



YOUR LEGAL TEAM

YOUR

Employment Rights Act

FACTSHEET

Navigating the Structural Changes of the Employment Rights Act 2025

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1. *The End of the “Buffer Zone”*

The Employment Rights Act 2025 isn't a small administrative update; it's a fundamental restructuring of the relationship between the **employer** and **employee**. For the last two decades, UK businesses have operated with “buffer zones”; qualifying periods of service that allowed for the assessment of performance and the management of costs before statutory rights attached.

On **6 April 2026**, those buffers will be largely removed. For a Director or Ops Manager, this necessitates an immediate transition from reactive management to proactive structural compliance.



2.

April 2026: The Compliance Mandates

To ensure operational readiness, businesses must align their policies with the following statutory rates and legal shifts effective from 6 April 2026.

Payment Type	Rate (Effective April 2026)	Change from 2025
Statutory Sick Pay (SSP)	£123.25 per week*	Up from £118.75
Statutory Maternity Pay (SMP)	£194.32 per week**	Up from £187.18
Statutory Paternity Pay (SPP)	£194.32 per week	Up from £187.18
National Living Wage (21+)	£12.71 per hour	Up from £12.21
National Minimum Wage (18-20)	£10.85 per hour	Up from £10.00
National Minimum Wage (16-17)	£8.00 per hour	Up from £7.55

*New rule: Payable from Day 1. Limited to the lower of the flat rate or 80% of average weekly earnings.

**First 6 weeks remain at 90% of average weekly earnings; the rate above applies to the remaining 33 weeks.

2.1.

April 2026: Key Legal Shifts

» Paternity and Parental Leave (Day-One Rights)

The qualifying service periods (26 weeks for Paternity and 1 year for Parental Leave) are abolished. Employees are entitled to take these leaves from their first hour of employment

Note: While the right to leave is day-one, eligibility for Statutory Paternity Pay currently still requires 26 weeks of continuous service. Parental leave remains unpaid.

» Sexual Harassment Prevention

The legal threshold has shifted from taking “reasonable steps” to “all reasonable steps” to prevent harassment. Crucially, a report of sexual harassment now qualifies as a protected disclosure, granting the employee full whistleblowing protection, making any subsequent performance management or dismissal highly litigious and potentially uncapped in value.

» Holiday Record Requirements

Employers now have a statutory duty to maintain adequate holiday pay records for six years. This is no longer “best practice” - it is a mandatory compliance requirement. Records must clearly show how holiday pay was calculated (especially for variable-hour staff) to defend against Fair Work Agency audits.

» Statutory Sick Pay (SSP)

The three-day “waiting period” and the Lower Earnings Limit (LEL) have been removed. SSP is now a universal day-one entitlement.

Calculation Risk: For staff earning below the flat rate (£123.25), you must pay 80% of their average weekly earnings. Your payroll systems must be able to calculate this dynamically to avoid “Notices of Underpayment” from the Fair Work Agency.



3.

Statutory Sick Pay (SSP): The New Financials of Absence

The reform of SSP represents a direct hit to the P&L for many businesses.

» *Universal Coverage*

Every employee is now covered, including approximately 1.3 million low-paid workers previously ineligible for SSP.

» *The 80% Calculation*

For employees earning below the standard weekly SSP rate, you must pay 80% of their average weekly earnings. This requires a dynamic payroll calculation that accounts for variable hours and fluctuating pay.

$$SSP = \min(\text{Statutory Flat Rate}, 0.8 \times AW E)$$

» *Operational Risk*

For businesses with high-frequency short-term absence, the cost of “Monday morning” sickness will rise by 100% (from £0 to the daily rate).

4.

Redundancy: The “180-Day” Liability

Restructuring has always been a tool for operational agility. However, the 2026 changes reinforce the critical importance of procedural integrity. For directors, the focus must shift toward ensuring every stage of the consultation process is followed correctly to mitigate risk.

The 180-Day Penalty

If you are found to have failed in your collective consultation duties (for 20+ employees), the Employment Tribunal can now award a protective award of up to **180 days’ pay** per employee. This is a 100% increase on the previous cap.

Aggregated Thresholds

While the “single establishment” rule currently exists, new powers allow the government to aggregate redundancies across your organisation, meaning a small reduction in headcount at three different sites could now trigger full collective consultation obligations.



5.

Proactive Enforcement: The Fair Work Agency (FWA)

The launch of the Fair Work Agency (FWA) on **7 April 2026** marks a shift to an “Inspection-Led” compliance model.

» **Direct Enforcement Powers**

The agency can issue “Notice of Underpayment” and civil fines directly to the business. These penalties can be triggered by:

Failures to pay the National Minimum Wage (NMW)	Incorrect calculation or underpayment of holiday pay	Errors in applying the new tiered SSP calculations or failing to pay from day one
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» **Audits**

The FWA has the power to conduct proactive, spot-check audits of your payroll and holiday records without an employee ever filing a claim.

6.

Detailed Operational Risk Profiles

Identifying where your specific business model is most exposed:



Manufacturing and Construction

The doubling of the protective award to 180 days transforms a “procedural error” into an existential balance sheet risk. Removal of SSP waiting days directly impacts margins where short-term manual labour absence is frequent.



Professional Services

The extension of whistleblowing status to harassment claims means subsequent performance management of an employee who has made a disclosure carries significant litigation risk.



Healthcare and Social Care

Many organisations rely on legacy payroll systems that are not equipped to handle the 80% taper calculation for part-time workers. Correct day-one payment will be a primary FWA focus.



General Operations

Every business must account for immediate statutory leave requests, such as paternity or parental leave, from day one of employment.



2026 Readiness

Your 5-Minute Self-Audit

» Contractual “Buffer Zones”

Paternity Leave

Do your contracts or offer letters still state that an employee must have 26 weeks of continuous service to qualify?

Unpaid Parental Leave

Have you removed the one-year service requirement from your staff handbook?

Onboarding

Do your induction processes account for the fact that a new hire can legally request extended statutory leave from their first hour of employment?

» Statutory Sick Pay (SSP) & Payroll

The Waiting Period

Is your payroll software still configured to apply a three-day “waiting period” before SSP is triggered?

The 80% Rule

Can your current system dynamically calculate 80% of average weekly earnings for staff who fall below the standard SSP flat rate?

Lower Earnings Limit

Have you identified part-time or low-earning staff who were previously ineligible for SSP but will now be covered from day one?

» Redundancy & Restructuring

Consultation Timelines

Do your project-end or site-closure plans allow enough time for full collective consultation (20+ employees) to avoid the new 180-day penalty?

Aggregation Risk

If you are making small reductions at different sites, have you assessed if these will be “aggregated” to trigger collective consultation duties?

» Compliance & Culture

Harassment Policies

Does your whistleblowing policy explicitly state that reports of sexual harassment qualify as a “protected disclosure”?

Audit Readiness

Are your payroll and holiday records stored in a way that is easily accessible for a potential spot-check audit by the Fair Work Agency?

Manager Training

Have your frontline managers been briefed that “probationary periods” no longer provide a buffer against these specific statutory day-one rights?





6.

Your 2026 Implementation Roadmap

A four-step strategy for the next 60 days:

- 1 Contract Audit**
Strip out references to qualifying periods for Paternity and Parental leave to avoid „detriment“ claims.
- 2 Financial Stress-Testing**
Model the impact of SSP changes by applying the new “Day-One” pay rule to your average short-term absence rate from the last 12 months.
- 3 Leadership Training**
Frontline managers must understand that “probation” no longer offers the same statutory protections; rights now exist from the moment the contract is signed.
- 4 Compliance Health Check**
Our Health Check provides a privileged, expert review of your standing, identifying Red-Amber-Green risks across your payroll and contracts.

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The law changes on April 6th. Your strategy should change today.

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