Retail Risk Outlook
Employment and pensions

For what comes next

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Contents

Introduction

In this Retail Risk Outlook: Employment and pensions edition, we focus on the key developments taking effect over the next 12 months and beyond, explaining what is changing, why it matters for retailers, and the practical steps businesses can take now to prepare.

As 2026 unfolds, retailers are moving from anticipation to implementation of some of the most wide-ranging employment and pensions reforms seen in a generation. The Employment Rights Act 2025 (ERA) is now firmly in motion, with the first wave of changes already in force and further significant reforms scheduled to take effect through 2026 and into 2027. For retail employers, this marks a pivotal shift from future planning to practical delivery.

The retail sector's reliance on flexible staffing models, multi-site operations and customer facing roles means it is particularly exposed to these developments.

Changes to unfair dismissal rights, collective consultation thresholds, trade union access and fire and re hire practices will require retailers to reassess long held approaches to workforce management, contractual change and employee relations.

Alongside employment reform, 2026 is also a critical year for pensions and reward strategy. Record funding levels in defined benefit schemes are prompting renewed focus on surplus extraction and end game planning, while forthcoming changes to salary sacrifice arrangements raise important questions about future cost modelling and employee engagement around pension saving.

Those organisations that begin adapting their strategies now rather than waiting for final detail will be best placed to manage risk and maintain operational resilience.

We hope you find this report useful in planning for the months ahead. If you have any questions about these changes or would like assistance in preparing for them, please get in touch.

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The Employment Rights Act

Impact H

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What's changing?

The Employment Rights Bill received Royal Assent on 18 December 2025, becoming the Employment Rights Act 2025 (ERA). This landmark legislation introduces the most significant employment law reforms in decades, substantially altering employment across the UK. The ERA introduces wide-ranging reforms across employment rights, redundancy procedures, equality duties and trade union law.

Only one reform came into force immediately, with most changes being implemented on a phased basis through to 2027. Although we now have the ERA, many key details remain unclear and will be subject to government consultations and secondary legislation over the coming months.

For the retail sector, characterised by flexible staffing models, shift patterns and customer-facing operations, the ERA will fundamentally reshape workforce planning and day-to-day people management.

In the articles below, we explore the key ERA reforms most relevant to the retail sector and their impact for retail employment practices.

What should retailers do to prepare?

The reforms are likely to result in increased administration, higher employment costs and greater litigation risk. Early preparation is critical, though we recognise the challenge this presents given many ERA reforms require secondary legislation before the full details will become clear.

In the coming months we will see government consultations providing crucial detail and an opportunity for retailers to contribute as part of this to influence the final shape of the legislation.

Despite the uncertainty, retailers should begin strategic planning now to integrate these changes into workforce strategy. Starting preparation early, even whilst awaiting regulatory detail, will help your organisation absorb the impact effectively and maintain operational resilience.

ERA: Unfair dismissal and Tribunal time limits

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What's changing?

From 1 January 2027, employees will gain the right not to be unfairly dismissed once they reach six-months' service – replacing the current two-year qualifying period. Where they succeed in a claim for unfair dismissal, the cap on compensation will be removed. These changes are likely to have significant practical and financial implications for retailers.

The reduction to the qualifying period is likely to result in a higher volume of unfair dismissal claims, as a wider pool of employees will benefit from legal protection. Conversely, we may see fewer whistleblowing or discrimination claims, sometimes used tactically by employees to bypass the current two-year qualifying period. Retailers may need to rethink how they manage early performance concerns and managers may be quicker to dismiss employees in their first six months if things aren't working out.

The removal of the cap on compensation has implications for senior executive exits. At present, senior executives are deterred from pursuing unfair dismissal claims because the maximum tribunal award falls so short of their true financial loss they are better off pursuing a contractual claim in the civil courts. However, those with six-months' service on 1 January 2027 will be able to recover the full value of their lost salary, pension contributions, bonuses and incentive arrangements, making tribunal litigation more attractive and exit negotiations potentially more costly and complex. It remains to be seen whether employers will carry out lengthy performance management processes with senior executives to mitigate financial risk.

It is not just negotiations with senior executives that may become more difficult to navigate. Settlement negotiations with lower-paid employees may become more challenging, particularly where litigants-in-person are unfamiliar with how financial loss is calculated in the tribunal.

Without a compensation cap, employers may struggle to persuade employees to reduce their financial expectations, and this may lead to difficulties in reaching a commercially sensible settlement. It also heightens the importance of following a fair process, even in lower paid, high turnover roles.

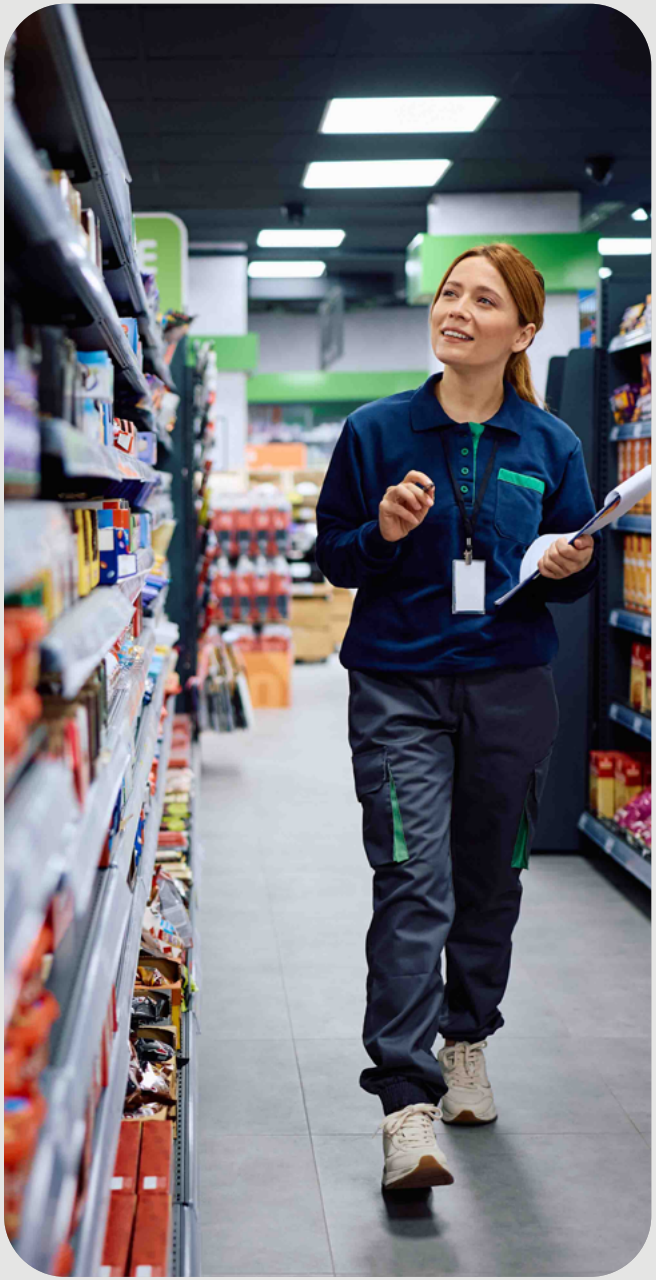
In October 2026, the time limit for bringing tribunal claims will increase from three to six months, except for breach of contract claims arising or outstanding on termination. Combined with the Acas early conciliation period (recently extended to 12 weeks) this could mean that an employer may not learn of a claim for several months, creating significant uncertainty.

Retailers are likely to see more Acas early conciliation requests and notices of claim, particularly when coupled with other ERA 2025 reforms such as those relating to unfair dismissal. On the positive side, the longer time limit may give parties more opportunity to negotiate, settle or mediate disputes before they progress to a hearing.

It is likely that these delays will prolong the time claims take to progress through an already stretched tribunal system, increasing the risk that witnesses' recollection of events will fade. Employees may have moved stores, left the business, or struggle to recall events. We may therefore see employers placing greater emphasis on mediation or commercial settlement to avoid claims remaining unresolved for long periods.

What should retailers do to prepare?

- Consider whether any existing performance or conduct issues require managing (where employees have less than 2 years' service) and take appropriate action before 1 January 2027.
- Review your recruitment and probation management processes now. Consider reducing probationary periods to four or five months. Remember: employees starting their employment on 2 July 2026 will have six-months' service by 1 January 2027, bringing them within scope of the new unfair dismissal protections.
- Provide training for HR teams and line managers on the changes and anticipate the impact on the business. Managers will need clear guidance on making quick decisions about attendance, performance and conduct.
- Review early dispute resolution processes, including budget sign-off procedures, so that claims can be resolved quickly once the extended time limits take effect. Revisit data-retention policies and systems to ensure evidence is preserved for witnesses who may need to attend hearings a long time after the relevant event.



ERA: Trade union reforms

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What's changing?

The first wave of trade union reforms came into effect in February 2026 including:

- Simplification of notices of intention to ballot, and ballot papers;
- Reduction of notice of industrial action from 14 to 10 days;
- Protection from dismissal where employees are taking protected industrial action;
- Removal of the requirement for union supervision of picketing;
- Extension of the mandate for industrial action from six to twelve months.

Further details can be found in our January edition of **'Looking Ahead'**.

In April 2026 the government simplified the statutory recognition process by:

- removing the requirement at the application stage (and at other stages of the recognition scheme) for a union to show there is likely to be majority support for recognition; and
- removing the 40% support threshold from recognition ballots (only a simple majority is now needed).

Note that the current 10% support threshold for the Central Arbitration Committee (CAC) to accept an application for recognition will be replaced with a threshold of between 2% and 10%, but not until further regulations are passed.

The government has recently confirmed that electronic and workplace balloting will be introduced no earlier than August 2026. It is likely that the 50% turnout threshold will be removed around the same time, as will changes to the information required for members in ballots. Electronic and workplace balloting will not apply to recognition and derecognition ballots until 2027.

In October 2026, all employers will be required to inform workers of their right to join a union. Trade unions' right of access to workplaces will also be strengthened. Qualifying unions could include those which are not yet recognised by their employer, especially if no union at all is yet recognised. Unions will be able to request physical and digital access to workers for meeting, organising and representing them and facilitating collective bargaining.

Where an access agreement cannot be reached between an employer and a union, the CAC can step in. The government will also seek to remove unfair practices in the recognition process and will give trade union representatives the right to reasonable facilities and accommodation to carry out their duties. Protection against detriment for taking industrial action will be strengthened.

The reforms under the ERA 2025 clearly pave the way for increased trade union activity in the retail sector. The shorter notice period and increased mandate for industrial action may make it more difficult for retailers to make contingency plans during peak periods.

Given their high profile and significant population of lower-paid workers, we anticipate that larger non-unionised retailers will be targeted as a priority by unions seeking increased access rights and/or statutory recognition once the reforms come into effect.

What retailers should do to prepare?

For retailers who are already unionised we recommend you:

- Where possible, develop and strengthen relationships with trade unions to foster a collaborative partnership;
- Improve non-union employee engagement to ensure staff feel heard and represented;
- Prepare for potentially higher trade union membership – where a union is recognised, higher membership numbers may strengthen their hand in negotiations as the threat of industrial action may carry more weight;
- Where possible, try to reach accommodations with unions on access to avoid encouraging a formal application;
- Review and where necessary develop agile response protocols for strike preparation and business continuity plans (looking forward twelve months, rather than six), as there will be a longer mandate and less time to prepare;
- Review accommodation and facilities currently available to trade union representatives.

For non-unionised retailers:

- Consider how access agreements might work at your organisation, including any operational constraints;
- Improve employee engagement to ensure staff feel heard and represented;
- Prepare for potentially increased union activity and visibility.

For all retailers:

- Ensure that HR and line managers are trained on the reforms;
- In due course, ensure compliance with the duty to inform employees of their right to join a union

ERA: Duty to prevent sexual and third-party harassment

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What's changing?

From October 2026, employers must take all reasonable steps to:

- prevent sexual harassment of workers in the course of their employment, widening the current duty to just take reasonable steps;
- prevent third-party harassment of workers in the course of their employment, including sexual harassment and harassment related to certain protected characteristics under the Equality Act 2010.

The government will publish further regulations on compliance, though these are not expected until 2027/28 following consultation. Retailers must therefore comply with the new duty before fully understanding the standards they are expected to meet.

The third-party harassment duty is particularly significant for retailers given the volume of customer-facing roles. Defending claims is likely to become harder where harassment has occurred, as it may be difficult to show that all reasonable steps were taken to prevent it.

Crime and Policing Act 2026

Separately from the ERA 2025, the Crime and Policing Act 2026 has received Royal Assent and will come into force on a date to be appointed. After a long campaign by the retail industry, this Act will introduce new measures to combat retail crime, including (i) a new offence of assaulting a retail worker, and (ii) removing the perceived immunity granted to shop theft of goods to the value of £200 or less.

What retailers should do to prepare?

- Update risk assessments to identify harassment risks.
- Monitor government consultation and consider contributing.
- In due course, revise HR policies and update supplier and customer contracts to address the new obligations.
- Train managers and staff on the new obligations, de-escalation techniques and responding to harassment incidents.
- Track implementation timelines for the Crime and Policing Act 2026.

ERA: Collective redundancies

Impact M

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What's changing?

The government is intending to reform the collective redundancy consultation rules, to take effect in 2027. This could have a significant impact on multi-site retailers. Under the current rules, employers must collectively consult when proposing to dismiss 20 or more employees as redundant at 'one establishment' within a period of 90 days. Despite the government's original intentions, this obligation will remain in place.

However, the government has left the door open for potential headaches going forward, particularly for multi-site retailers. Under the ERA 2025, the obligation to collectively consult will also be triggered where an employer proposes to dismiss a particular number of employees (to be confirmed) across more than one establishment. In other words, once that combined number is reached across multiple sites, the duty to collectively consult will apply.

This will mean that store closure programmes and/or transformation projects will no longer be limited to 'one establishment' and collective consultation obligations may be triggered across different parts of the business if the relevant threshold is met. The government is currently consulting on the thresholds for triggering collective redundancy obligations (closing 21 May 2026).

Where employees across different establishments need to be consulted, the government has clarified that employee representatives from different locations do not need to be consulted in the same place and that the same agreement does not need to be reached with all of them.

As a further deterrent to non-compliance, from 6 April 2026, the maximum protective award was doubled from 90 to 180 days' gross pay per affected employee where an employer fails to comply with its collective consultation obligations: in effect, half of the annual payroll.

Where collective consultation is taking place as part of a 'fire and re-hire' exercise, the maximum protective award potentially increases further to 225 days' gross pay per affected employee if an employer has not complied with the Statutory Code on Dismissal and Re-Engagement.

As a result, the cost of getting collective consultation wrong is much more substantial. We may see fewer employers choosing to make payments equivalent to a protective award as an attempt to circumvent the collective consultation process.

What should retailers do to prepare?

- Reflect on the necessity of any organisational changes and take appropriate action before the new provisions come into force.
- Keep a watching brief for further government consultations, including on a draft Code of Practice on collective redundancy obligations.
- For multi-site retailers: in anticipation of the ‘threshold number of employees’ being confirmed, review HR systems and processes to ensure that the business can be alerted when the requisite number of redundancies are being proposed across different establishments.
- Consider building longer lead times for consultation into transformation programmes. Factor in the higher protective award exposure when evaluating restructure decisions and timelines.

ERA: Fire and re-hire

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What's changing?

The government has recently confirmed that it intends to reform the law on dismissal and re-engagement (often referred to as 'fire and re-hire') in January 2027. Once these reforms take effect, it will be automatically unfair to dismiss an employee for refusing to agree to a 'restricted variation' to their contract of employment, except where an employer can meet a narrow 'financial difficulties' exception.

A 'restricted variation' broadly includes terms relating to pay, hours and holiday, and the introduction of a variation clause allowing contractual changes without employee consent. Where the financial difficulties exception applies, an employee's dismissal will not be automatically unfair and the usual test for ordinary unfair dismissal will apply. However, the exception looks to be an extremely high bar and only available in exceptional circumstances.

It will also become automatically unfair to dismiss an employee for the purposes of replacing them with a non-employee (e.g. an agency worker or contractor) who will carry out the same (or substantially the same) activities.

The protective award for failure to comply with collective consultation obligations was increased on 6 April 2026. It is worth noting that where an employer has also failed to comply with the Statutory Code on Dismissal and Re-Engagement, the protective award can be increased by up to 25%, resulting in a maximum award of 225 days' gross pay per affected employee.

These reforms will make it far more difficult for retailers to change contractual terms in response to changing business conditions and operational needs. In practice, reaching agreement with employees may become more challenging, and retailers could find themselves facing a stalemate unless they can rely on a unilateral variation clause.

Employees will undoubtedly have increased leverage to ask for pay increases or other benefits in return for agreeing to any detrimental changes to their terms and conditions. Where a stalemate cannot be broken, we may see an increase in proposed redundancies across the industry.

What can retailers do to prepare?

- Carry out a full audit of contractual terms: this reform will impact the entirety of an employee's contract, whether in a formal employment contract or other document, and whether express or implied.
- Consider whether you need to take any action in relation to staff terms and conditions before the stricter provisions come into force in January 2027, including whether to introduce a (carefully worded) unilateral variation clause. Ensure you are complying with the Statutory Code on Dismissal and Re-Engagement to mitigate the risk of being exposed to the higher protective award.
- Look for ways to build stronger employee engagement and strengthen relationships with any recognised trade unions, so that proposed changes are more readily supported. Any large-scale term harmonisation projects will require careful legal navigation and industrial relations management.

Pensions: DB surplus

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What's changing?

Defined benefit (DB) pension schemes are currently enjoying record funding levels, with a large proportion in significant surplus. Collectively, DB schemes in the UK are believed currently to hold a surplus of between £100 and £200 billion. Historically, surplus has been 'trapped' in these schemes by restrictive trust law considerations, legislation and pension scheme rules. However, the recently-passed Pension Schemes Act 2026 – in part, driven by the Government's aim that UK pension savings support economic growth by investing more in productive finance – aims to assist. It will give trustees a statutory power, from 2027, to amend their scheme rules to enable surplus to be released from ongoing schemes and shared with employers (and some members) under specific conditions.

There are no proposed restrictions on how employers can use any surplus; however, a tax charge on extracted surplus is currently set to remain at 25% (having been reduced from a rate of 35% in 2024).

What should retailers do to prepare?

Many retail businesses will have significant surpluses in their DB pension schemes. Retailers may wish to consider whether surplus release is an option for their scheme (alongside consideration of other 'end game' and ongoing options).

If retailers wish to take advantage of the change in law, for example to use surplus to invest in the business, reduce debt or improve other employee benefits, they will need to take advice on their scheme's funding levels, and prepare for discussions with their scheme's trustees.

We will keep retailers informed on any updates to the timeline and proposed changes.

Pensions: Salary sacrifice

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What's changing?

Many employers currently offer pensions 'salary sacrifice' arrangements as part of their reward offering, with employees agreeing a contractual reduction in salary in exchange for the employer paying both the employer and employee contributions amounts as an employer pension contribution. This means that the employer only pays NICs on the employee's lower post-sacrifice level of salary, with some also passing on part of the NIC saving they make to the employees. But from April 2029, salary-sacrificed pension contributions above an annual £2,000 threshold will no longer be exempt from NICs.

A significant percentage of businesses expect the changes to impact their retirement saving arrangements, with many considering a review of their contribution structures. In addition, with large numbers of basic rate taxpayers expected to be affected, employers may also find that their employees have concerns about pension saving generally.

What should retailers do to prepare?

Retailers should consider how the change will affect their reward offering and their staff.

Employers should take time and advice to ensure they understand how the changes may impact them as a business, and address whether they wish to take any steps to mitigate any increased costs they face.

Implementing any changes may require a review of contractual arrangements and consultation with employees in accordance with legal requirements. Retailers should ensure they communicate any changes clearly and effectively, and check that relevant systems are updated.

Affected employers should be prepared to face a rise in queries from members about the changes, the effect on their take home pay and pension contributions, and the actions they should take.

Health and Safety: spotlight on work-related stress

Impact L

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What's changing?

Whilst employer obligations have traditionally focussed on the physical aspects of the health, safety and welfare of employees under the Health and Safety at Work Act 1974 (HSWA), work-related stress (WRS) is receiving increasing attention.

According to the Health and Safety Executive (HSE), stress, depression and anxiety are the most reported causes of work-related ill health, with 22.1 million working days lost as a result according to **2024/2025 statistics**.

One of the HSE's strategic objectives for 2022-2032 is to reduce mental health and stress, and investigations into suspected organisational failures to manage WRS risks are on the rise. The HSE may investigate issues of work-related stress where:

- There is evidence of organisational failing;
- Several employees are experiencing WRS or ill health; and
- The HSWA can be applied.
- A recent notice of contravention served on the University of Birmingham in November 2025 demonstrates enforcement action will be taken for employer failures to manage the risks of WRS.

What should retailers do to prepare?

In the retail sector, employee risks of WRS are compounded by factors such as rising levels of retail crime and violence, staffing shortages and the pressure of customer facing roles. Retail employers face increased risk of scrutiny where these risks are not managed effectively. Retailers can mitigate the risk of HSE enforcement action by:

- Reviewing policies to ensure WRS is covered;
- Implementing risk assessments for WRS;
- Ensuring employee support, especially for high-risk customer-facing roles; and
- Ensuring managers are trained to recognise and respond to early stress indicators.

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