

# CMS Scotland - Kernel

## Employment Law Changes: Update for Food & Drinks Employers

Sweeping changes to the UK employment law landscape are coming in 2026 and 2027. The passing of the [Employment Rights Act](#) (the “**ERA**”) in December 2025 was described as the “*biggest upgrade to rights at work for a generation*”.

Although many of the changes are further down the line according to the Government’s [Implementation Roadmap](#), now is the time for preparation, as many of them increase the financial burden and legal risk for employers in the food and drinks sector. In fact, the Government’s [Economic Analysis](#) identifies that at least 1.5 million employees in ‘accommodation and food’ will be impacted by the changes, with the ERA “*expected to predominantly impact businesses and workers in low-paying sectors*”. This guide highlights some of the key ERA changes to be aware of.

### 1. Unfair Dismissal

The qualifying period for unfair dismissal will be reduced from two years to six months with effect from 1 January 2027. The right to claim unfair dismissal will not be a ‘day one’ right, as was previously expected. This means that employees starting on or after 1 July 2026 will benefit from protection from unfair dismissal if they are dismissed on or after 1 January 2027 (i.e. after just six months’ service). Employers should plan updates to probation and performance processes in early 2026, ensuring that employees who are not the right fit for the business early on are let go before they accrue the right to a full dismissal process and the ability to raise a claim.

The current cap on compensatory awards for unfair dismissal claims (currently, the lower of 52 weeks’ pay or £118,223) will also be removed from 1 January 2027. This will materially increase the potential cost and risk of dismissing higher earners and could reshape the dynamics of senior exits. Early settlement of disputes on (relatively) certain terms is expected to become less likely. While the overall volume of claims may rise, high earners may have less incentive to bundle in discrimination or whistleblowing claims purely to access uncapped remedies. In this environment, getting the basics right (a fair process, clear rationale for dismissal, and consistent documentation) will matter more than ever.

Finally, the ERA extends the employment tribunal time limit for most claims from three to six months, expected in October 2026. Although this may increase the volume of claims brought, pressure should ease with the period for compulsory ACAS Early Conciliation extended from six to twelve weeks.

Taken together, these changes will make it harder to terminate short-term or seasonal contracts fairly, leading to greater financial exposure for food and drinks employers. For permanent employees, active performance management during probationary periods (which should now be less than six months) will be critical.

### 2. Zero-Hour Contracts

The ERA grants eligible workers on zero-hours, other low-hours contracts and agency workers the right to be offered a contract that reflects the hours they routinely work. It also introduces new entitlements for certain variable-hours workers to receive reasonable advance notice of shifts and to be compensated when shifts are cancelled, rescheduled or reduced at short notice. We await the outcome of government consultation on these complex changes, including crucially the detail of the provisions (timeframes etc) to see just how onerous they will be on businesses and whether there is any exception built in for seasonal or short term workers. Further information is expected later this year, with implementation likely in 2027.

Given the seasonal fluctuations in food and drinks business operations and the need for flexibility, compliance with these new rules may be a significant time drain, affecting budgets and scheduling systems. Agency workers are also caught by these changes, and agencies are likely to pass on their increased costs to the end hirer client.

### 3. Dismissal and Reengagement

Much stricter controls are due to come into force for 'fire and rehire' practices. From January 2027, when an employer dismisses an employee because they did not agree to a restricted variation in their contract of employment, this will be automatically unfair. A restricted variation includes changes to terms such as total hours, pay or pensions. If the variation falls outside the list of restricted variations (e.g.. place of work, role) then any subsequent dismissal will not be automatically unfair. However, these non-restricted variations will be subject to separate enhanced protections that seek to ensure employers engage in meaningful consultation with employees and their representatives.

This will affect all businesses, but may have a disproportionate adverse effect on cost-pressured parts of the industry. It will be increasingly important to ensure collective restructuring and contract amendment processes are well planned, properly documented and compliant with the new requirements.

### 4. Tipping

One change specifically aimed at the hospitality industry is the tightening of tipping law in October 2026. The ERA introduces a new requirement for employers to consult with workers at their place of business when developing or revising their tipping policies and a requirement for the written policy to be reviewed at least once every three years. The Government currently has a public [consultation](#) open on these rules and on the statutory Code of Practice on the fair and transparent distribution of tips.

### 5. Statutory Sick Pay ("SSP")

From April 2026, SSP will be available from day one of any absence, and the lower earnings limit eligibility requirement (currently £125 per week) will be removed. This means that the three day waiting period before an employee can receive SSP will be removed and all employees will be entitled to receive it. These changes will increase costs to business (particularly small businesses), possibly resulting in higher sickness absence.

### 6. Family Rights

The ERA enhances family friendly rights by making statutory paternity and unpaid parental leave available from the first day of employment from April 2026 onwards. The previous 26-week qualifying period for paternity leave and the one year qualifying period for parental leave will be eliminated. Additionally, employees will be allowed to take paternity leave after a period of shared parental leave, which is currently not permitted under legislation.

Many employees on short contracts are going to acquire rights they previously have not had. Given the nature of work in the food and drinks sector, this may impact budgeting and workforce planning.

### 7. Trade Unions and industrial relations

Changes to industrial action notices and ballots, and increased protections from detriment and dismissal for employees taking part in industrial action, come into force on 18 February 2026. The process for Trade Union recognition is also being simplified in April 2026. From October 2026, Trade Unions will gain workplace access rights and employers will have a new duty to inform staff of their right to join a Trade Union.

These changes provide greater rights to Trade Unions and employees. They will not only impact historically unionised businesses, but all employers may now need to engage with Trade Unions and should consider an industrial relations plan as part of their business operations.

#### Summary and key action points

With ERA changes taking effect from April 2026, employers in the food and drinks sector should review their policies and procedures now, watch this space and keep up to date with consultations and regulations as they progress. Practical steps employers should be taking are as follows:

- Audit processes around vulnerable worker categories (zero and low hours, shift workers, agency workers, employee status questions).
- Train managers on new protections (performance management, dismissal, flexible working, harassment, Trade Union rights).
- Review redundancy and restructure procedures.
- Update payroll processes for new statutory entitlements.
- Consider industrial relations strategies.
- Update contract terms for new starters - shorter probationary periods, amend SSP entitlements, reflect guaranteed hours and shift notice rights, where necessary.
- Review performance management processes.

Find out more: [ERA webpage](#)

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