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# EMPLOYMENT RIGHTS ACT 2025 HUNTER LAW

3 JUNE 2026 – WEALDEN BUSINESS GROUP



# INTRODUCTION – ERA 2025

## BRIEF SUMMARY OF EMPLOYMENT LAW LAST 45 YEARS

- 1980's Thatcher – Unions weakened
- 1990's Workers Rights ERA 96
- 2010's Coalition – Reduce rights made Unfair Dismissal Qualifying Period 2 years (from 1)
- 2025/6 Big increase to Workers Rights

# PRESENTER



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## INTRODUCTION – ERA 2025



BECAME LAW DECEMBER 2025,  
IMPLEMENTATION IS  
INCREMENTAL



MAJORITY OF FUTURE CHANGES  
STILL SUBJECT TO  
COMMENCEMENT REGULATIONS



THE GOVERNMENT TIMELINE  
SAYS THEY “WILL” HAPPEN

## I. FAMILY RIGHTS

**6 April 2026**

Ordinary Parental leave (unpaid) to become Day 1 right

Paternity Leave (possibly paid) to become Day 1 right & can be taken after SPL

Still need to give 21/28 days notice of intended start

# I. FAMILY RIGHTS – FLEXIBLE WORKING REQUESTS



**Sometime 2027 changes to flexible working requests**



Requirement of **Reasonableness** to be introduced to Flexible Working Request process



**8 weeks capped pay/indirect discrimination**

# I. FAMILY RIGHTS – DISMISSAL PROTECTION

## Sometime 2027 enhanced dismissal protection for pregnant women and new mothers

- Already existing enhanced dismissal protections during for pregnant women and new mothers
- Already “Protected” for redundancy purposes until 18m after child’s birth
- The new enhanced protection for pregnant/new mothers under ERA 2025 may create enhanced protection against dismissal for other dismissal reasons (namely, conduct, capability, SOSR or statutory prohibition)
- Protection for fathers/same sex partner who returns from family leave from detriment?
- Unintended consequences?

## I. FAMILY RIGHTS – BEREAVEMENT LEAVE

**New Bereavement leave, expected 2027 - now including early pregnancy loss (before 24 weeks of pregnancy)**

- Day 1 right
- Unpaid
- At least 1 week
- Take within 56 days of death.
- Protection from unfair dismissal and unfair treatment due to taking or requesting leave

(Not to be confused with 2 weeks parental bereavement leave for when parents lose a child under 18 yrs or after 24 weeks of pregnancy) paid at SMP rate

## 2. COMPENSATION

### 1 January 2027 statutory cap on unfair dismissal compensatory award to be removed

- Presently, lesser of 12 months' gross pay or inflationary increase every but the "inflationary increases" at end of that time (£123,543)
- Exception of whistleblowing (already uncapped)

## 2. COMPENSATION – FAIR WORK AGENCY (EST. 7 APRIL 2026)



Brings together various existing enforcement agencies into one under Dept Bus Trade



Enforce rules re NMW, agency worker protections, SSP, holiday pay, settlements (under COT3s or ET Awards)



Powers – to inspect workplaces, bring proceedings on behalf of employees, issue notices, fines, “name and shame”



Question effectiveness – underfunded?

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# 3. STATUTORY SICK PAY (SSP)

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LOWER OF £123.25 A WEEK OR 80%  
AVERAGE WEEKLY EARNINGS

FROM 6 APRIL 2026 - SSP FROM DAY 1

REMOVE 3 DAY WAITING PERIOD

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# 4. RECORD KEEPING

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- 6 April 2026 – Requirement for employers to keep records of annual leave for 6 years

## 5. CASUAL WORK – SUBJECT TO FURTHER REGULATIONS



Zero hours contracts to get option of guaranteed hours for a reference period reflecting their usual hours



Reasonable notice including cancellation/change of shifts



A worker can claim, that employer failed to comply with new duties and ET must make a declaration to that effect and may award compensation



Agency regulation to include umbrella companies - regulated by the Fair Work Agency (FWA)

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# 5. CASUAL WORK - TIPPING

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- Expected Oct 2026 - Failure to consult, regarding tipping policy - maximum award £5,000 per worker
  - FWA may enforce

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# 6. HARASSMENT MEASURES

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## October 26 Employers liable for 3<sup>rd</sup> party harassment (all types)

- Employer will not only be obliged to prevent staff on staff harassment, but also third parties harassing own staff during the course of employment
- Will be in breach if not taken **all reasonable steps** to prevent harassment occurring

## 6. HARASSMENT MEASURES CONTD...

**From October 2026 reasonable steps duty becomes all reasonable steps**

Since October 2024, duty to take 'reasonable steps' to prevent sexual harassment – a shift from a previous reactive model to a more proactive one

Adding the word "all" raises the threshold for compliance should be able to evidence your preventative steps

Expected new Regulation/Code of Practice (but not until at least 2027)

## 6. HARASSMENT MEASURES CONTD...

**All reasonable steps definition - delayed pending consultation 2027/28.**

Will depend on the size, sector, environment, resources and other relevant factors of employer

May Include (but not limited to):

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

## 6. HARASSMENT MEASURES

### Sexual Harassment now automatically Whistleblowing

6 April 26 - sexual harassment automatically also a protected disclosure (whistleblowing)

#### Other whistleblowing parameters remain:

- Qualifying disclosure (disclosure of information, subject matter (one of 6 types of failure), reasonable belief in one of the 6 failures, and disclosure is in public interest)
- Qualifying disclosure must be protected (ie, to qualifying person), information not just allegation

#### Some consequential changes:

- Employees can report to others rather than employer
- Interim relief

# I. INDUSTRIAL RELATIONS



## January 27 Fire and Rehire Protections



Currently if employees won't agree contract changes, employers may assert business need, consult, dismiss employees, and then offer to re-engage them or other employees, and if they refuse allege failure to mitigate aka "fire and rehire" and assert dismissal is fair on basis of some other substantial reason



Prospect of this is often enough to secure changes – will be effectively banned

## I. INDUSTRIAL RELATIONS CONTD...

If changing “restricted variations” dismissals will be automatically unfair

Reductions to pay

Changes to total hours or shift patterns

Reductions to leave entitlement

Changes to pensions

# I. INDUSTRIAL RELATIONS CONTD...

Permitted as possible fair dismissals if employer can show:

Evidence of financial difficulties that were affecting or were likely to affect in the immediate future their viability

The changes to restricted variations were to eliminate or prevent the effects of those financial difficulties

They could not reasonably have avoided the need to make the changes

Still subject to 'ordinary' unfair dismissal rules and must be fair in all the circumstances, eg did the employer consult or offer the employee something in return for agreeing a variation

## I. INDUSTRIAL RELATIONS CONTD...

Can still use 'fire and rehire' to make a non- "restricted variation"

E.g. location or job role and this will not be automatically unfair

Will be enhanced protections, meaningful consultation, offer something in exchange

If an employer dismissed their employees to replace them with non-employees to do substantially the same work, then this will also be an automatically unfair dismissal, unless the employer can show 'financial difficulties' as above or if the dismissals are attributable to the employer's need for that work has ceased or reduced

# I. INDUSTRIAL RELATIONS CONTD...



- 2027 - Collective redundancy - consultation threshold changes
- Currently 20 or more redundancies at one establishment within 90 days
- 6 April 2026 - Redundancy doubling the protective award from 90 – 180 days' pay
- Large numbers not being consulted if spread across multiple sites below the current threshold
- Changes to require employers to collectively consult possibly over a threshold number of redundancies across their entire organisation
- Consultation launched in February 2026 and is considering:
  - Using a single fixed number in the range of 250 – 1000
  - Tiering the obligation based on number of employees

## 2. GENDER EQUALITY

6 April 26 Voluntary action plans on gender equality and supporting menopause & menopause guidance

2027 Gender equality and menopause action plans become mandatory

- Intended to build on existing pay gap reporting
- Affects large employers over 250 employees.
- Will be required to publish an Equality Action Plan detailing evidence-based actions to improve gender equality within organisation.
- The Plan must show how they are addressing the gender pay gap and supporting women during menopause.
- Gender Pay Gap of **outsourced** workforce measure also to be implemented.

## 3. UNION RIGHTS



Automatic unfair dismissal for taking part in strike regardless of length (12 week cap removed). From October 26 more rights for time off, facilities and protection from detriment.



April - recognition in a workplace will be simplified from 6 April 26 and from October 26 must notify of right to join SI statement and as prescribed



August – electronic ballots will be permitted



Removal of requirement for at least 50% of all eligible members to have voted (for public sector at least 40% of the that 50%) in favour of strike, removed just need majority (was meant to be in April)



October - an updated Code of Practice on TU recognition to come into force and allowing TU rights of access to workplace

## 2027 TRADE UNION CHANGES



EXTENDING LAWS THAT PROTECT TRADE UNION MEMBERS FROM DISCRIMINATION AND BEING 'BLACKLISTED'



A NEW INDUSTRIAL RELATIONS FRAMEWORK, TO HELP EMPLOYERS AND TRADE UNIONS WORK TOGETHER



WORKERS WILL BE ABLE TO VOTE ELECTRONICALLY IN BALLOTS FOR TRADE UNION RECOGNITION AND DERECOGNITION

## 4. WIDENING SCOPE OF PROTECTION

Prior to Labour victory July 24 - “Day One Rights”

1 January 2027 Unfair dismissal - reduction in qualifying period from 2 years to 6 months

Govt. factsheet says intends to bring the whole package of changes relating to unfair dismissal into force together on 1 January 2027

Predict will be based on termination date so employees who already have six months' (less one week) qualifying service at that date have the right to bring an unfair dismissal claim

No impact on most automatically unfair dismissals

Removes qualifying period (currently 2 years) for claims relating to being unfairly dismissed for having or failing to disclose a spent convictions for which there will be no minimum period

## 4. WIDENING SCOPE OF PROTECTION



- Jan 27 right to written statement of reasons for dismissal also reduced to 6 months

## PROS AND CONS

Undoubtedly a more onerous burden for employers

Govt says will reduce convoluted whistleblowing and discrimination claims

Probation periods – proactively managed if dismissing liability is reduced if done prior to 6 months less a week

Statutory minimum one-week notice period for employees is added where no notice or PILON

Cannot dismiss in the last week of the first six months of employment to circumvent rights

## IMPACT OF CHANGE

Govt. Impact Assessment estimates will protect a further 6.3 million employees from unfair dismissal, an additional 9,000 Acas EC's and 3,000 more ET claims. will progress to a tribunal claim, and 570 will require judicial time this is the largest expected impact on the tribunal system of any of the measures in the ERA 2025

ACAS conciliation period already increased from 6 – 12 weeks in Dec 2025 meant to be temporary

## MORE TIME TO BRING AN ET



No earlier than October 26 limitation periods to bring an ET claim from 3 to 6 months



For most employment related rights, (Breach of Contract claims are excluded)



Wait to see how transition will work ie does this refer only to dismissals taking place after the date of the change

# ACTIONS

In advance of fire and rehire – review to see if more flexibility can be added contractually

Change any settings on HRIS e.g. for day one SSP

Update proforma letters and policies including gender equality and menopause action plan

Union measures – may not be directly relevant – consider works councils or strengthen internal comms channels potentially an alternative to union

From October 26 – dismissal if replacing and there is a risk may invalidate termination wait over 6 months

By October system for notifying of right to join union, one day for all or e.g. individual's work anniversary

Dismissals after 24/12/26 greater probation period management reduce unnecessary internal red tape

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ANY  
QUESTIONS?

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