

Employment Rights Act 2025

ENFORCEMENT

MAY 2026

WHAT'S THE CHANGE?	ANY ADDITIONAL INFORMATION?	WHAT WILL EMPLOYERS HAVE TO DO?	WHEN WILL IT TAKE EFFECT? ¹
New holiday record-keeping obligations			
<ul style="list-style-type: none"> Employers are required to keep adequate records demonstrating compliance with statutory holiday rules (including leave entitlement and pay). Records must be created, maintained and kept "in such manner and format as the employer reasonably thinks fit". 	<ul style="list-style-type: none"> Records have to be retained for six years. Failure to comply is a criminal offence punishable by a fine. This obligation will be enforceable by the Fair Work Agency once it has the necessary enforcement powers (see Fair Work Agency below). 	<ul style="list-style-type: none"> Employers should review holiday-recording systems to ensure that they are fit for purpose. 	<ul style="list-style-type: none"> This change took effect on 6 April 2026.
Extended time limits for employment tribunal claims			
<ul style="list-style-type: none"> The statutory time limit for presenting employment tribunal claims will double, from three months to six months. 	<ul style="list-style-type: none"> This change will apply to all types of employment tribunal claims, including unfair dismissal, discrimination and breach of contract claims. The rules on stopping the clock for Acas early conciliation are unaffected. 	<ul style="list-style-type: none"> The increase in time limits will extend the period of uncertainty for employers who anticipate a complaint being brought by a former or disgruntled employee. The extended time limit could also have a positive impact on employee relations. It may reduce protective claims where a grievance has not concluded before the current three-month time limit expires and encourage resolution through the grievance process without recourse to the tribunal. 	<ul style="list-style-type: none"> Draft regulations would apply the six-month limit from 1 October 2026 to some claims not covered by the 2025 Act (e.g., breach of contract and part-time/fixed-term worker claims), where the relevant act/detriment (or effective date of termination) is on or after that date. For the main 2025 Act claims, the change will take effect no earlier than October 2026.

¹ Dates reflect the Government's revised implementation timetable. These timings are indicative and may change as policy proposals move through consultation and development.

WHAT'S THE CHANGE?

ANY ADDITIONAL INFORMATION?

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WHEN WILL IT TAKE EFFECT?¹

Fair Work Agency (FWA) and State enforcement

FWA: Role and remit

- ♦ The FWA is a single enforcement body whose remit initially includes enforcing the national minimum wage (NMW), penalties for non-payment of employment tribunal awards/Acas settlements, and modern slavery/labour abuse and employment agency rules. Holiday pay and statutory sick pay enforcement will follow, with scope for its remit to be extended to other areas of employment legislation. It will take over the enforcement functions carried out by other state bodies.
- ♦ The Government describes 2026/2027 as a transitional year, with the FWA expected to maintain predecessor bodies' performance/metrics and to support employer compliance while functions are consolidated.
- ♦ Resourcing will be key to the FWA's effectiveness. In 2026/2027, its budget is GBP60.1 million (up from a combined GBP47.4m in 2025/26 for the predecessor bodies), reflecting its broader functions.
- ♦ A new nine-member advisory board, with equal numbers of independent, employer and trade union members, will advise on labour market enforcement strategy and the FWA's strategic direction.
- ♦ Employers should mitigate risk by auditing pay practices (particularly NMW, holiday pay and statutory sick pay), focusing on higher-risk groups (e.g., irregular/zero-hours workers), and strengthening record-keeping.
- ♦ Key FWA enforcement provisions apply from **7 April 2026**. Enforcement functions will be consolidated and transferred in phases during 2026/2027.
- ♦ Holiday pay enforcement is planned in **2027**. Statutory sick pay enforcement is expected later; no timetable has been confirmed.
- ♦ NMW enforcement will continue to be delivered by HMRC under a contracting arrangement with the FWA. Full transfer of NMW functions is planned for **April 2027**.

FWA: Investigatory powers

- ♦ The FWA can exercise investigatory and information-gathering powers, including to:
 - require a person to attend at a specified time and place and answer questions;
 - require specific information or documents by a specified date; and
 - enter premises (subject to a warrant to enter a dwelling) to inspect or examine documents and access/check computers and other equipment used to process or store information.
- ♦ No one will be required to provide material protected by legal professional privilege.
- ♦ The power to enter premises must be exercised at a reasonable time, unless a delay may frustrate the purpose of entry.
- ♦ Employers should prepare for inspections by training relevant teams and maintaining a response playbook (document retrieval, privilege checks, escalation and on-site procedures), reflecting the pace at which inspections can unfold.
- ♦ These powers are similar in style and tempo to those used by other regulators (e.g., the CMA and FCA), so some employers could adapt existing inspection response protocols.
- ♦ From **7 April 2026**, the FWA's investigatory powers apply for the areas listed above, with scope expanding in phases as further rights are commenced.

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FWA: Enforcement powers			
<ul style="list-style-type: none"> ♦ The FWA's broad enforcement powers include: <ul style="list-style-type: none"> – advice and guidance to promote compliance; – for employment agencies/businesses, warning letters and prohibition orders; – notices of underpayment (initially for NMW sums) for arrears of up to six years (but, for non-NMW sums, not pre-dating 18 December 2025), potentially covering multiple workers, with a 200% penalty (GBP100–GBP20,000 per worker) payable within 28 days (50% reduction if paid within 14 days); – financial penalties for unpaid employment tribunal awards and Acas settlements, following an individual's enforcement application, with warning notices and, where appropriate, penalty notices (50% of the unpaid sum, subject to a GBP100 minimum and a GBP5,000 maximum); – labour market enforcement undertakings (voluntary, as an alternative to prosecution) and, where an undertaking is refused or breached, court-imposed enforcement orders; and – referrals for prosecution, including against individuals. ♦ Additional powers (not yet in force) include: bringing tribunal proceedings on behalf of a worker in certain cases, providing legal assistance for union/employment-related proceedings, and recovering certain enforcement costs. 	<ul style="list-style-type: none"> ♦ The Government has indicated that the FWA will support employers with compliance, with enforcement escalating for serious, deliberate or persistent non-compliance. The FWA's Enforcement Policy emphasises proportionality, allowing for voluntary disclosure and self-correction before formal investigation, with prosecution reserved for the most serious cases where civil tools are inadequate. ♦ How often the FWA will bring tribunal claims on a worker's behalf remains to be seen, but investigatory powers may support legal action where evidence is strong. 	<ul style="list-style-type: none"> – Systemic underpayments across a workforce can create significant exposure from arrears and penalties and, for NMW underpayment notices, reputational risk via referral to the NMW naming scheme. – If raised by the FWA, employers should respond promptly: quantify and rectify any underpayments quickly, and document corrective action. 	<ul style="list-style-type: none"> ♦ From 7 April 2026, the FWA's enforcement powers apply for the initial specified areas, with its remit expanding in phases as further rights are commenced. ♦ The additional enforcement powers (including tribunal proceedings, legal assistance and cost recovery) will be brought into force by future regulations.

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Equal Pay Regulatory and Enforcement Unit

- ♦ The Government is considering a new Equal Pay Regulatory and Enforcement Unit to strengthen enforcement of equal pay rules, potentially with trade union involvement.
- ♦ A call for evidence on reforms to equality law took place last year and sought views on the Unit's potential powers, including in light of the Equality and Human Rights Commission's existing powers.
- ♦ This proposal is at a formative stage, is separate from the 2025 Act and has no confirmed timetable.

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