to all workers. A consultation paper on the extension of bereavement leave was published on 3 October 2025. Under the ERA it will be unlawful to dismiss pregnant women, women on maternity leave and mothers who return to work for at least a six-month period after they return to work except in specific circumstances. The consultation paper published on 23 October asks for views on the situations in which employers should still be permitted to fairly dismiss individuals in the protected group. The options considered are: • A new general test for fairness. The existing potentially fair reasons for dismissal would apply, but employers would be required to meet a stricter standard when relying on those reasons. • Limiting the potentially fair reasons for dismissal eg removing capability or some other substantial reason or narrowing the scope of conduct. • Whether the protections should be a day one right. • When the protected period should start and when it should end, including for those not entitled to maternity leave. • Whether the enhanced dismissal protections should also cover other parents. The consultation also seeks views more widely on the extent of unfair treatment of pregnant women and new mothers. **Key publications** Consultation on bereavement leave Consultation on enhanced rights for pregnant women and new mothers Implementing the Employment Rights Bill Roadmap Call for evidence Neonatal Care Leave and Miscellaneous Amendments Regulations 2025

	Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay The Paternity Leave (Amendment) Regulations 2024 The Carer's Leave Regulations 2024 Parental leave and pay: Good Work Plan – Proposals to support families Neonatal Care (Leave and Pay) Act 2023 Carer's Leave Act 2023 Carer's leave consultation: Government response Unequal impact? Coronavirus and the gendered economic impact: Government response Unequal impact? Coronavirus and the gendered economic impact (WEC report) Neonatal leave and pay: Good Work Plan – proposals to support families Good Work Plan: Proposals to support families

	Flexible working
	Current status Changes to the flexible working regime are due to be brought into force in 2027. **Background** The government implemented reforms to flexible working through a Private Members' Bill which received Royal Assent on 20 July 2023. Secondary legislation, which fleshes out the details of the new regime, was published in December 2023 and came into force on 6 April 2024. In the meantime, the government published a Call for Evidence in relation to non-statutory flexible working. This closed in November 2023 but responses have not yet been published. ACAS also issued a consultation paper on changes to its Code of Practice for handling flexible working requests and published the revised Code of Practice in January 2024.

	The Employment Rights Act (**ERA**) will make it more difficult for employers to reject requests for flexible working. The ERA will amend the current right to request flexible working to provide that employers can only refuse the request on one of the existing statutory grounds and where it is reasonable to do so. Any refusal must explain why the employer considers that it is reasonable to refuse the application on that ground or grounds. Consultation is expected in early 2026. **Key publications** Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay ACAS Code of Practice on requests for flexible working The Flexible Working (Amendment) Regulations 2024 Employee Relations (Flexible Working) Act 2023 ACAS consultation on the draft Code of Practice on handling requests for flexible working Call for evidence: Non statutory flexible working Consultation on making flexible working the default: Government response Making flexible working the default

	Collective rights
	Current status The Labour government will make sweeping changes to collective rights at work through measures in the Employment Rights Act (**ERA**) and beyond. The government is currently consulting on the duty to inform workers of their right to join a trade union and rights of trade unions to access workplaces. **Background** Labour's Plan to make work pay stated that "*Labour will update trade union legislation, so it is fit for a modern economy, removing unnecessary restrictions on trade union activity and ensuring industrial relations are based around good faith negotiation and bargaining. This will end the Conservatives' scorched-earth approach to industrial relations, ushering in a new partnership of cooperation between trade unions, employers and government and putting us in line with high-growth economies that benefit from more cooperation and less disruption*". Under the ERA:

	• Employers will be required to give all workers a written statement that the worker has the right to join a trade union at the same time as the section 1 statement. • The ERA will also bring in a new right of access – with a transparent framework and clear rules designed in consultation with unions and business – for union officials to meet, represent, recruit and organise members and will simplify the statutory trade union recognition process, reducing the required percentage of union support within the proposed bargaining unit. • Union equality representatives will gain the right to reasonable time off to carry out their duties or undertake training during working hours. • The balloting requirements for industrial action will be simplified so that the union will only need the support of a simple majority of those voting in the ballot, rather than a percentage of those eligible to vote. • Employees will gain protection from being subjected to a detriment for taking protected industrial action. • The Strikes (Minimum Service Levels) Act 2023 has been repealed. • The ERA will update blacklisting legislation to protect a wider range of people from blacklisting due to trade union membership or activity. The government will seek views on how to strengthen provisions to prevent unfair practices during the trade union recognition process. **Key publications** Consultation on right of trade unions to access workplaces. Consultation on duty to inform workers of the right to join a union Employment Rights Act 2025 Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay

	Statutory sick pay
	Current status The Employment Rights Act (**ERA**) will remove the Lower Earnings Limit to make Statutory Sick Pay available to all workers and remove the three-day waiting period. This is due to come into effect in April 2026. **Background** Currently, to qualify for SSP, an employee must: • Be classed as an employee and have done some work under their contract. • Have been ill for 4 or more days in a row (a 'period of incapacity for work'), including non-working days.

- Earn an average of at least the Lower Earnings Limit (£125 per week for the 2025/2026 tax year).
- Give their employer notice and proof of illness when required (usually a doctor's 'fit note' after 7 days of sickness).

The ERA will remove the Lower Earnings Limit to make Statutory Sick Pay available to all workers and remove the three-day waiting period. Lower paid employees who currently do not qualify for SSP will be entitled to SSP at the lower of 80% of their average weekly pay, or the standard rate of SSP (currently £118.75). The SSP measures in the ERA will widen eligibility to the up to 1.3 million employees who are currently not entitled.

Key publications

Employment Rights Act 2025

Implementing the Employment Rights Act: Timeline update

Response to consultation: Strengthening statutory sick pay

Plan to make work pay

Next steps to make work pay

Redundancy

Current status

The Employment Rights Act will introduce an additional new threshold for collective consultancy. In a case where employees are being made redundant at more than one establishment, regulations may prescribe a higher number than 20 of those employees for the purposes of determining when the collective consultation obligations apply. The number may be determined by reference to criteria set out in the regulations (for example, by reference to a particular percentage of total employees). On 26 February the government published a consultation paper on how the new threshold should be calculated.

Background

Another commitment made in the Plan to make work pay is to strengthen redundancy consultation rights and this is also addressed in the Employment Rights Bill (**ERA**).

Although redundancy dismissals will continue to be possible, these changes will make managing the associated consultation process more cumbersome and potentially lengthier. To be able to identify when their statutory obligations are triggered, multi-site or multi-entity employers will require a constant overview of the aggregate numbers of redundancies across their business. This is likely to be a challenge for many organisations.

Key publications

Consultation paper on threshold for triggering collective redundancy consultation

Consultation paper on strengthening remedies against abuse of rules on collective redundancy and fire and rehire

Employment Rights Act 2025

	Implementing the Employment Rights Act: Timeline update Plan to make work pay Next steps to make work pay

	Right to switch off
	Current status In its Next Steps To Make Work Pay document the government said that it would be taking forward the right to switch off through a statutory Code of Practice. **Background** In its Plan To Make Work Pay the government announced that it will bring in the 'right to switch off' following similar models to those that are already in place in Ireland or Belgium, giving workers and employers the opportunity to have constructive conversations and work together on bespoke workplace policies or contractual terms that benefit both parties. **Key publications** Plan to make work pay Next steps to make work pay

	Pay transparency
	Current status In its Next Steps To Make Work Pay document the government made a commitment to end pay discrimination by expanding the Equality (Race and Disparity) Bill to make it mandatory for large employers to report their ethnicity and disability pay gap. **Background** Large firms will be required to develop, publish and implement action plans to close their gender pay gaps, and the government will ensure outsourced workers are included in their gender pay gap and pay ratio reporting. The publication of ethnicity and disability pay gaps will also be made mandatory for employers with more than 250 staff, to mirror gender pay gap reporting. **Key publications** Plan to make work pay Next steps to make work pay

Retained EU law

Current status

The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 came into force on 1 January 2024.

Background

The Retained EU Law (Revocation and Reform) Bill received Royal Assent on 29 June 2023. It was initially intended to automatically repeal all EU law retained after Brexit by 31 December 2023, subject to the government taking positive action to preserve the relevant laws before the end of 2023 (subject to a potential extension to June 2026 in certain circumstances). However, in April 2023, in a significant row-back of this proposal, reports indicated that the government would only remove 800 statutes (instead of 3,700). The proposals were further watered down on 10 May 2023 when the government announced that it would replace the current 'sunset' in the legislation with a list of the retained EU laws that it intends to revoke at the end of 2023. This means that EU law will remain binding in the UK *unless* it is expressly repealed. The government has, however, retained powers which allow it to continue to amend EU laws, so that more complex regulation can still be revoked or reformed after proper assessment and consultation.

In May 2023, the government then published a policy paper, *Smarter regulation to grow the economy*, which highlighted the government's intentions to revise UK law in relation to TUPE and annual leave, for which it says there are opportunities for improvement. It then published a consultation paper seeking views on these proposals. The consultation closed on 7 July 2023 and the government's response to consultation was published on 8 November 2023.

Working Time Regulations (**WTR**)

Initial proposals

The first aspect of the WTR addressed by the consultation was **record keeping**, where the requirements were thought to be an area of uncertainty for employers following a 2019 judgment of the European Court of Justice (**ECJ**). The government proposed to legislate to clarify that businesses do not have to keep a record of daily working hours of their workers.

The second aspect of the WTR where reform was proposed is in relation to **annual leave**. The government wanted to simplify the system of annual leave and holiday pay calculations. It proposed to achieve this by:

- Creating a single annual leave entitlement of 5.6 weeks, as opposed to the current system which provides 4 weeks' annual leave set by the Working Time Directive plus an additional 1.6 weeks' leave beyond the EU requirements.
- Permitting carry forward of 1.6 weeks' leave to the following leave year if agreed in writing between employer and employee. Carry over of entitlement of more than 1.6 weeks will only be permitted where an individual has been unable to take leave due to long-term sickness absence or a form of family leave.
- Providing that during the first year of employment, workers will accrue their annual leave entitlement at the end of each pay period.

- Setting a minimum rate of holiday pay for the new single statutory leave entitlement. The consultation will be used to explore how this rate should be defined, with the suggested options including basic pay or normal pay (which would include regular overtime pay, regular commission and regular bonuses).
- Permitting rolled-up holiday pay as an option for all workers, so that a worker receives an additional amount with every payslip to cover holiday pay, as opposed to receiving holiday pay only when they take annual leave. The government's proposal is that rolled-up holiday pay is paid at 12.07%, which is the proportion of statutory annual leave in relation to the working weeks of each year.

Outcome

- The government decided to remove the effects of the 2019 ECJ judgment to remove any risk that the current record keeping requirements may change.
- The government decided **not** to introduce the single annual leave entitlement, but to maintain the two distinct pots so that workers continue to receive four weeks at normal pay and 1.6 weeks at basic pay. However, legislation will clarify what counts as 'normal' pay by requiring the following types of payment to be included:
    - Payments intrinsically linked to the performance of tasks which a worker is contractually obliged to carry out.
    - Payments for professional or personal status relating to length of service, seniority or professional qualifications.
    - Payments such as overtime which have been regularly paid to a worker in the previous 52 weeks.
- The government also decided to introduce rolled-up holiday pay for irregular hours and part-year workers only, but employers who choose to use rolled-up holiday pay will be required to calculate it based on a worker's total earnings in a pay period.
- The government would also legislate to restate certain ECJ judgments to retain workers entitlement to carry over leave when a worker is unable to take their leave due to being on maternity/family related leave or sick leave.

The legislation implementing these changes came into force on 1 January 2024.

Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

Initial proposals

In the consultation paper, the government recognised that the TUPE regulations, which provide a legal framework for transfers of staff in a business acquisition or service provision change, provide important protections for employees and also recognised the importance of an employer consulting with employees and

employees' representatives in relation to a transfer. However, given that businesses can find some aspects of the regulations burdensome, the government proposed changes to **TUPE consultation requirements** with the aim of simplifying the transfer process. The proposals were that:

- small businesses (with fewer than 50 employees); and
- businesses of any size involved with small transfers of employees (where fewer than ten employees are transferring)

	should be permitted to consult directly with their employees on a TUPE transfer, if there are no employee representatives in place, rather than being required to arrange elections for new employee representatives. If employee representatives are already in place, then the employer would still be required to consult with them. ***Outcome*** The planned reforms to the TUPE consultation requirements to allow small businesses (fewer than 50 employees) and businesses of any size undertaking a transfer of fewer than ten employees to consult directly with their employees if there are no existing worker representatives came into effect on 1 January 2024. **Key publications** The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 Retained EU Employment Law: A government response to the consultation on reforms to retained EU employment law and the consultation on calculating holiday entitlement for part-year and irregular hours workers Retained EU Law (Revocation and Reform) Act 2023 Policy paper: Smarter regulation to grow the economy Retained EU Employment law: Consultation on reforms to the Working Time Regulations, holiday pay and the Transfer of Undertakings (Protection of Employment) Regulations