



Managing the impact of the Employment Rights Bill in SMEs

Preventing People Problems

The background

Within 100 days of coming to power in July 2024, the Labour government began enacting what has been labelled the biggest change to employment rights in a generation.

From worker status changes to additional day one rights, trade union reforms to stricter regulations, plenty is due to change. The impact will be vast, particularly affecting small and medium-sized businesses (SMEs).

The Employment Rights Bill has now completed its passage through the House of Commons, via Committee amendments and consultations. It is now with the House of Lords, with Royal Assent expected to come in the summer.

This means we can expect some changes to come into force as soon as this Autumn, with more expected in April 2026 and the rest expected to be implemented later next year.

But for businesses, the time to start planning is now. The best way to navigate the challenges the Employment Rights Bill presents is to get ahead of them.

This document delves deeper into ten major changes that will have the biggest impact on SMEs. We provide guidance on what each change could mean for you and recommendations on how you can start futureproofing your business.



Unfair dismissals

What is changing?

- Implementing day one unfair dismissal rights, removing the two-year buffer that businesses currently have before employees can claim.
- Introducing a new 'initial period of employment' – essentially a mandated probationary period – during which there will be lower tests for unfair dismissals. This is expected to be nine months long.

How should you prepare?

Hiring decisions have already become more critical. Given we are expecting this change to be implemented in Autumn 2026, every new hire you make will not have the full two-year waiting period before they can make unfair dismissal claims.

Ensure you are utilising probationary periods now to allow you to assess new hires fairly, whilst providing you with a safety net should they not be the right fit. Remember, your probations will still need to follow clear processes, setting clear expectations and goals, providing regular feedback and support. Ensure you keep clear and detailed records. These processes will likely be part of the 'initial period of employment', so start now to build the habit.

Tribunal claim limit

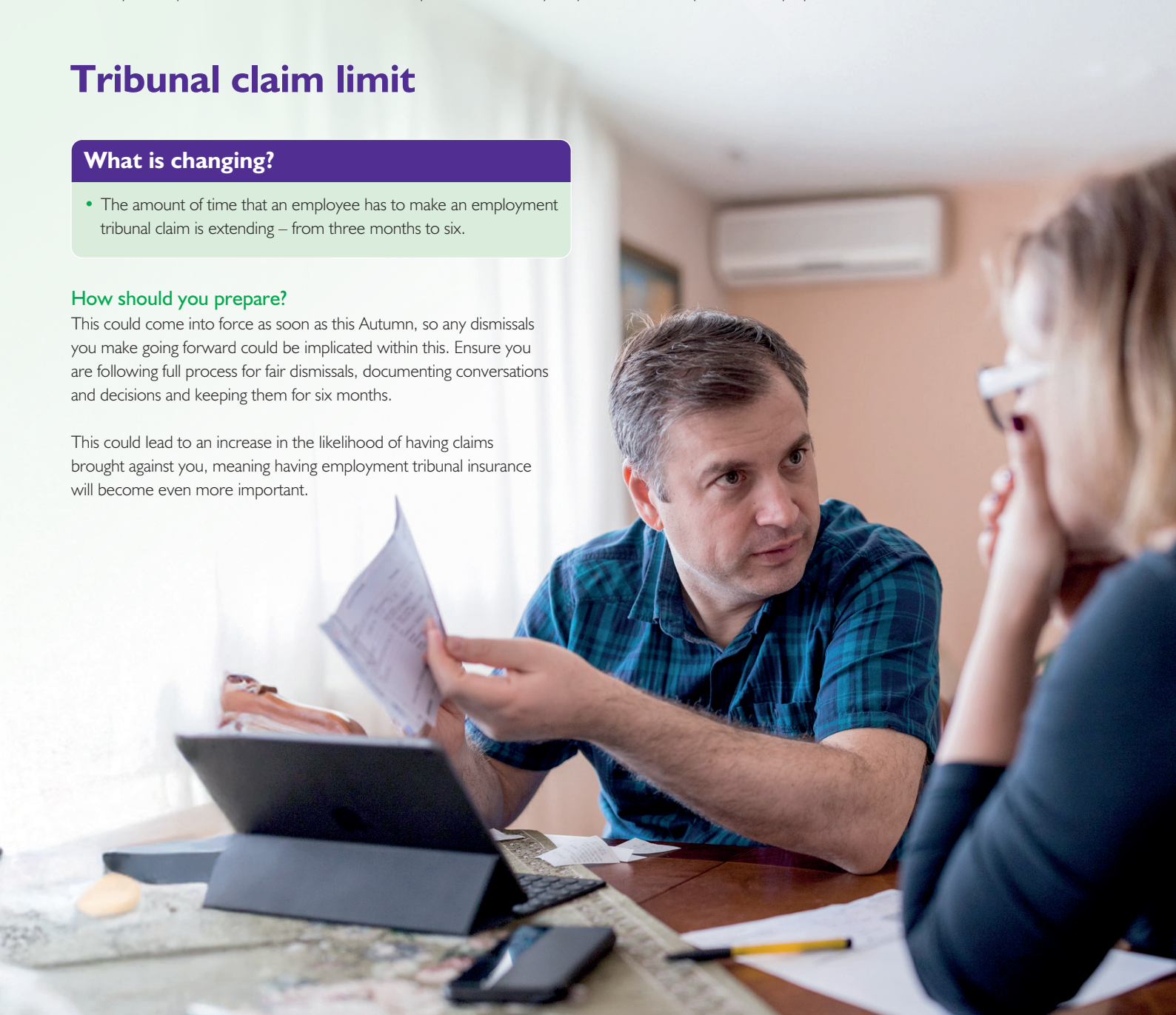
What is changing?

- The amount of time that an employee has to make an employment tribunal claim is extending – from three months to six.

How should you prepare?

This could come into force as soon as this Autumn, so any dismissals you make going forward could be implicated within this. Ensure you are following full process for fair dismissals, documenting conversations and decisions and keeping them for six months.

This could lead to an increase in the likelihood of having claims brought against you, meaning having employment tribunal insurance will become even more important.



Statutory sick pay from day one

What is changing?

- Statutory sick pay will be available from the first day of absence, rather than the fourth.
- It will also become available to all employees, with the weekly rate payable set at £118.75, or 80% of the employee's earnings – whichever is lower.

How should you prepare?

Start building a proactive absence process to ensure it is embedded into your business before the legislation comes into effect. Unfortunately, with employees able to access pay from day one, there could be a rise in non-genuine cases, so managing and separating these will be a challenge.

Have a clear procedure for monitoring sickness absence, including a consistent approach such as a trigger system. Hold return to work meetings, ensure open communication and document all discussions. Monitor patterns and train your managers in handling these matters.

If you pay enhanced sick pay, you may also wish to consider amending these schemes before legislation comes into force.

Guaranteed contracts for zero-hour and agency workers

What is changing?

- Zero-hour and agency workers will be entitled to a guaranteed right to contracted hours, following a defined reference period.
- They will also have the right to reasonable notice of any changes in shifts, as well as to payment for any cancelled or curtailed shifts.

How should you prepare?

This change has gained the headlines and could have a huge impact if you use zero-hour contracts, or regularly engage agency workers, both financially and operationally.

You should start reviewing your staffing requirements now, to ascertain your reliance on zero-hour contracts and/or agency workers. From there, you can begin to assess alternative options, such as potentially utilising options such as fixed term contracts, if you are a seasonal business, or offering part time or annualised hours.

Protection from third-party harassment

What is changing?

- Businesses will be required to protect staff from third-party harassment.
- Employers will be expected to take all reasonable steps to prevent this happening in the course of employment.

How should you prepare?

For public facing businesses, or those where lone working is regular, this change could create huge challenges, but all SMEs must act ahead of it.

You will be expected to take all reasonable steps to prevent third-party harassment in the workplace.

This will include carrying out risk assessments and acting on anything that arises. You should also provide training to your staff on how to deal with third-party harassment and have clear policies and processes in place for reporting and taking action. It would also be wise to review contracts with any third parties, such as contractors and suppliers, to ensure they explicitly prohibit harassment.



Flexible working

What is changing?

- Flexible working will become the default.
- Employers may only refuse applications on specific 'reasonable grounds' such as burden of additional costs, detrimental effect on the ability to meet customer demand, inability to re-organise work or recruit additional staff, impact on quality of performance, insufficient work during period the employee proposes and planned structural changes. All refusals must be in writing.

How should you prepare?

Flexible working is already extremely commonplace in workplaces where it is possible. The routes for requesting it and the grounds for refusing it are already quite firmly in an employee's favour, with businesses required to provide written explanations of why they are unable to allow flexible working.

If you already offer flexibility to your employees, this change shouldn't be much cause for concern. However, it makes it the 'default', so, if you don't currently offer flexible working, be prepared for increased requests. If you do not have reasonable grounds for refusing flexible working, you may wish to review your stance and offer more flexibility.

You should review your policies on flexible working now and ensure they are fit for purpose ahead of this change coming in.

Parental and bereavement rights

What is changing?

- Paternity and adoption leave rights are to become available from day one of employment.
- Bereavement leave will be available to all employees, rather than just those with dependents. This will also be updated to include those who have had a miscarriage before 24 weeks – something that is already in place for those past 24 weeks gestation.

How should you prepare?

You will need to ensure your policies and procedures are updated to reflect these changes, plus plan in any additional costs and potential operational disruption to your workforce.

This is not expected to be the last we hear of changes to parental leave under the sitting government, as they have indicated that there will be a separate review of how the current system works.



Collective redundancies

What is changing?

- Collective redundancies will still apply should an employer propose 20 or more redundancies within one establishment (i.e. a workplace), however an additional threshold will be brought in, which will count the redundancies across all employees. This threshold will be defined through regulations.
- The maximum protective award for failure to collectively consult on redundancies will double, from 90 to 180 days. This is full pay, due to every employee who has been affected.

How should you prepare?

This is more likely to impact medium-sized and larger businesses, particularly those that operate on a multi-site basis. There will be a significantly larger requirement to comply with collective redundancy rules, and a stricter penalty for non-compliance. This would also impact those who have tried to make contractual changes within their workforce, before using the 'fire and rehire' tactic.

If you are considering any company reorganisations in the near future, this change will impact on you. You may wish to prepare by reviewing your future plans. This could involve amending them or bringing them forward. If you do have a requirement to undertake collective redundancies in the future, ensure you are across the new rules and remain compliant, or the penalty could be severe.

Trade union reforms

What is changing?

- Various rules and regulations are being amended and repealed.
- The ultimate goal for the government is to make it easier to join unions, and make it easier for them to organise within workplaces.
- They are doing this by lowering the notice periods and thresholds required for union recognition, as well as increasing the length of time before a mandate for action expires.

How should you prepare?

Make sure you have company policies relating to trade unions and have a clear procedure for managing union organisation or potential picketing.

Begin providing training to executives and managers, ensuring they understand what employee rights are and how you can manage situations. This will also allow them to keep an eye out for early warning signs, meaning you may be able to take pre-emptive steps to prevent action.



The Fair Work Agency

What is changing?

- The Fair Work Agency – a new enforcement ombudsman – is being created.
- They will have the power to investigate and act against any breaches of employment rights.
- They will have full access to monitor and ensure implementation of these rights.

How should you prepare?

Ensure that all your business processes, particularly around pay, right to work and holiday, are documented and in line with current regulations.

You should already be compliant with all these things, but if not, now is the time to change – enlist professional help to do so.

We would also advise that you document everything where possible, which will help you should you become the subject of an investigation.



Futureproof your business

You may be thinking that the Employment Rights Bill is miles off, or that there is nothing you need to do until it's implemented. Or you may not know where to start with the changes.

But it is time to act. The best way to minimise the impact of the changes is to get ahead of them, putting new policies and procedures in place, whilst planning training to educate your management team, making it easier for them to navigate the change.

It is a lot of work, but we're here to help. If you are a retained HR Dept client, we will ensure that your business is prepared for the transition, including updating your policies and handbooks and providing the necessary training. You will also get access to our employment tribunal insurance, meaning that you are covered as long as you follow our advice. With extension to time limits, as well as the much tighter regulations, this could be invaluable to your business.

We are already supporting thousands of businesses like yours to get ahead of the changes, with up-to-date guidance, knowledge and advice.

Contact your local expert today to see how we can help you futureproof your business.



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