MORTON
FRASER
MACROBERTS
LLP

Employment Rights Act update – October changes

MFMac Employment Team

Innes Clark, Sarah Gilzean and Elise Turner

24 September 2026





What we will cover

- ERA – what's been happening?
- Employment Rights Act – October changes
  - Tribunal time limits
  - Harassment in the workplace
  - Trade union changes
- Other October changes
- 2027 reforms to keep on your radar
- Q&A

What's been happening?

- Trade unions
  - Reduction of industrial action notice periods from 14 to 10 days
  - Extension of ballot mandates from 6 to 12 months
  - Increased unfair dismissal protection relating to industrial action
- Protective award for failure to inform and consult in relation to collective redundancies – doubled from 90 days to 180 days pay

What's been happening?

- Paternity leave became a day-one right (removal of the 26-week qualifying period)
- Ordinary parental leave became a day-one right (removal of the one-year qualifying period)
- Restrictions on taking paternity leave after shared parental leave were removed
- SSP from day one of sickness
- Fair Work Agency was established from 7 April 2026

What's been happening?

- Electronic and workplace balloting introduced for statutory trade union ballots
- Includes ballots for industrial action
- Workplace balloting - requires employer's consent and is restricted to industrial action ballots only at this stage
- Code of practice on electronic and workplace balloting for statutory trade union ballots – practical guidance

What's been happening?

- Implementation timeline updated
- Measures to strengthen tipping law delayed – will now take effect "by end of 2026"
- Multiple consultations carried out
- Currently open:
  - Consultation on revised tipping code of practice – closes 29 September 2026
  - Workplace monitoring technologies – closes 30 September 2026
  - Equal pay and pay discrimination – closes 27 October 2026

Employment tribunal time limits

- From 1 October 2026 the time limit for raising relevant Employment Tribunal claims increases to 6 months less one day
- In Scotland breach of contract claims have a later commencement date of 9 November 2026
- Acas Early Conciliation rules remain

Employment tribunal time limits

Impact	Actions
Longer period of exposure to potential claims	Ensure managers are aware of change
Period of preservation of evidence is extended	Review document retention arrangements
Increased period available for negotiated exits	Review settlement/exiting procedures

Harassment in the workplace

- From 30 October, employers must take “all reasonable steps” to prevent sexual harassment in the workplace
- Replaces current “reasonable steps” standard
- Regulations specifying the steps employers can take to prevent sexual harassment are expected to come into force in 2027/28 following consultation
- EHRC guidance:
  - Sexual harassment and harassment at work: technical guidance | EHRC
  - Employer 8-step guide: Preventing sexual harassment at work | EHRC

Harassment in the workplace

Impact	Actions
Employers will need to be able to demonstrate there was nothing more they could reasonably have done to prevent the sexual harassment, if it occurs	Review anti-harassment policy Engage with staff/encourage an open-door policy Assess and take steps to reduce risk Encourage reporting Training Monitor and evaluate effectiveness of steps taken

Harassment in the workplace

- From 30 October, employers will become liable for third party harassment in relation to all relevant protected characteristics where:
  - The third party harasses an employee in the course of their employment; and
  - The employer fails to take all reasonable steps to prevent the third party from doing so
- Third party includes customers, suppliers, patients, members of the public etc

Harassment in the workplace

Impact	Actions
Risk of tribunal claims and connected management time, financial and reputational cost	Risk assess Update relevant policies – investigations involving third parties will differ from internal investigations Add signage visible to third parties confirming harassment will not be tolerated Add wording to contracts with third parties e.g. suppliers Train managers Encourage reporting

Trade union changes

- Duty to inform workers of their right to join a trade union
- Information must be provided as part of the written statement of particulars under section 1 of Employment Rights Act 1996, and at other prescribed times during employment
- In certain circumstances a worker may be awarded compensation of 2 to 4 weeks' pay (capped at £751 per week) where an employer fails to provide the written statement of particulars
- Guidance and secondary legislation setting out how the duty will work in practice
- In force from 30 October 2026

Duty to inform of right to join TU

Impact	Actions
Positive obligation on employer to provide a written statement	Review onboarding documentation Identify where the TU rights statement can be incorporated Update HR systems to ensure statements are issued consistently and auditable records are retained Monitor publication of the final regulations and guidance Provide training to relevant staff on the new requirement
Likely to increase awareness of union membership rights and may contribute to greater union activity	Treat this as part of a wider industrial relations strategy
Penalties for a failure to provide the statement are limited but public reputation and employee relations may be affected	Look out for the guidance setting out how the duty will work in practice

Trade union changes

- Trade union right of access to workplaces (physical and digital access)
- Independent trade unions will have a statutory right to seek access to workplaces, physically or digitally, for meeting, supporting, recruitment, organising, representation and collective bargaining purposes
- Businesses with fewer than 21 employees will be exempt
- Failure to agree or comply with access arrangements may result in Central Arbitration Committee action and enforcement
- In force from 30 October 2026

Trade union access to workplaces

Impact	Actions
New administrative and legal obligation on employers to handle requests for access	Develop a workplace-access protocol covering security, health and safety, confidentiality, IT access and facilities use Train operational managers on responding to access requests within statutory timescales
Potential for increased union presence in previously non-unionised workplaces	Consider implementing or improving alternatives to union representation (such as a staff forum)
Easier communication with workers could lead to more recognition requests and stronger employee organisation in some sectors	Be aware of the Code of Practice: Right of trade unions to access workplaces and The Trade Unions (Right to Access Workplaces) Regulations 2026 and The Trade Unions (Right to Access Workplaces) (Required Information) Regulations 2026

Trade union changes

Other changes coming into force on 30 October:-

- Restrictions on unfair practices in trade union recognition and derecognition processes come into force
- Protections against detriment for taking industrial action come into force
- Requirement to (i) provide facilities and time off for union equality representatives and (ii) provide facilities for trade union officials and learning representatives take effect

Sector specific changes

- Regulations to establish the Fair Pay Agreement Adult Social Care Negotiating Body (in England only) will be brought forward
- Reinstating two-tier workforce code in public sector outsourcing – prevents supplier and sub-contractor employees working on outsourced public sector service contracts from being treated less favourably than comparable employees who were transferred from the public sector

Other October changes

- Duty to carry out right to work checks will be extended beyond contracts of employment to include:-
  - Workers, rather than just employees
  - Individual contractors and sub-contractors
  - Online matching services providing details of individuals to potential customers, or gig economy platforms
- Businesses who employ someone without the right to work risk fines starting at £45,000 for a first offence, rising to £60,000 for a repeat offence

Early 2027 reforms

January 2027

- Unfair dismissal qualifying period reduces to 6 months
- Cap on compensatory award is removed
- Dismissal and re-engagement (fire and rehire) provisions in force

Questions



MORTON
FRASER
MACROBERTS
LLP

Employment Rights Act update – October changes

MFMac Employment Team

Innes Clark, Sarah Gilzean and Elise Turner

24 September 2026

