

A man with glasses and a beard, wearing a light-colored blazer over a blue shirt, is smiling and looking down at a document. A woman with curly hair, wearing a blue blouse, is leaning over him, also smiling and looking at the document. They are in an office setting with bookshelves in the background.

WHITEPAPER

The UK Employment Rights Act 2025

Implications for Employment Practices
Liability (EPL) Insurers



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Executive Overview

The UK Employment Rights Act 2025 (ERA) represents the most significant recalibration of employment protections in decades, and a material shift in the risk environment for Employment Practices Liability (EPL) insurers. While positioned as legislation to improve job security and workforce participation, the Act fundamentally alters employers' responsibilities and terms upon which disputes are resolved.

Once implemented, the ERA is expected to increase tribunal claim volumes, extend claim lifecycles, and heighten both indemnity severity and defence cost exposure under EPL policies. Several provisions also weaken traditional friction points that historically constrained claim frequency, including reduced qualifying periods and short limitation periods.

This paper examines the most consequential elements of the ERA through the lens of EPL risk, and reflects on implications for Employers Liability (EL) cover, outlining how carriers should expect claims behaviour, loss costs, and settlement dynamics to evolve as the legislation comes into force through 2026 and 2027.



Why the Employment Rights Bill Matters to EPL Insurers

EPL portfolios have long relied on structural limitations within UK employment law, such as lengthy qualifying periods for unfair dismissal and relatively short claim limitation windows, to moderate both claim frequency and severity. The ERA materially dilutes these protections.

Understanding where and how these pressures will surface is essential for underwriting discipline, pricing adequacy, reserving accuracy, and claims strategy.

For insurers, the cumulative effect of the Bill is not simply incremental change, but a re-shaping of the EPL risk profile, characterised by:

- A significantly expanded pool of eligible claimants
- Increased short-tenure and procedural claims
- Greater exposure to high-value unfair dismissal and harassment settlements
- Higher defence costs driven by longer, more complex disputes



Legislative Changes Most Likely to Drive EPL Losses

Impacts of new legislation for workers rights with respect to employers and liability.



Reduced Qualifying Period for Unfair Dismissal

Employees will be eligible to bring unfair dismissal claims after six months of employment, a substantial reduction from the previous two-year threshold under the 1996 ERA. While the original proposal for day-one rights has been abandoned, this still represents a fundamental shift in early-tenure dismissal exposure.

In parallel, the Bill proposes removal of the compensation cap, which currently limits awards to the lower of 52 weeks' gross pay or the statutory maximum (£118,223).

Expected implementation: January 2027

EPL impact:

- **Material increase in claim frequency, particularly among short-service employees**
- **Expansion of exposure in sectors with high workforce turnover**
- **Increased settlement values for higher-paid employees, driven by uncapped losses**
- **Longer claim durations and higher defence costs due to more complex loss assessments**



Zero-Hours Contracts and Shift Predictability

While zero-hours contracts remain lawful, qualifying workers will gain:

- The right to guaranteed hours following a reference period (anticipated to be 12 weeks)
- Protection requiring reasonable notice of shifts, changes, or cancellations

Expected implementation: 2027

EPL impact:

- Increase in low-to-mid value procedural tribunal claims
- Short-tail frequency losses driven by scheduling disputes
- Higher exposure in retail, hospitality, logistics, and care sectors
- Increased defence costs relative to indemnity values





Strengthened Flexible Working Rights

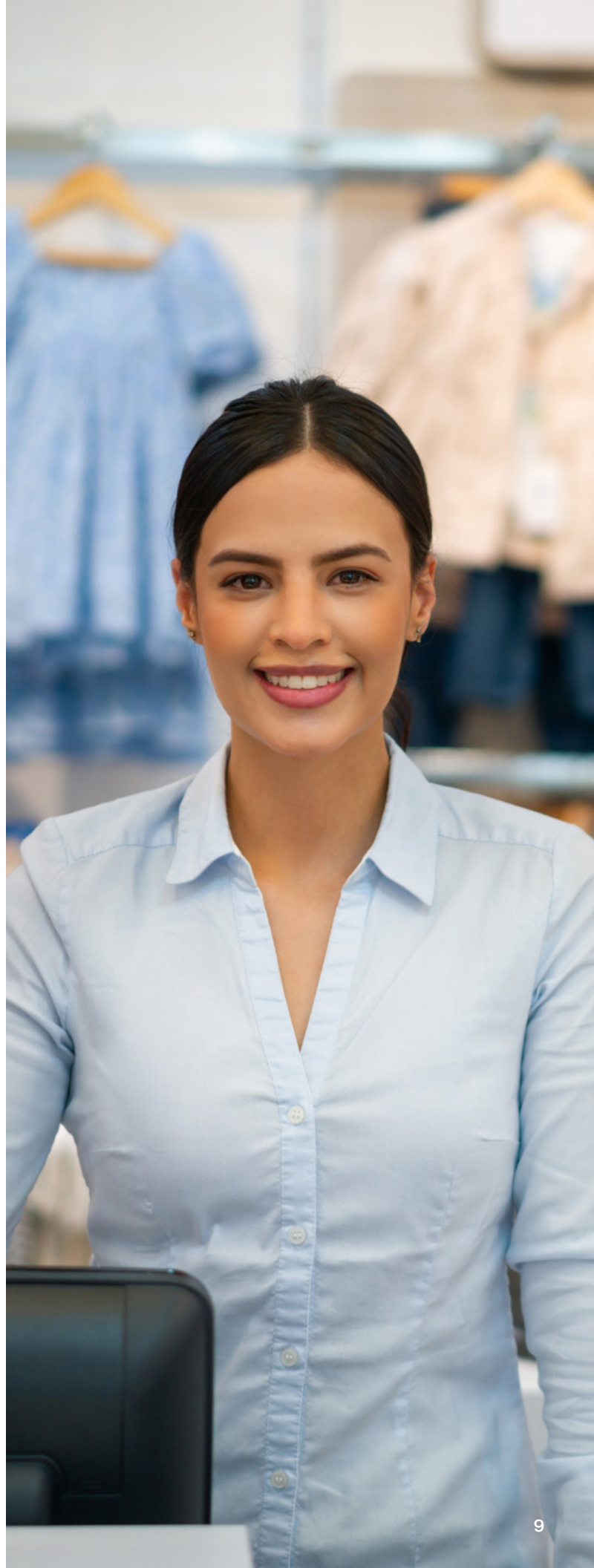
Employees may request flexible working from their first day of employment. Requests can only be refused on one or more of eight prescribed business grounds, tightening employer discretion.

Expected implementation: 2027

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EPL impact:

- Increased procedural disputes escalating into discrimination claims
- Increased exposure in managerial and professional roles
- Higher settlement leverage where refusals are poorly documented





Fire-and-Rehire Restrictions

Dismissals linked to refusal of worsened contractual terms – covering pay, hours, pensions, shifts, and benefits – may be deemed automatically unfair, unless strict conditions are met.

Replacing dismissed employees with self-employed contractors performing substantially the same work will also be automatically unfair, except where the employer faces genuine financial collapse.

Expected implementation: October 2026

EPL impact:

- **High-severity unfair dismissal claims**
- **Greater scrutiny of employer financial justification, increasing defence complexity**



Strengthened Harassment Protections

Since October 2024, employers have been required to take reasonable steps to prevent workplace harassment. The ERA raises this threshold to “all reasonable steps” and extends liability to harassment by third parties, including customers and members of the public.

Tribunals retain the power to uplift compensation by up to 25% where employers fail to meet this duty.

EPL impact:

- Significant severity risk, particularly in sexual harassment claims
- Expanded loss perimeter due to third-party conduct
- Heightened exposure in healthcare, retail, hospitality, transport, and social care
- Increased settlement pressure as compensation uplifts become mandatory rather than discretionary

Employers Liability (EL) impact

Although an Employment Tribunal is likely to remain the usual forum for claims arising from the increased duties to prevent harassment, there is some exposure for employer's liability insurers.

There are short limitation periods for bringing a claim in an Employment Tribunal (see below) but as a general rule, a personal injury claim can be brought up to three years after the injury developed. An EL claim may therefore be pursued against an employer out of necessity, where the limitation period for an Employment Tribunal claim has passed.

A claimant must of course demonstrate they have suffered an identifiable psychiatric injury rather than distress or upset when bringing a personal injury claim because of alleged harassment, such as Post Traumatic Stress Disorder or Generalised Anxiety Disorder.

From October 2026, an employer must take all reasonable steps to prevent harassment of an employee by a third party such as a customer or client. It is important to note that the duties imposed on an employer under the ERA apply only to sexual harassment and harassment because of a protected characteristic under the Equality Act 2010, namely age, race, religion/belief, disability, sex, pregnancy, sexual orientation, gender reassignment and marriage/civil partnership status. For example, the ERA does not impose any additional duty on an employer to prevent harassment such as stalking, either by employees or third parties.

It is well established that an employer is vicariously liable for harassment (not restricted to a protected characteristic) by one employee to another where there is a course of conduct which amounts to a criminal offence under the Protection From Harassment Act 2007-see *Majrowski v Guy's and St Thomas's NHS Trust* (2006).

In light of the new ERA employers should take proactive steps to demonstrate they have taken all reasonable measures under the ERA to prevent harassment and mitigate exposure for personal injury claims, such as:-

- Review Risk Assessments for harassment, to include potential risks when dealing with third parties including public and customers
- Provide training and refresher training for managers and employees to recognise harassment
- Establish clear channels for reporting harassment
- Record all incidents of harassment to establish areas of risk
- Thoroughly investigate all reports of harassment and take appropriate recorded action
- Incorporate anti-harassment clauses in contracts with suppliers and request their Anti-Harassment Policy
- In appropriate instances display notices stating that harassment and inappropriate behaviour towards an employee will not be tolerated
- Have a clear Anti-Harassment and Equal Opportunities Policy which is communicated to all employees



Extended Limitation Period

The timeframe for bringing employment tribunal claims will be extended from three months to six months.

EPL impact:

- Increase in claim frequency
- Longer tail risk and delayed claim reporting
- Increased difficulty in early resolution and evidence preservation

Portfolio-Level Impact on EPL Losses

The Government's initial Economic Analysis Report projected a 15% increase in tribunal claims, equivalent to approximately 4,750 additional claims annually. Although this estimate was driven partly by now-abandoned day-one unfair dismissal rights, updated analysis still points to a meaningful increase in claims volume.

Key contributors include:

- Approximately 1,750 additional claims arising solely from the extended limitation period
- Around 850 ET1 claims from new rights relating to shift notice
- Approximately 300 ET1 claims linked to guaranteed hours provisions

From a severity perspective, removal of the unfair dismissal compensation cap is unlikely to materially affect median awards but introduces meaningful tail risk for higher-paid employees. Historically, statutory caps curtailed indemnity exposure and limited defence costs by discouraging prolonged disputes. Their removal increases both settlement values and litigation complexity.

EPL carriers should also anticipate:

- Higher Defence costs driven by more complex claim evaluations
- Increased complexity of loss calculations (bonuses, equity, pensions)
- Higher defence-to-indemnity ratios, particularly in procedural claims



Conclusion

The Employment Rights Act marks a decisive shift in the UK employment litigation landscape and a step change in EPL, and some elements of EL. exposure. Collectively, its provisions expand the claimant pool, lengthen dispute timelines, weaken traditional barriers to claim initiation, and materially increase both indemnity and defence cost risk.

While some early proposals were moderated, the overall trajectory is clear: higher claim frequency, increased severity in dismissal and harassment cases, and greater volatility across EPL portfolios. These impacts will emerge progressively from 2026 onwards and therefore for EPL insurers, proactive adjustment – rather than reaction – will be critical. Carriers that reassess underwriting assumptions, pricing adequacy, and claims strategies in advance of implementation will be better positioned to manage the transition and maintain sustainable EPL profitability in an increasingly claimant-friendly environment.

Crawfords Specialist Liability Services has dedicated Financial Lines and Complex Employers Liability teams, conducting Management Liability Portfolios, with a range of complex and high value EPL losses, on behalf of leading market carriers. Our team are experts in managing end to end case strategies across complex EPL and EL coverages. If we can assist you with developing a claim management solution, please do not hesitate to contact Lindsay Bowskill, Director of Financial Lines or Craig Faulkner, Technical Director.

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Lindsay Bowskill, LLB, MBA, Solicitor, (Higher Courts Advocate)

**UK Director of Financial Lines
Specialist Liability Services**

M +44 (0) 7786 312775
E Lindsay.Bowskill@crawlco.co.uk



Craig Faulkner FCII CIP

**Technical Director
Crawford Casualty**

M (+44) 07393 236423
E craig.faulkner@siscrawlco.co.uk

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