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## Employment Rights Act 2025: latest developments on unfair dismissal and zero hours contracts

The Government has published the [implementing regulations](#) for the main changes to **unfair dismissal** under the Employment Rights Act 2025 (ERA 2025) – the reduction of the qualifying period to six months and the removal of the cap on compensation, both taking effect from 1 January 2027.

The six-month qualifying period will apply where the effective date of termination (EDT) falls on or after 1 January 2027. The EDT is the date of expiry of notice, or the date of termination where no notice is given. One of the pitfalls awaiting employers under the new unfair dismissal regime is that, under the regulations as drafted, the six-month qualifying period can apply where the employee is dismissed **before** 1 January 2027 if the minimum statutory notice is not given, because in that situation section 97(2) of the Employment Rights Act 1996 extends the EDT to the date the minimum notice would have expired, thereby taking the EDT beyond 1 January 2027. However, the removal of the compensation cap will apply to dismissals only where the actual EDT is on or after 1 January 2027.

As promised, the Government is consulting on the ERA 2025 changes to **zero hours and similar contracts**. With effect from a date in 2027 yet to be fixed, employers will be required to make a “guaranteed hours offer” to zero hours workers, or those with guaranteed hours below a threshold level, whose contractual arrangements do not reflect the hours they regularly work. The consultation - [Ending one-sided flexibility: reforms of zero hours and similar contracts](#) - closing on 25 August, asks for views on the regulations which will contain the complex detail of the provisions. On most aspects, the Government has not yet decided on its approach, so there is a good opportunity for businesses to express their views on what might provide maximum flexibility. Responses can be made [online or by email](#).

Key issues are the threshold hours (likely to be between eight and 20 hours per week), the reference period over which the average hours worked will be measured (the Government’s preference is for an initial reference period of 12 weeks), and the requirement for the hours worked in the reference period to be regular. The consultation also asks questions about possible exemptions from the requirement to make offers and the circumstances in which limited term contracts, to manage periods of increased demand, will be permitted.

There are also sections on the new rights to reasonable notice of shifts and compensation for shifts cancelled, moved or curtailed at short notice.

## Employment Rights Act 2025: Implications for the financial sector

The ERA 2025 reforms have particular relevance for the financial services sector, as one of the largest and most heavily regulated sectors in the UK economy. In our recent [Horizon](#)

Scanning article, our Employment and Financial Regulation teams outline what is changing throughout 2026 and 2027, and what this means for the financial services sector. We explore what organisations should be aware of in relation to hiring and firing, contractual changes, harassment, and trade unions.

### Football referees were self-employed independent contractors for tax purposes

**Summary:** The First-tier Tribunal (Tax) has decided that football referees engaged by Professional Game Match Officials Ltd (PGMOL), the body overseeing their management, were self-employed independent contractors, not employees, for tax purposes. The relationship lacked the hallmarks of employment: ongoing mutual commitment, subordination, organisational integration into the undertaking, and economic dependency. The referees were skilled professionals participating voluntarily in a regulated framework, undertaking discrete engagements while retaining substantial autonomy and independence (*Professional Game Match Officials Ltd v HMRC*).

**Key practice point:** Although this long-running litigation is a tax case, it concerns the *Ready Mixed Concrete (RMC)* test, which is the basis of assessment of employment status more generally. It is of particular relevance to employers in a regulated environment taking on contractors, as well as for employment status assessments under the tax rules on off-payroll working for workers using their own personal services companies (IR35). The decision confirms that employment status is not established merely by satisfying the first two essential conditions of the *RMC* test of employment (mutuality of obligation and control); the third condition – an assessment of all the factors for consistency with a contract of service – must be considered on its own merits. Some factors pointing away from employment were clearly fact-specific, but others are of general application: the ability to withdraw from an accepted appointment was a strong indicator against employment status, as was the fact that PGMOL's control was regulatory rather than managerial. Considerable uncertainty remains, however, about the relative weight of the various factors and it would not be a surprise if there was a further appeal.

**Background:** In 2024, the Supreme Court confirmed that individual assignments between part-time referees and PGMOL could be contracts of employment for tax purposes, even though either party had a right to cancel the engagement without penalty and the "employer" did not have a contractual right to intervene in every aspect of the individual's performance. The Supreme Court decided that the first two conditions of the test established by *RMC* – sufficient mutuality of obligation and framework of control – were satisfied but sent the case back to the tax tribunal to decide on the third condition – whether the other provisions of the contract were consistent with an employment contract.

**Decision:** The tax tribunal decided that the third *RMC* condition was not satisfied. The individual match engagements between PGMOL and the referees were not contracts of employment; they were contracts for services performed within a framework of regulatory oversight designed to preserve independence, integrity and high officiating standards.

Key factors in the decision were that the referees' obligations were episodic and entered into by choice. Control by PGMOL was regulatory and gatekeeping in nature rather than managerial or supervisory. Referees were not integrated into PGMOL's organisation as employees. Economically, they were not dependent on PGMOL and could disengage without material financial consequence.

**Comment:** The decision has added to concerns that HMRC's Check Employment Status for Tax (CEST) tool, which indicates that mutuality of obligation and control will generally be enough to establish employee status, is unreliable and needs to be reviewed.

### Change to terms of discretionary bonus after approval by manager was unlawful deduction from wages

**Summary:** The Employment Appeal Tribunal (EAT) upheld a claim for unlawful deduction from wages by an employee whose discretionary bonus based on sales revenues had been capped by the employer after it had been approved by his manager. The entitlement arose once the bonus decision had been made, subject only to quantification once the sales figures were known (*Chandrashekarappa v Wipro Ltd*).

**Key practice point:** Once the discretionary bonus had been awarded and the original conditions satisfied, the entitlement crystallised and the employer was not entitled to change the basis of the calculation or add further conditions. The

employee was able to make an unlawful deduction from wages claim in the employment tribunal to enforce payment, without the £25,000 limit on compensation applicable to a breach of contract claim.

**Facts:** In March 2020, the employer made a presentation to sales staff about the introduction of a new “kitty bonus”. Employees were told that they could receive up to 1% of the fees invoiced to a client, based on approval from the sector lead. On 1 July 2020, the employee’s line manager asked for, and immediately received, approval from the sector lead that he should receive the full 1% from a sales contract that had been completed a week earlier. The line manager informed the employee that approval had been provided. However, a few days later, the sector lead and an HR manager indicated that approval from more senior managers was required and that there was a cap of \$150,000 on his entitlement. On 15 December, the line manager emailed the employee to say that he had been awarded a bonus of 1% of the deal, capped at \$150,000. Without a cap, the bonus would have been £516,082. The capped bonus was paid in February 2021.

The Employment Tribunal rejected the employee’s unlawful deductions claim, accepting the employer’s argument that there was no entitlement until the declaration on 15 December of a lower bonus based on the application of the cap. The employee appealed.

**Decision:** The appeal was allowed and the EAT substituted a finding that the employee was entitled to the full 1% bonus, less the \$150,000 that had been paid to him. The employer had put forward terms under which the discretionary bonus would be awarded, and those terms had been satisfied by the employee. It was not open to the employer to then “move the goalposts” by attaching further conditions. As at 1 July 2020, the line manager had exercised his discretion in accordance with the parameters established at the March 2020 presentation and the entitlement to a bonus of 1% of the client fees had arisen and was subject only to quantification once those fees were calculated.

## Horizon scanning

What key developments in employment should be on your radar?

Expected effective date	Development
19 June 2026	Data (Use and Access) Act 2025: employers required to have data protection complaints process
August 2026	ERA 2025: electronic and workplace balloting (for trade union ballots) in force
1 September 2026	New rules and guidance on non-financial misconduct in financial services
October 2026	ERA 2025: further provisions in force, including employers required to take all reasonable steps to prevent sexual harassment of employees and employer liability for third party harassment; enhanced protections against industrial action detriment; further trade union measures (strengthening rights of access, employer duty to inform workers of right to join, enhanced protections for reps)
1 October 2026	Expected extension of employer right to work checks to working arrangements other than under a contract of employment, under section 48 Border Security, Asylum and Immigration Act 2025
1 October 2026	ERA 2025: increase in employment tribunal time limits from three to six months
January 2027	ERA 2025: reduction of unfair dismissal qualifying period to six months and removal of compensation cap, where the effective date of termination is on or after 1 January 2027; fire and rehire protections
2027	ERA 2025: further provisions in force, including new collective redundancy consultation threshold; certain NDAs to be unenforceable to the extent they prevent workers from making allegations or disclosures about workplace harassment or discrimination; mandatory gender pay gap action plans; right to guaranteed hours for zero hours and similar contracts; enhanced dismissal protections for pregnant women/new mothers; bereavement leave; changes to flexible working requests; electronic and workplace balloting (recognition and derecognition)
Uncertain	Mandatory ethnicity and disability pay gap reporting

We are also expecting important case law developments in the following key areas during the coming months:

**Discrimination / equal pay:** *University of Bristol v Miller* (EAT: whether anti-Zionist beliefs were protected philosophical beliefs and summary dismissal was discriminatory); *Corby v Acas* (EAT: whether opposition to critical race theory was a protected belief); *Thandi v Next Retail Ltd* (EAT: whether there was a material factor defence to an equal pay claim by shop floor sales staff seeking to compare themselves with warehouse staff); *Lister v New College Swindon* (EAT: whether discrimination was due to objectionable manifestation of belief); *Augustine v Data Cars Ltd* (Supreme Court: whether part-

time status must be the sole reason for less favourable treatment); *Bailey v Stonewall Equity Limited* (Supreme Court: whether a complaint by a third party caused or induced discrimination)

**Employment contract:** *Gagliardi v Evolution Capital Management LLC* (Court of Appeal: whether employer was in breach of contract in failing to pay discretionary bonus)

**Industrial relations:** *Jiwanji v East Coast Main Line Company Ltd* (EAT: whether a pay offer directly to staff during collective negotiations was an unlawful inducement)

**Unfair dismissal:** *Stobart v Zen Internet Ltd* (Court of Appeal: whether capability dismissal of senior executive was unfair; *Polkey* assessment of compensation)

**Whistleblowing:** *Wicked Vision v Rice* (Supreme Court: whether employer could be vicariously liable for whistleblowing dismissal detriment); *Argence-Lafon v Ark Syndicate Management Ltd* (Court of Appeal: whether employee was dismissed for making protected disclosures or because of subsequent behaviour).

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