IN-DEPTH

Employment Law

UNITED KINGDOM



LEXOLOGY

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In-Depth: Employment Law (formerly The Employment Law Review) is an insightful global survey of the employment law frameworks and related developments in key jurisdictions around the world. It analyses the most consequential current issues faced by employers, including recent case law, legislative and regulatory changes and best practices.

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United Kingdom

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Introduction

Employees in the United Kingdom (UK) principally have two sets of rights: contractual and statutory. Contractual rights are mainly contained within written contracts. The contractual relationship may also be governed by implied (non-written) terms (such as the implied term of mutual trust and confidence). Statutory rights, such as those relating to dismissal, family leave and discrimination are contained in UK legislation.

Employment disputes are heard by employment tribunals, which is a separate forum from the UK's civil courts. Employment tribunals primarily hear employment disputes that relate to statutory claims (discussed below). They also have jurisdiction to hear small contractual claims (currently up to the value of £25,000). More substantial employment contractual disputes are resolved by the civil courts, including disputes about high-value bonus entitlements and the enforcement and ruling on the validity of restrictive covenants in employment contracts.

The main statutory employment rights are as follows.

Unfair dismissal

This gives employees with two or more years of service the right not to be "unfairly dismissed".[1] With effect from 1 January 2027, the law is changing to give employees unfair dismissal rights after six months of employment. The UK does not have "employment at will", meaning that an employee must be given due notice of termination, must be terminated for a fair reason and a fair process must be followed to effect that termination, in order to avoid a finding of unfair dismissal. "Wrongful dismissal" is a claim for damages where the employer terminates the employment in breach of the contractual terms (typically being a claim for unpaid notice pay).

Unlawful discrimination

The Equality Act 2010 (EqA) outlaws discrimination based on certain "protected characteristics", which are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

Discrimination can either manifest as direct discrimination, indirect discrimination, harassment or victimisation. Disability discrimination has a slightly different structure, and there are two extra types of discrimination: discrimination arising from disability and a failure by the employer to make "reasonable adjustments" to accommodate the disability.

Minimum notice periods to terminate employment

Employees in the UK are entitled to statutory minimum employment terms (in each case, the parties can agree on terms that are more favourable), including minimum notice periods to terminate employment, being one week's notice for those with between one month and two years of service; and thereafter, an additional week's notice for each continuous year of service, up to a maximum of 12 weeks for 12 complete years of service. If there is a notice provision in the contract of employment, then that applies (unless it is less than the statutory minimum in which case that minimum is substituted). In the absence of any contractual provision, a "reasonable" notice period will be implied into the contract, which may be more than the statutory minimum.

Atypical worker rights

Workers who work part-time, on a fixed-term contract or are classified as an agency worker have rights that protect them from being treated less favourably than comparable full-time, permanent employees (for example, with respect to their pay and benefits entitlements).

Pay, hours and holiday

There is a national minimum wage, and figures are reviewed annually in April. Regarding working time, in most circumstances an employee cannot be required to work more than 48 hours per week unless they voluntarily "opt out" in writing. The law also entitles employees to breaks and paid holiday entitlement of 5.6 weeks per year. An employer can include national holidays (either "bank" or "public" holidays) as part of the annual leave. Employees who are absent from work with sickness may be entitled to statutory sick pay from the first day of absence.

Whistleblowing

"Workers" (see the "Employment status" subsection) are protected against both detriment and dismissal in circumstances where they have made qualifying whistleblower disclosures. A "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show that one or more of certain prescribed activities have occurred; for example, that the employer has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.[2]

Collective rights

UK legislation provides rights for trade union members and representatives to be recognised, take paid time off for union duties and take unpaid time off for union activities,

and also provides the circumstances under which industrial action can be taken. Union members are protected against unfair treatment or dismissal for union involvement including industrial action. Collective agreements between employers and trade unions can establish terms and conditions of employment. The Employment Rights Act 2025 (ERA 2025) (see the "Year in review" section and "Employment Rights Act 2025" subsection), among other things, simplified the rules for industrial action and removed some strict ballot thresholds, and aims to make statutory union recognition significantly easier.

Year in review

The ERA 2025 represents the most significant overhaul of UK employment law in decades. The ERA 2025 consolidated and strengthened a range of workplace protections including enhancing the positive duty to prevent sexual harassment of workers[3] and providing employees with unfair dismissal rights from six months of service rather than two years, removing the cap on unfair dismissal compensation and extending the period in which a claim can be brought to six months following the termination date. This marks a significant change from the previous two-year qualifying service requirement, and three months in which to bring a claim.

The ERA 2025 will come into force in stages throughout 2026, 2027 and beyond. Some additional notable proposed changes include the introduction of a ban on non-disclosure agreements relating to harassment or discrimination settlements. If enforced, this will mean that any agreements preventing workers from making allegations or disclosing harassment or discrimination (by the employer or fellow worker) will be void.

In addition to the ERA 2025, the Employment Relations (Flexible Working) Act 2023 came into force in April 2024. This Act gave employees the right to request flexible working from day one of employment, rather than after 26 weeks. Additionally, the Carer's Leave Act 2023 introduced a new statutory right to one week of unpaid leave per year for employees caring for dependants with long-term needs.

Significant cases

For Women Scotland Ltd v The Scottish Ministers [2025] UKSC 16 – definition of a "woman" in the EqA

In April 2025, the Supreme Court delivered an influential unanimous judgment, confirming that the terms "woman" and "sex" in the EqA refer only to a biological woman. The central question for the Supreme Court to answer was whether the EqA treats a trans woman with a gender recognition certificate (GRC) as a woman when it refers to a biological woman and biological sex throughout its provisions.

For Women Scotland (FWS, the Appellant) is a Scottish feminist campaign group working to protect and strengthen women and children's rights. This case was the Appellant's second challenge brought in relation to statutory guidance promulgated by Scottish Ministers under Section 7 of the Gender Representation on Public Boards (Scotland) Act

2018 (the 2018 Act). The 2018 Act created targets for gender representation on public boards in Scotland. Initially, the 2018 Act explicitly included in its definition of "women" people with the protected characteristic of gender reassignment, living as a woman and proposing to undergo, undergoing or who have undergone a gender reassignment process. This was successful challenged by FWS, and subsequently the Scottish ministers issued new guidance which made reference to the definition of "woman" as contained in the EqA. It also stated that a person with a GRC recognising their gender as female was considered a woman for the purposes of the 2018 Act. This was the point challenged by FWS in this Supreme Court case. The Supreme Court concluded that that the guidance issued by the Scottish Government was incorrect, holding that a person with a GRC in the female gender does not come within the definition of "woman" for the purposes of sex discrimination in section 11 of the EqA. The Supreme Court also confirmed that the definition of a "woman" contained in section 2 of the 2018 Act is limited to biological women only and does not include transgender women.

The Supreme Court emphasised that the EqA will continue to give transgender people protection from discrimination and harassment through the protected characteristic of gender reassignment. However, ambiguity remains regarding the use of single sex facilities and services, and the Supreme Court did not provide guidance on how to balance the rights of different groups when those rights may conflict with one another.

Rentokil Initial UK Ltd v Miller [2024] EAT 37 – reasonable adjustments

This Employment Appeal Tribunal (EAT) case concerned the application of the duty to make reasonable adjustments under the EqA in relation to trial periods.

The Claimant, Mr Miller, an employee of Rentokil Initial UK Ltd (Rentokil), was diagnosed in 2017 with multiple sclerosis, a progressive condition that rendered him unable to perform his field-based role as a pest control technician. In 2018, after a period of sickness absence, Rentokil suspended Mr Miller on full pay while considering possible alternative roles for him within the company. In early 2019, Mr Miller applied to be a service administrator at Rentokil. However, the recruiting manager rejected Mr Miller's application on the grounds of lack of relevant skills or experience for the job. In March 2019, Rentokil dismissed Mr Miller on grounds of incapability, arguing that no reasonable adjustments could enable him to return to his original role or any suitable alternative.

Mr Miller unsuccessfully appealed against his dismissal internally. Mr Miller then proceeded to bring claims in the Employment Tribunal for failure to make reasonable adjustments, discrimination arising from a disability and unfair dismissal. The Tribunal found in favour of Mr Miller, holding that Rentokil had failed in its duty to make reasonable adjustments. Mr Miller actually had the relevant knowledge and experience for the administrator role as this role was junior to his original technician role. Therefore, the Tribunal concluded that Rentokil should have granted Mr Miller a 4-week trial period in the administrator role and should have treated him more favourably than other applicants, even if that required additional training or adjustments to the recruitment process.

Rentokil appealed. On appeal, the EAT upheld the Tribunal's decision. The EAT emphasised that the duty to make reasonable adjustments is broad and may require employers to take proactive steps, including considering alternative roles and modifying recruitment or selection criteria. The EAT clarified that the duty is not limited to adjustments within the

employee's existing role but can extend to redeployment, provided it is reasonable in the circumstances. The EAT confirmed that a trial period can be a reasonable adjustment in itself.

This case broadens the interpretation of what constitutes a reasonable adjustment under the EqA, and highlights that employers must actively consider the possibility of redeployment of staff and not simply dismiss employees when they are unable to return to their original role because of a disability.

Wright-Turner v London Borough Council of Hammersmith and Fulham – disability discrimination

In this landmark case, the Employment Tribunal awarded over £4.5 million in a disability discrimination case, including substantial damages for loss of earnings, pension, injury to feelings, and an uplift for non-compliance with the Acas Code of Practice.

Ms Wright-Turner was dismissed from her employment at the London Borough Council of Hammersmith and Fulham in 2018. In 2021 the Tribunal found that she had been subjected to discrimination and harassment by the Council because of disability, being in her case her ADHD, after she began to suffer symptoms of PTSD after working as the humanitarian assistance lead in the aftermath of the Grenfell fire.

The consequences of her dismissal and the lengthy Tribunal proceedings gave rise to significant psychiatric injury. The Tribunal's award included awards for aggravated and exemplary damages.

This record-breaking compensation highlights the serious legal consequences for employers who fail to address mental health issues and disability discrimination appropriately.

Tesco Stores Ltd v USDAW – "fire and rehire"

Firing and rehiring is a term used to describe where an employer is aiming to push through changes to employment terms without an employee's agreement (ie, it terminates the employment and offers new, potentially less favourable, terms, to commence immediately). This practice is being significantly restricted in changes to come in under the ERA 2025, but in the meantime the Supreme Court's ruling in this Tesco Stores case dealt a significant blow to the practice, when the court upheld an injunction preventing its attempt to remove contractual entitlements to retained pay.

Basics of entering into an employment relationship

Employment contract

There is no statutory requirement for a written employment contract in the UK, but there is a requirement for certain terms to be set out in writing and given to the employee on the first day of their employment (known as a "written statement of particulars of employment", or

a "section 1 statement"). It is common practice, therefore, for all employees in the UK to have a written employment contract with their employer, which they sign.

Written statement

The key particulars which must be given in the written statement include the names of the employer and employee, the date employment began (and the date that the employee's period of continuous employment began (ie, including previous employment for a group company)), the length of any initial probationary period, the employee's job title and a description of work, remuneration (scale, rate or method of calculation), and intervals at which remuneration is paid (weekly, monthly etc.), hours of work and any terms and conditions relating to pensions and pension schemes (it being mandatory to automatically enrol an employee into a qualifying pension scheme and make statutory minimum contributions, if the eligibility criteria are satisfied).

Employment status

Many of the UK's statutory employment rights currently apply only to "employees" (ie, those employed under a contract of employment rather than a contract for services, such as a contractor). The UK courts and employment tribunals have developed various tests for determining into which category an individual falls. The way in which an individual's income is treated for tax purposes is not conclusive.

However, some statutory employment rights apply to a broader category of "workers". A "worker" is someone who has a contract to personally provide any work or services, excluding only those who are genuinely in business on their own account. Rights that apply to workers include minimum wage, working time rights and protection from discrimination and whistleblowing detriment.

The UK government has discussed plans to remove the distinction between "employees" and "workers", but this is not part of the ERA 2025.

Employing entity

Non-UK companies can employ employees or engage contractors in the UK. However, tax obligations may be triggered; for example, payroll obligations and corporate tax obligations associated with having a permanent establishment in the UK. Non-UK companies can also hire employees through an agency or another third party (such as a professional employer organisation (PEO). Generally, UK employment law will apply where work is carried out in the UK, regardless of where the employer is located or the jurisdiction that is stated to govern the relationship.

Workplace policies and procedures

Most UK employers will have workplace policies and procedures in the form of an employee handbook. It is mandatory in the written statement referred to above to include details of the disciplinary rules that apply at the employer (or where they can be found), as well as details of a person to whom the employee can appeal against any disciplinary decision and a person who can hear any grievance by the employee. It is typical to include

these details in a disciplinary policy, and a grievance policy, which comply with Acas' recommendations on such workplace policies, contained in an employee handbook. Other than that, policies are not mandatory, but it is advisable for employers to have certain other policies in place, such as for sickness absence, IT usage, health and safety, expenses, anti-bribery and corruption, and data protection, cybersecurity and data breaches. Global policies can be adapted where required for compliance with an English law-governed workplace. Policies will generally be non-contractual (and therefore not require employee consent, and with an employer's ability to change and update from time to time as the employer sees fit), unless stated otherwise.

Restrictive covenants

Restrictive covenants are often found in employment contracts, investment agreements, bonus plans and share schemes, among other documents. Generally, they are a promise from the employee to the employer not to do something in the interest of protecting the company from competitive activity. Common restrictive covenants in the UK include non-competes (which prevents the employee from carrying out any activity that competes with the business), non-solicitation provisions (such as a promise to not encourage people, such as suppliers, customers and employees, away from the business) and non-poaching and non-employment.

Generally, in the UK, the courts will uphold and enforce a restrictive covenant if it considers the covenant to be reasonable as between contracting parties. The test of what is reasonable, in the circumstances, however, will be heavily scrutinised by a court if the restriction is challenged by an employee. For a restriction to be enforceable, it must protect a legitimate business interest and must not go further than is "reasonably necessary" to be considered to be reasonable in the context of public interest. When deciding whether the covenant is reasonable, the court might look at, for example, duration, geographical extent, range of restricted business, sophistication, bargaining strength and whether parties have had legal advice. No single factor is determinative. If the court does find the restrictive covenant unreasonable, it can strike out part of the covenant to make it reasonable and enforceable, but it will not substitute a shorter period for a longer one; if the period of the restriction is deemed to be too long, the whole restriction will be void.

There was a suggestion from the previous UK government that it would introduce legislation to have a maximum three-month cap on non-compete restrictions in employment contracts. In the event, with a change of government such legislation did not come into force. However, the new UK government suggested in October 2026 that it would press ahead with new legislation to ensure non-compete clauses can “no longer be a barrier” to hiring new staff. Further detail is expected in due course. Depending on whether or when any legislation is introduced in this area, the extent to which post-termination restrictions can be enforced by a UK court will continue to be a developing area in court cases over the next few years, particularly in the financial trading sector where the preservation of secrecy around coding formulae, in particular, is of paramount importance to an outgoing employer.

Wages

The UK has a national minimum wage, which is a minimum hourly rate of pay that workers are required to be paid, depending on their age. As at April 2026, under 18s and apprentices are entitled to a national minimum wage of £8 per hour. For those aged 18 to 20, it is £10.85 per hour and for those aged 21 and over, it is £12.72 per hour (this rate is referred to as the "National Living Wage"). The rates are reviewed annually by the UK government, and often increased to take into account factors such as the cost of living. Employers who fail to pay the correct minimum wage may face financial penalties as well as being required to pay the underpaid wages to affected employees.

Foreign workers

The UK has immigration rules that set out who can enter, live, work and study in the country. The rules depend on a person's nationality, reason for coming to the UK and how long they intend to stay. For employment, non-British nationals may require a suitable work visa. Employers wishing to employ non-British nationals generally need to obtain a sponsor licence from UK Visas and Immigration (UKVI). Once an employer has a sponsor licence, it can assign Certificates of Sponsorship (CoS) to eligible workers. Workers then use the CoS to support their visa application, provided that they meet relevant immigration requirements.

Global policies

Most UK employers will have workplace policies and procedures in the form of an employee handbook. UK employers have some flexibility over what goes into an employee handbook, although UK employers must have in place disciplinary and grievance procedures, as set out in the Acas Code of Practice on disciplinary and grievance procedures. These procedures do not have to be filed or approved by any governmental body, nor agreed with employees or their representatives. Employers who operate across borders often try to standardise policies so that they apply globally. However, because there will be local law differences around, for example, the laws on equality and harassment, it can make it quite hard in practice to draft global policies which are intended to conform with the laws of multiple jurisdictions.

Parental leave

In the UK, employees are entitled to a range of family leave rights designed to support them during key life events such as childbirth, adoption and caring for dependants. In the past few years, the protections have extended to include neonatal care leave, carer's leave, compassionate leave and parental bereavement leave.

Maternity leave

Eligible employees are entitled to up to 52 weeks of maternity leave, divided into 26 weeks of Ordinary Maternity Leave and 26 weeks of Additional Maternity Leave. Statutory Maternity Pay (SMP) is available for up to 39 weeks, subject to eligibility criteria.

Paternity leave

Fathers or partners of mothers/adopters can take up to two weeks of paternity leave. Statutory Paternity Pay (SPP) is available if eligibility requirements are met.

Shared parental leave

Parents can opt to share up to 50 weeks of leave and 37 weeks of pay between them, provided they meet certain eligibility conditions. This allows parents to be off work at the same time or at different times during the child's first year.

Parental leave

Employees can take up to 18 weeks of unpaid parental leave per child, up to their 18th birthday. This leave is usually limited to four weeks per year per child.

Adoption leave

Adoptive parents are entitled to up to 52 weeks of adoption leave, with similar pay entitlements to maternity leave. Only one parent can take adoption leave, but the other may be eligible for paternity leave.

Time off for dependants (also sometimes referred to as compassionate leave)

All employees have the right to take a reasonable amount of unpaid time off to deal with emergencies involving dependants, such as illness or unexpected disruption in care arrangements.

Neonatal care leave and pay

Eligible employees are entitled to take time off work if their baby requires specialist neonatal care after birth and receive statutory neonatal care pay. Neonatal care leave is a day-one right and entitles employees to take up to 12 weeks of leave.

Carer's leave

Employees can take time off work to provide or arrange care for a dependant with a long-term care need (ie, "carer's leave"). A dependant can include a spouse, civil partner, child, parent, someone living in the same household or anyone who reasonably relies on the employee for care. Employees can take up to one week of carer's leave every 12 months.

Parental bereavement leave

This allows employed parents to take time off work following the death of a child. Parental bereavement leave is available to employees who are the parents (including adoptive parents, legal guardians and those with parental responsibility) of a child who dies under the age of 18 or suffers a stillbirth after 24 weeks of pregnancy. Eligible employees can take up to 2 weeks of leave.

All of the family leave entitlements mentioned in the previous subsections are subject to specific eligibility criteria and notice requirements. Employers may offer enhanced terms, but the statutory requirements must always be met.

Translation

There is not a strict legal requirement that employment contracts under English law are written in English (or Welsh). However, courts and tribunals will expect employers to have ensured that employees understand what they are signing, so it would be highly unusual if an employment contract was not written in English.

Employee representation

The ERA 2025 introduced significant changes to the UK's trade union recognition framework, making it easier for unions to secure recognition and engage with workers. Since 6 April 2026, unions no longer need to demonstrate that a majority of workers in a proposed bargaining unit are likely to support recognition. In cases where recognition is determined by ballot, a simple majority of votes cast is now sufficient, with the previous requirement for support from at least 40% of the bargaining unit having been removed.

Further reforms take effect from 30 October 2026, when qualifying independent unions will gain a statutory right to request both physical and digital access to employers with 21 or more workers. This access may be used to support collective bargaining activities, and unions will not be required to demonstrate any existing membership base or level of workforce support before making such a request.

These changes are expected to make it easier for unions to establish a presence in workplaces where they are not currently recognised or active, increasing union visibility and organising opportunities across a broader range of employers.

Data protection

The UK data privacy regime is, broadly, made up of the UK General Data Protection Regulation (the UK GDPR), the Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 (PECR) and the Data (Use and Access) Act 2025. In addition, the EU GDPR may still apply to some UK employers because it reaches beyond the EU's borders.

The UK GDPR sets out the data protection principles and the grounds for lawful processing of personal data in the UK, and the circumstances in which personal data can be transferred outside of the UK. Separate conditions apply to special category data and criminal offence data.

UK employees are granted certain access rights to their personal data (via a subject access request), which generally must be answered within one month.

The Information Commission (previously called the Information Commissioner's Office, or ICO) is the independent public body in the UK that regulates and enforces laws protecting information rights, data privacy and public transparency. It also provides guidance on monitoring and maintaining records. The Information Commission has significant enforcement powers, which include information, assessment, interview, enforcement and penalty notices. Fines can reach £17.5 million or 4% of worldwide turnover. Data breaches that create a risk to individuals must be reported to the Information Commission within 72 hours.

Discontinuing employment

Dismissal

On the termination of employment, employees typically may have a claim for:

- unfair dismissal: this is a statutory claim focusing on the reasonableness of the employer's decision to dismiss the employee or the way in which the dismissal was carried out; and
- wrongful dismissal: this is a common law claim that the dismissal was in breach of the terms of the employment contract, and the remedy is damages for that breach.

Unfair dismissal is the most common type of claim pursued by employees in the Employment Tribunal. In an unfair dismissal claim, it is for the employee to show that he or she was dismissed. This can either be a straightforward express dismissal (eg, "You're fired!"), the expiry of a fixed-term contract without it being renewed by the employer, or a constructive dismissal (where the employee resigns in response to a serious breach of contract by the employer). The Employment Tribunal will uphold an employee's claim unless the employer can show an acceptable reason for the dismissal. In outline, the acceptable reasons are:

- lack of capability (including ill health or injury);
- conduct;
- redundancy;
- that the employee could not continue in the job without contravention of a statutory duty or restriction (ie, "illegality"); or
- "some other substantial reason" of a kind such as to justify the dismissal (eg, a business reorganisation).

If one of these reasons is established, the Employment Tribunal goes on to determine whether the dismissal was fair or unfair, the key question being whether or not the employer acted reasonably in dismissing the employee for the reason in question. The outcome largely depends on whether the employer followed the procedure appropriate for the type of reason for dismissal, including where relevant the principles set out in the Acas Code of Practice on disciplinary and grievance procedures.

Successful claimants are entitled to a basic award (equivalent to a statutory redundancy payment, and capped) and a compensatory award (capped at the lower of one year's gross pay for that employee and a statutory amount set by the Government in April each year (£123,543 as at April 2026)), but with the cap set to be abolished with effect from 1 January 2027), or the Tribunal may order reinstatement or re-engagement if this is practicable in the circumstances.

Pay in lieu of notice

Employers may wish to give a payment in lieu of notice (PILON) if they do not wish an employee to work during the notice period. Some contracts expressly allow pay in lieu of notice; others do not. If the contract permits pay in lieu, then to do so is not a breach of contract, but such payment will normally be subject to tax.

Garden leave

Garden leave is when an employer places restrictions on an employee during their notice period, usually by preventing entry to the workplace or contact with clients. In most cases, it is only possible for an employer to place an employee on garden leave where there is an express garden leave clause in the employment contract (ie, without an express contractual right to do so, an employer could be in breach of contract by placing an employee on garden leave).

Unlawful discrimination

A dismissal may be an act of discrimination. It also is possible for ex-employees to make a claim for discrimination, where discriminatory conduct by the employer is closely connected to the previous employment relationship; for example, providing a bad reference for an ex-employee.

Employees can claim against their employer in respect of discrimination by work colleagues; for example, harassment in the workplace. The employer will be held "vicariously liable" for the discrimination unless it took all reasonable steps to prevent it occurring. The individual who committed the act of discrimination also can be joined as a party to the claim.

Redundancies

A redundancy situation arises when an employer has ceased (or intends to cease) to carry on the business or part of the business in which the employee is employed or when the requirement for employees to do work of a particular kind or in a particular place has ceased or diminished (or is expected to cease or diminish). Employees who have been

continuously employed by their employer for at least two years are entitled to a statutory redundancy payment if they are dismissed on grounds of redundancy. They will also be entitled to an unfair dismissal award if they have reached the unfair dismissal length of service eligibility threshold, if a fair redundancy process is not carried out.

Where 20 or more redundancies are proposed, there also are extensive obligations on employers to notify and consult with recognised trade unions or elected employee representatives about the forthcoming redundancies, and statutory consultation timelines to adhere to (referred to as the "collective redundancy" regime).

Transfer of business

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI/2006/246) (TUPE) is a set of UK regulations that implement Council Directive 2001/23/EC (the Acquired Rights Directive) into English law.[4] It is designed to safeguard jobs and protect employees' rights when the business in which they work changes ownership.

TUPE can apply in two scenarios:

- the transfer of an economic entity which retains its identity; most obviously, the straight sale of a business; and
- on a "service provision change". This is where a business outsources an activity such as catering or security, switches to a new contractor or takes a service back in house. TUPE does not apply on a share acquisition of a company.

TUPE operates to transfer employees' contracts of employment automatically to the new employer on the same terms and conditions. No new paperwork needs to be signed to make this happen. The new employer inherits any and all pre-transfer liabilities even before it became the employer, such as a failure to pay salary or contractual bonuses, or liability in respect of an employment claim, such as discrimination. The parties cannot contract out of TUPE and staff whose employment is terminated because of the transfer can claim that their dismissal is automatically unfair.

Prior to a TUPE transfer, the parties (seller and buyer; or outgoing service provider and incoming service provider) have information and consultation obligations, and in most cases the outgoing employer must give employees the chance to elect representatives through whom the employer channels information about the transfer. Both the incoming and the outgoing employers may have consultation obligations in respect of any "measures" envisaged to affect employees. The outgoing employer will also be obliged to provide the incoming employer with certain "employee liability information" at least 28 days prior to the transfer.

Outlook and conclusions

The UK government has passed major new legislation under the ERA 2025, some of which came into force in 2026, and other parts which are subject to industry consultation and possibly refinement, which may be introduced in 2027 or beyond. Separately, the

government is planning to introduce legislation to mandate ethnicity and disability pay gap reporting. The government is also launching enquiries into the disability employment gap.

Employment Rights Act 2025

In brief, the ERA 2025 (as outlined in the "Year in review"), introduces widespread changes, largely with the intention to bolster the protection of workers' rights. There is an emphasis in the rhetoric behind the ERA 2025 on workplace culture and an employer's duties, coupled with improving workers' rights, in line with the expectations of those coming into the workforce. As a result, there are developments to the rights around flexible working, family friendly rights, work–life balance, gender pay gap reporting, certainty of worker rights and fair working practices. The change to unfair dismissal eligibility to become a right after six months of service, together with the removal of the cap on unfair compensation awards, attracts the most headlines, and it remains to be seen what impact this will have in the coming years on the speed in which claims can move through the employment tribunal system.

There are also proposed changes to the collective redundancy regime, with consultation having taken place on the removal of the requirement that the proposed redundancies must be totalled by reference to employment "at one establishment". The ERA 2025 proposes to remove this "establishment" wording meaning that employers would need to count all redundancies across its workplaces in calculating whether the threshold for collective redundancy is reached. In addition, the cap on "protective award" claims for a failure to follow the consultation requirements increased from 90 days' pay (uncapped) to 180 days.

Endnotes

1. See the proposed changes to this eligibility requirement in the "Employment Rights Act 2025" subsection in the "Outlook and conclusions" section. ^ Back to section

2. Section 43(B) of the Employment Rights Act 1996. ^ Back to section

3. The positive duty making it a legal obligation for employers to take reasonable steps to prevent sexual harassment was introduced under the Worker Protection (Amendment of Equality Act 2010) Act 2023. ^ Back to section

4. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. ^ Back to section

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