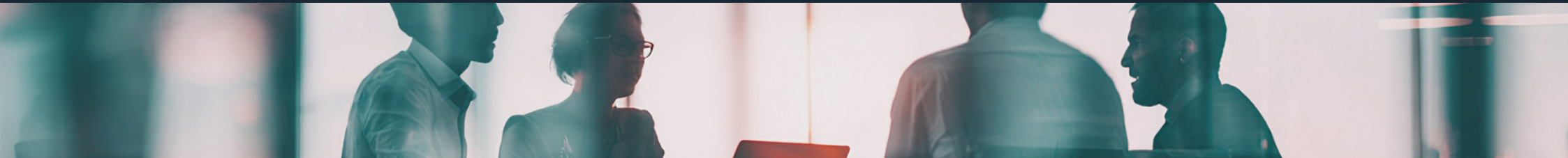
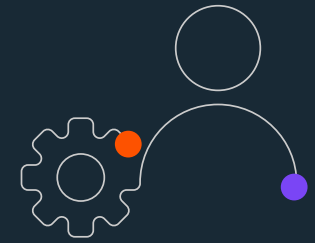


The Employment Rights Act 2025

Impact on insolvency practitioners and restructuring

UK – last updated – October 2026



The Employment Rights Act 2025 (the “Act”) has been described as many things, some more positive than others, but there can be no doubt that it will introduce significant changes to the employment law framework in the UK.

With the next tranche of changes coming into force in October 2026 and January 2027, now is the time for insolvency practitioners (IPs) to consider how these changes might impact a proposed restructuring.

To help we have produced this briefing note in which we flag the key changes.

Key changes for insolvency practitioners – at a glance¹

Employment Rights			
Topic	Old position	Changes	Considerations for insolvency practitioners
Unfair dismissal	As a general rule, employees must have at least two years’ service to bring an unfair dismissal claim (exceptions apply). The cap on the compensatory award for “ordinary” unfair dismissal is the statutory limit (currently £123,543) or 52 weeks’ pay, whichever is lower.	New six-month qualifying period of service for unfair dismissal claims. Unfair dismissal compensation cap will be removed. Expected to come into force on 1 January 2027.	Due to the removal of the cap on compensation awards, the value of any unfair dismissal claims will be increased and uncapped unfair dismissal awards will increase the quantum of potential TUPE risk for a buyer, which may see more negotiation on price and indemnity carve outs. Although most dismissals pre- or post-appointment are redundancy related, these changes pose a greater likelihood of unfair dismissal claims being brought. They will not, however, alter the status of such claims – they will still be unsecured.

¹ Note: There are numerous proposed changes in the Act and not all are covered in this table. We have selected those which we have identified as most likely to impact IPs and a proposed restructuring but IPs should be aware that there may be other changes that might need to be taken into account on a specific matter.

Employment Rights

Topic	Old position	Changes	Considerations for insolvency practitioners
Dismissal and re-engagement (or "Fire and Rehire")	No statutory prohibition on dismissal and re-engagement. A statutory code of practice sets out the steps that employers should follow where the parties are unable to agree to changes to terms and conditions, and the employer goes down the dismissal and re-engagement route.	A change to the law on unfair dismissal, so that dismissals for failure to agree to restricted variations will be treated as automatically unfair, unless the employer can show that "the reason for the restricted variation was to eliminate, prevent or significantly reduce, or significantly mitigate the effect of, any financial difficulties which at the time of the dismissal were affecting, or were likely in the immediate future to affect, the employer's ability to carry on the business as a going concern" and "in all the circumstances the employer could not reasonably have avoided the need to make the restricted variation". There is a different test for unfair dismissal purposes for non-restricted variations. Also expected to take effect in January 2027.	Very strict limitations on the ability of employers to change terms and conditions of employment in this manner. Employers must have strong financial and operational evidence to support any decision to go down this route. For buyers of the business, the ability to change terms and conditions of employment in this manner will be curtailed, although this change will not alter the position in respect of employees transferring under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). Buyers must factor these restrictions into integration planning and due diligence.
Collective redundancy consultation	Obligation to consult collectively if an employer is proposing to dismiss as redundant 20 or more employees "at one establishment" within a 90-day period. The maximum penalty that can be awarded by an Employment Tribunal for failure to consult is 90 days' actual pay per affected employee.	The duty to consult collectively will be widened taking effect in 2027. It will be triggered where the employer proposes to dismiss as redundant within a period of 90 days or less: (i) at least the threshold number of employees (yet to be finalised) or (ii) 20 or more employees at one establishment. The organisation-wide threshold is the subject of a consultation, which closed on 21 May 2026. The maximum penalty that can be awarded by an Employment Tribunal has been doubled, i.e. 180 days' actual pay per affected employee. This change took effect on 6 April 2026. The government has also indicated that it will consult on doubling the minimum consultation period from 45 to 90 days, where an employer is proposing to dismiss as redundant 100 or more employees.	Multi-site employers will be affected. Collective consultation will be triggered more frequently. The new rules apply per employer rather than across a corporate group. As is currently the case, it is not always possible in a restructuring to consult for the required period ahead of proposed redundancies, given the need for a business to enter a process quickly. Typically directors and/or IPs will do what they can to consult in the time available, and this can help to mitigate the amount of any protective award (if litigated). However, it is important to note that the potential penalty has doubled, which increases exposure. The increased penalty is unlikely to alter current practice significantly, because time to consult will always be limited. Nevertheless, IPs should consider the changes and directors and IPs should comply as fully as they can with these new obligations. Note also that although the penalty has increased it will not alter the status of such claims – they will still be unsecured.

Employment Rights

Topic	Old position	Changes	Considerations for insolvency practitioners
HR1 forms	Employers are obliged to notify the secretary of state via the HR1 form where they are proposing to dismiss as redundant 20 or more employees at one establishment within a 90-day period. The amount of notice depends on the number of proposed dismissals (i.e. either 30 or 45 days).	The obligation to notify the secretary of state via the HR1 form will be triggered in more situations – see the wider circumstances outlined above. The notice must be given at least 30 or 45 days before the first dismissal takes effect. These time periods have not changed, although if the government increases the collective consultation period from 45 to 90 days for 100 or more employees (a matter for a future consultation exercise), these time periods will also presumably change.	It is a criminal offence to fail to notify the secretary of state, and a person can be liable on summary conviction to a fine not exceeding level 5 on the standard scale. Although IPs are not personally criminally liable for a failure to file a HR1 when making redundancies (confirmed in the case of <i>R (on the application of Palmer) v Northern Derbyshire Magistrates Court and another</i>), the employer company can still be liable. Given the trigger for filing will now be triggered in more situations IPs should endeavour to file the form (even if the directors say they have) to reduce the level of such claims – albeit unsecured. The timing of filing form HR1 will need to be factored into contingency planning so as not to disrupt the planned restructuring but to meet the requirements to file where possible. The HR1 form must now be submitted electronically via the GOV. UK website. Paper filings are no longer accepted.
Zero hours workers and certain other workers on low minimum hours	No current statutory right to guaranteed hours.	Right to guaranteed hours if eligible workers regularly work more hours over a reference period (likely to be 12 weeks). The government has confirmed that these provisions will also be extended to agency workers. Taking effect in 2027.	This will also need to be factored into contingency planning around the business – don't assume that zero/minimum hours workers can be left out of the equation. As noted, there will be an obligation on a business to offer guaranteed hours to eligible workers. Employers relying on flexible labour models – especially distressed businesses – may face increased costs, reduced flexibility and additional administrative burden. These changes may also affect workforce agility in turnaround scenarios.
“One-sided flexibility” for zero hours workers and certain other workers on low minimum hours	No current statutory protection for cancelled shifts, etc.	New obligations on employers to give notice of shifts, as well as reasonable notice of, and payments for, cancelled or delayed shifts. These provisions will also be extended to agency workers. Taking effect in 2027.	As above, this new obligation may well need to be factored into contingency planning around the business as it will add more cost.

Family-friendly rights			
Topic	Old position	Changes	Considerations for insolvency practitioners
Dismissal during pregnancy	Mothers have additional protection from redundancy during pregnancy, when on maternity leave and for a period after maternity leave. Similar protection for adopters and those taking shared parental leave.	Additional protection from dismissal (i.e. not just in redundancy situations), while pregnant, on maternity leave and for a period after returning to work. Additional protection for those returning from other types of leave including adoption leave and shared parental leave. Taking effect in 2027.	The additional obligations on employers may need to be factored into contingency planning around the business.
Statutory paternity leave	To be eligible, employees must have completed 26 weeks' continuous service.	A day one right, i.e. no qualifying period. The Act also removes the restriction that prohibits employees from taking statutory paternity leave if they have already taken shared parental leave. Took effect on 6 April 2026.	More employees will be eligible for statutory paternity leave. This may need to be factored into contingency planning around the business.
Statutory parental leave	To be eligible, employees must have completed a year of continuous service.	A day one right, i.e. no qualifying period. Took effect on 6 April 2026.	More employees will be eligible for statutory parental leave. This may need to be factored into contingency planning around the business.

Miscellaneous			
Topic	Old position	Changes	Considerations for insolvency practitioners
Employment tribunal time limits	Time limit for most employment tribunal claims is currently three months.	Time limits for most claims to be extended from three to six months. These changes took effect from 1 October 2026.	Likely increase in claims and longer periods of legal uncertainty following any dismissals. The time limit for bringing claims often influences negotiations around indemnities, escrow periods, further assurance provisions, etc. and therefore an increase in time limits may need to be factored into negotiations.

This note sets out the position in England and Wales. Changes in Scotland and Northern Ireland may differ in matters of detail.

If you have any questions about the content of this guide, then please get in touch with one of our experts below.

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