

# Employment Law Update October 2025

**CHANGING  
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THE BETTER  
STANDING  
UP** *for you*

Thompsons Solicitors

# Overview

- Legislation in force since April 2025
- Key cases
- Employment Rights Bill as amended 23 July 2025

# Legislation in force 2025



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# Neonatal care leave (NCL)

- Day one right for employee who is the parent/intended parent/partner of the mother and complies with the notice requirements
- Applies where the child is born/placed/or entered GB on or after 6 April 2025
- 1 week NCL for each qualifying week the child spends in neonatal care up to a max of 12 weeks
- Must begin within 28 days of the child's birth/placement and last for 7 days after the day care starts
- NCL can be taken in addition to other family leave but must be taken within 68 weeks of the child's birth/adoption/entry into GB
- Employees are protected from a detriment, have a right of return to the same job and are entitled to be offered suitable alternative employment in priority to others if selected for redundancy

# Statutory neonatal care pay (SNCP)

- Employees who qualify for SMP, SAP or SPP i.e have 26 wks service by 15<sup>th</sup> wk before EWB
- Employees who have 26 weeks before the wk in which neonatal care starts
- Employee must have received normal weekly earnings not less than LEL
- Neonatal care must begin within 28 days of the child's birth/placement for adoption and last for continuous 7 days
- Payable at same rate as SPP/ShPP and on compliance with notice/evidence



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# National Minimum Wage – 1 April 2025

The NMW wage rates from 1 April 2025 (2024 in brackets) are as follows;

- Age 21 and over: £12.21 (£11.44)
- Age 18 to 20: £10.00 (£8.60)
- Age 16 to 17: £7.55 (£6.40)
- Apprentice rate: £7.55 (£6.40)
- Accommodation offset: £10.66 (£9.99) per day

# Statutory benefits

## Statutory Benefits

- Statutory Maternity, Paternity, Adoption, Shared Parental and Parental Bereavement pay is increased to £187.18 per from £184.03week
- SSP is to increased to £118.75 to £116.75 per week and is payable for a max 28 week period
- Statutory Maternity Pay (Compensation of Employers) (Amendment) Regulations 2025, SI 2025/330, the “compensation rate” a small employer can recover from HMRC to compensation for NIC’s on SMP increases from 3% to 8.5%
- Lower Earnings Limit (LEL) – £125 up from £123)

# Statutory Compensation Limits

The following rates are payable from 6 April 2025

- The rate for a statutory **week's pay** for calculating statutory redundancy pay and a basic award in a claim for unfair dismissal £719 (£700)
- The **minimum basic award** in cases where a dismissal is unfair by virtue of health and safety, employee representative, trade union, or occupational pension trustee reasons increased to £8,763 (£8,533)
- The **limit on compensation** for unfair dismissal is the lower of 52 weeks pay or £118,223 (£115,115)

## Injury to feelings

Awards for injury to feelings in a claim for discrimination increased as follows with effect from 6 April:

- Lower band of £1,200 to £12,100 (generally for one off acts of discrimination)
- Middle band of £12,100 to £36,400 (generally apply where there is a consistent course of discriminatory conduct)
- Upper band of £36,400 to £60,700 (prolonged periods of discrimination or serious assault).

## From August 2025

- Section 1 of the **Higher Education (Freedom of Speech) Act 2023** in force from 1 August 2025 - provides that an English registered higher education provider is prevented from entering into NDAs with staff, members, students or visiting speakers in relation to complaints of misconduct or alleged misconduct.
- The **Victims and Prisoners Act 2024 (VPA 2024)** came into force 1 October 2025 – confidentiality clauses which prevent disclosures by victims of criminal conduct from reporting a crime to the police or other body which investigates or prosecutes a crime are void if they seek to prevent victims from making a disclosure about the crime – see [MOJ guidance](#)

Case Law

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# Employee Status and Agency Workers

- ***Lutz v Ryanair DAC and Storm Global/MCG Aviation v Lutz [2025]*** – the Court of Appeal has confirmed that a pilot supplied to Ryanair by an aviation recruitment company (MCG) on a 5 year contract was an agency worker and employed within the meaning of the Civil Aviation (Working Time) Regulations 2004
- ***Partnership of East London Co-operatives Ltd v Maclean [2025] EAT 142*** – the EAT held that a contractor working through a personal service company was not a worker or an employee of the

# Discrimination - 1

- ***For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16*** – the Supreme Court held that the terms “sex” man and woman in sections 9 and 212(1) of the Equality Act 2010 mean biological sex so that reference to a man is to a biological man and reference to a woman is to a biological woman
- ***Higgs v Farmor’s School [2025]EWCA Civ*** - the dismissal of a school employee for posts she had made on her personal Facebook page that criticised the nature of sex education in schools and, in particular, the teaching of ‘gender fluidity’ constituted discrimination on the grounds of religion or belief.

## Discrimination - 2

- ***Campbell v Sheffield Teaching Hospitals NHS Foundation Trust and anor [2025] EAT 42*** – an employer was held not to be liable for a comment amounting to racial harassment of a trade union official who was employed by it by another union member who was also employed by it on the basis that the comment was not made in “the course of employment”
- ***F v J [2025] EAT 34*** – a claimant who feared disclosure of disability would harm his further employment prospects was granted anonymity in Tribunal proceedings

# Whistleblowing

- ***Henderson v GCRM Ltd and ors [2025] EAT 136*** -, a manager who took the decision to dismiss a whistleblower was held not to be personally liable for a protected disclosure detriment
- **Day v Lewisham and Greenwich NHS Trust [2025] EAT 123** – a former worker can bring a claim for a detriment on the ground that they made a protected disclosure

# Dismissal

- ***Ofsted v Hewston [2025] EWCCA Civ2 250*** - the summary dismissal of a school inspector for brushing water off the head of a pupil who had come in from a rainstorm, and touching his shoulder, during a school inspection was not within the band of reasonable responses and was unfair.
- ***Haycocks v ADP RPO UK Ltd [2025] I.C.R. 265*** - the Court of Appeal overturned a finding that a dismissal for redundancy was unfair when there had been no meaningful workforce consultation when the redundancy proposals were at a formative stage.

# Trade Unions

- ***Morais v Ryanair DAC [2025] EWCA Civ 19*** – it is unlawful to blacklist an employee for taking part in industrial action

# Unlawful Deduction from Wages

- ***HM Revenue and Customs v Taylors Services Ltd (dissolved) and ors CA*** — travel from home to various locations was not “time work” for the purposes of the NMW

# Cases to watch out for

# Cases on Appeal

- ***Groom v Maritime Coastguard Agency [2024] CA 001227*** –an appeal against a finding by the EAT that a volunteer who attended an activity for which they were entitled to be paid was a worker for the purposes of s.230(1)(b) ERA 1996. To be heard by the CA on 18 or 19 November 2025
- ***Limbu and Others v Dyson Technology Ltd & ors [2025] SC 0019*** - whether England or Malaysia is the appropriate forum in which to determine claims. brought by migrant workers against Dyson regarding allegations of forced labour and dangerous conditions at two Malaysian factories. To be heard in the Supreme Court no date as yet

# Employment Rights Bill - An overview

## Employment Rights Bill

[AS AMENDED ON REPORT]

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#### PART 1

##### EMPLOYMENT RIGHTS

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- 3 Right to payment for cancelled, moved and curtailed shifts
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- 5 Collective agreements: contracting out
- 6 Amendments relating to sections 1 to 5
- 7 Repeal of Workers (Predictable Terms and Conditions) Act 2023
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- 16 Paternity leave: removal of qualifying period of employment
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# ROAD MAP



# Employment Rights Bill – 1 Unfair dismissal and fire & rehire

- A right to claim **unfair dismissal from day one** in employment and introduction of a statutory probationary period (IPE – initial period of employment)
- A right to claim **automatic unfair dismissal where:**
  - the reason or principal reason is that the employer sought to dismiss an employee for not agreeing to a restricted variation their contract, or
  - the employer dismissed an employee in order to hire a new or existing employee on a varied contract to carry out substantially the same role

# Employment Rights Bill – 2 - Zero hours

- Workers on **zero-hour contracts** or **'low-hours' contracts** including **agency workers** will **have the right to be offered a 'guaranteed hours' contract** if they work regular hours over a specified period (likely to be 12 weeks) which must be on no less favourable terms than the previous working arrangement
- The guaranteed hours contract can be for a fixed term if it relates to a specific event or task, or the employer can show a genuine temporary need for workers.
- A right for **zero hours workers to be given reasonable notice if their shifts move, change or are cancelled**. Workers will be compensated where they reasonably believe they would have worked the shift
- Zero hours workers will have a right to bring employment tribunal claims in relation to breaches of the legislation.
- An **employer can opt out of statutory requirements provided there is a collective agreement** which is incorporated into the contract of these workers.

# Employment Rights Bill – 3 – Trade unions

- **Removing some of the burdens on trade unions** introduced by the Trade Union Act 2016 removing ballot thresholds and reverting to simple majority with no requirements for a specific turnout, reduction in the amount of information included on the ballot paper (summary of issues in dispute and type of IA will be simplified) and info to be provided to the employer is to be simplified as well as reversing the 'opt-in' for contributions to political funds to an opt out;
- **Repealing the Strikes (Minimum Service Levels) Act 2023;**
- **TU's mandate for IA will expire 12 months** after the ballot instead of 6
- **Statutory recognition:** power to relax the 10% admissibility test, and requiring the CAC to issue a declaration of recognition where a majority vote in favour in the ballot;
- New procedure for negotiating **access agreements including digital access to workplaces.**
- A new right that a worker is **not to be subjected to detriment** for the sole or main purpose of preventing or deterring the worker **from taking protected industrial action**, or penalising the worker for doing so

## Employment Rights Bill – 4 – Facility time for TU reps

- The employer must provide the employee with such **accommodation and other facilities** for the purposes for which the employee takes time off as is reasonable in all the circumstances
- Where an employer refuses time off the burden is on the employer to show that the amount of time requested was not reasonable
- A new right to reasonable time off and facilities for equality representatives for a number of specified purposes
- Remove the obligation on public sector employers to publish information relating to time off taken by trade union representatives for trade union duties and activities

# Employment Rights Bill – 5 – Written statement and collective redundancies

- Requires **new starters to be given a written statement saying that they can join a trade union.**
- There will be **two thresholds triggering the obligation on employers to consult the appropriate representatives in a collective redundancy.**
  - i. The first is where the employer proposes to dismiss as redundant 20 or more employees at one establishment;
  - ii. The second is where the employer proposes to dismiss employees as redundant across the whole of the business
- **Increase the protective award** if an employer fails to collectively consult from a maximum of 90 days pay to 180 days pay per employee

# Employment Rights Bill – 6 – Family rights

- **Flexible working** - the burden shifts to the employers to justify the reason for refusing a flexible working request. Employers will be required to set out which of the statutory grounds they are relying on and explain why the refusal is reasonable
- **Rights to unpaid parental leave and paternity leave from day one** as well as a new right to bereavement leave to grieve for the loss of a loved one.
- **A right for pregnant employees not to be dismissed during pregnancy and for a six-month period following their return from maternity leave.**
- The right to **protection from dismissal will also apply to employees returning from a period of family leave** (maternity, paternity adoption and shared parental leave).

# Employment Rights Bill – 7 – Equality

- **Harassment** - duty on employers is to take **all** reasonable steps to prevent harassment in the workplace.
- **Protection from third party harassment** ( e.g. by service users)
- **Employers with 250 or more employees will be required to publish equality action plans** along with gender pay gap information.
- Procurement power to make regulations to ensure **outsourced workers are treated no less favourably** than those transferred from the public sector
- An increase in the time limit for lodging a claim at tribunal from 3 months to 6 months

## Employment Rights Bill – 8 - NDA's

- A new clause (s. 202A of the ERA 1996) will provide that a term in an agreement between an employer and a worker is void in so far as it purports to prevent the worker making an allegation or disclosure of information relating to certain work-related harassment and discrimination.
- Applies to the response of the employer to the harassment or discrimination, or the response of the employer to the making of the allegation or disclosure
- Provides for regulations to be made so that the ban does not apply to “excepted agreements”
- Regulations may also provide for the ban to apply to independent contractors and those undertaking work experience or training

# Employment Rights Bill – 9 - Other rights

- Provide for the re-establishment of a School Support Staff Negotiating Body and establish the Adult Social Care Negotiating Body intended to be a sectoral agrmt covering pay terms and conditions, training and career progression;
- Requirement on employers to keep records in respect of annual leave including pay and pay in lieu on termination
- There will be a **single enforcement body (the Fair Work Agency)** for various **workplace** obligations e.g. relating to employment agencies, WTR, NMW, modern slavery and gangmasters
- **Statutory Sick Pay (SSP)** will be payable from day one of sickness absence and the requirement to earn above the Lower Earnings Limit (LEL) of £125 per week is removed. SSP will be set at either 80% of normal weekly earnings or the flat rate (£118.75 from 6 April) whichever is the lower

# Conclusion

- Set to be a busy year for employment law
- Thompsons briefing on the Employment Rights Bill is available [here](#)
- [ER Bill Government Factsheets](#)

Any questions?

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