TSSA Staff Reps Bulletin

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EMPLOYMENT RIGHTS ACT IMPLEMENTATION

Introduction
In April and again in July we reported to TSSA reps on the implementation dates for some of the initial measures contained in the Employment Rights Act (ERA) 2025 and promised to provide updates as further information was made available.

In this Bulletin we are providing links to some of that further information in relation to measures being introduced this month and in January 2027. Measures related to Harassment and Fire and Rehire appear in a separate Bulletin (EMP134).

From 1st October 2026: ,

Change to time limits for claims to Employment Tribunals
One of the provisions of the ERA 2025 was to change Employment Tribunal (ET) time limits.

To make a claim for problems like unfair dismissal, unlawful deduction from wages or discrimination, the worker only has a limited time between the issue occurring (or the last instance of it occurring) and registering a claim at an ET.

The new arrangements began on 1st October 2026, and means that:

- For most claims related to issues before 1st October, the time limit is 3 months less a day. Exceptions appear in the link below.
- For claims related to problems on or after 1st October, the time limit is now 6 months less a day.

The above time limits for Breach of Contract claims in Scotland apply from 9th November 2026.

ACAS has issued the following guidance which I recommend you look at:
https://www.acas.org.uk/employment-tribunal-time-limits

From 30th October 2026:

From this date, there are a series of measures that will come into effect regarding:

- Trade unions

- Harassment

A separate Bulletin (EMP134) has been published on the Equality measures.

The Trade Union measures are as follows:

1. Strengthening trade unions' right of access

Section 59 from the Employment Rights Act 2025 amends the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA 1992). The specific legal provisions can be found at: https://www.legislation.gov.uk/ukpga/2025/36/section/59

Before this change in law, trade unions did not have a general independent right of access to workplaces unless they were already recognised by the employer. If recognition did not exist, access could be denied by the employer although voluntary arrangements could be negotiated. Access could also be secured through individual members of the union.

The new law means that:

- Any trade union that has a certificate of independence – like TSSA – can make a request for access under the statutory process.

- Access will not be granted by the Central Arbitration Committee (CAC) if the employer in question has fewer than 21 workers. However, where the statutory 'associated employer' definition applies – meaning that an overarching company is responsible for each employer – eg, an employer of fewer than 21 workers that is part of a wider company that employs 21 or more workers – the access arrangements are within scope of the access policy. This mean that a trade union can apply for access to a group of fewer than 21 workers if they work for an employer of 21 or more workers.

- Access can be secured through:
    - A voluntary agreement between the union and employer
    - Agreement after negotiation between the trade union and the employer through the statutory process and about which the parties gave joint notification to the CAC
    - The statutory process and then determined by the CAC following an unsuccessful negotiation between the trade union and the employer

- Access is for the statutory purposes of:
    - To meet, support, represent, recruit or organise workers (whether or not they are members of a trade union)
    - To facilitate collective bargaining

    NOTE: It does not include organising for industrial action

The Government has produced a Code of Practice: Right of trade unions to access workplaces that can be found at:

https://assets.publishing.service.gov.uk/media/6a4b9abad200ca05e289e5e5/code-of-practice-right-of-trade-unions-to-access-workplaces.pdf

2. **Implementing reforms to access and unfair practices during the recognition and derecognition process, and all remaining trade union recognition measures, including freezing the bargaining unit when an application is received**

The new law is from Schedule 6 of the Employment Rights Act 2025 which amends Schedule A1 of TULCRA 1992. It applies to

- The statutory procedure for the recognition and derecognition of trade unions for the purpose of collective bargaining. The procedure is built on a series of days for each stage, including for trade union access and recognition ballots.

- Unfair practices where employers impose detriments or threaten to impose detriments such as dismissal or disciplinary action – or introduce inducements to ensure workers vote in a particular way in a ballot for recognition or derecognition.

Trade unions seeking recognition initially approach the employer for voluntary recognition. In the event this is refused, the union can then approach the CAC for them to apply the statutory procedure. That procedure can lead to access to workers and a ballot of members in the bargaining group as a prelude to recognition being agreed or refused.

A Code of Practice under the title of "Access and Unfair Practices During the Recognition and Derecognition Process" is currently in final draft form (awaiting approval from Parliament) and will come into force from 30th October. The draft version is available at:

https://assets.publishing.service.gov.uk/media/6a47a8b5d200ca05e289e485/draft-code-of-practice-on-access-and-unfair-practices-during-the-recognition-and-derecognition-process.pdf

3. **New rights and protections for trade union representatives**

ACAS has published six new online documents that are linked together or can be accessed individually. The first covers:

- Rights of trade union reps: https://www.acas.org.uk/rights-of-trade-union-representatives

Roles where representatives have legal rights include the following:

  - union representative
  - union equality representative
  - union learning representative
  - health and safety representative

Representatives may also be elected for specific situations, including redundancy, TUPE and pension consultations. Their tenure is only to deal with the issue under

consultation unlike the reps listed above and their rights are usually reduced compared to what appears in the table below:

Type of rep	Time off for certain duties?	Time off for relevant training?	Access to facilities to carry out certain duties?	Protection from dismissal and detriment for carrying out trade union duties and activities
union representatives	Yes	Yes	Yes	Yes
union equality representative	Yes	Yes	Yes	Yes
union learning representative	Yes	Yes	Yes	Yes
health and safety representative	Yes	Yes	Yes	Yes

The link to the ACAS document above gives more information. It should be noted that union collective agreements with individual employers also add information about rep constituencies, items for consultation and negotiation, structures of bargaining agreements and much more.

Collective agreements may also confer additional rights to those that appear in the ACAS guidance which should be seen as a minimum standard. This applies equally to the following updated ACAS documents that will be applicable from 30th October 2026:

- Time off for duties: https://www.acas.org.uk/rights-of-trade-union-representatives/time-off-for-duties
- Time off for training: https://www.acas.org.uk/rights-of-trade-union-representatives/time-off-for-training
- Facilities: https://www.acas.org.uk/rights-of-trade-union-representatives/facilities
- Dismissal and detriment: https://www.acas.org.uk/rights-of-trade-union-representatives/dismissal-and-detriment
- Dealing with problems: https://www.acas.org.uk/rights-of-trade-union-representatives/dealing-with-problems

There is also a revised ACAS Code of Practice on Time off for Trade Union Duties and Activities which comes into operation from 30th October. It can be found at: https://www.acas.org.uk/acas-code-of-practice-on-time-off-for-trade-union-duties-and-activities/draft-revision

4. **Extending protections against detriments for taking industrial action**

Exact details of what is included in the Protection Against Detriment (Industrial Action) Regulations 2026 appears to be unavailable currently, but law firm Dentons published an article[1] in July 2026 which said:

"The draft regulations adopt a broad approach and prohibit any detriment where the employer's sole or main purpose is to:

- prevent a worker from taking protected industrial action;
- deter a worker from taking part in protected industrial action; or
- penalise a worker for having done so."

Dentons also state that Government will

> "give tribunals the power to increase or reduce compensation by up to 25% where there has been an unreasonable failure to comply with a relevant statutory code of practice, such as the ACAS Code of Practice on Disciplinary and Grievance Procedures."

From 1st January 2027:

From this date:

1. **"The duty to inform workers of their right to join a trade union"**

This will require employers to provide a written statement to workers informing them of their right to join a trade union.

The statement will be standardised across employers and may only be amended where required or permitted. It will include:

- a brief overview of the functions of a trade union
- information on recognised trade unions (where applicable), including their contact details and a summary of the worker categories and workplace locations covered by the recognition arrangements
- information on trade unions with which the employer has statutory access agreements (where applicable), including their contact details
- information on the Certification Officer's list of trade unions
- a summary of statutory rights in relation to union membership

From 1 January 2027, the statement must be provided directly to new workers at the same time as the statement of employment particulars.

[1] See: https://www.ukemploymenthub.com/government-confirms-broader-protection-for-workers-taking-protected-industrial-action/

Employers will also need to provide the statement by 5 April 2027 to workers who were already employed when the duty comes into force and who remain employed on 5 April 2027. They can do this by using:

- direct methods, such as email, post or in person; or
- indirect methods, such as an intranet or staff handbook, provided that workers are informed of the location of the statement and that it remains continuously available and reasonably accessible.

They must provide an annual reminder by 5 April in each following year informing the workers that the statement is available and where to find it.

The Government has stated that they expect to lay regulations before Parliament in November 2026 and publish guidance shortly afterwards.

2. **The reduction of unfair dismissal qualifying period from 2 years to 6 months**.

Employees have to serve a qualifying period before they are able to claim unfair dismissal should their employer decide to dismiss them.

The Conservative Government increased the qualifying period to two years (from one year) in April 2012 which meant that many employees who had worked for their employer for less than that time lost the opportunity to take their unfair dismissal claim to an Employment Tribunal. This allowed employers to sack staff with impunity, knowing that the employee would not be able to obtain redress.

Now the law has been reversed which means that for dismissals from 1st January 2027 the qualifying period for unfair dismissals will be reduced from 2 years to 6 months.

However, for dismissals with an effective date of termination before 1 January 2027, the current system of a two year qualifying period for unfair dismissal protections will still be in force.

The other development is that Compensatory awards imposed by Employment Tribunals will also be uncapped, reversing another Tory anti-worker policy and making it more expensive for employers to dismiss workers.

Reps' action
All TSSA reps should familiarise themselves with the content of this Bulletin and share it with the members and colleagues they represent.

We would also ask reps to speak to non-members about joining TSSA which can be done online at: https://www.tssa.org.uk/join-tssa

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