



geldards

A New ERA for Employment Law

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Employment PowerHour

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Agenda

Key changes coming into force in April 2026:

- Changes to Statutory Sick Pay
- Family-friendly day-one rights
- Increase in Redundancy Protective Awards
- Changes to Trade Union Rights
- Fair Work Agency
- How to Prepare

'For Women Scotland' case:

- Recent Cases and Developments
- Practical Implications for Employers

Changes from April 2026

Sick Pay

- Removal of Lower Earnings Limit
- Removal of waiting period - first full day of sickness absence not fourth
- 6 April 2026



Paternity and Parental Leave

- Paternity leave and unpaid parental leave will become a day 1 right from **6 April 2026**.



Collective Consultation Protective Award

- Increasing protective award to **180 days'** pay (from 90 days)
- Applies where employers fail to properly **consult** in collective redundancy situations
- Financial exposure doubled

Trade Unions

- Simplifying trade union recognition process on 6 April 2026
- Intended to make it easier for unions to achieve recognition and reduce procedural barriers

Fair Work Agency

- Fair Work Agency ('FWA') will be established on **7 April 2026**
- The FWA will:
 - bring together existing enforcement bodies
 - take on enforcement of other employment rights, such as holiday pay and statutory sick pay
 - have powers to investigate breaches, issues civil penalties and take action against labour exploitation.
- A statutory advisory board with business, trade union and independent representation will guide the agency.

Other Changes in April 2026

- Bereaved Partners' Paternity Leave
- Additional whistleblowing protections for sexual harassment.
- Menopause and gender pay gap action plans (voluntary)

How to Prepare

- **Review and Update** Contracts, Policies and Employee Handbooks
- **Train** Managers
- **Update** Payroll and HR Systems and Processes

Changes Coming After April

- Increased harassment protection – October 2026
- Unfair dismissal – 1 January 2027
- Fire and rehire – 1 January 2027

'For Women Scotland' Case



For Women Scotland Ltd – Ongoing Implications for Employers

- Does a trans woman with a full GRC qualify as a “woman” for the purposes of the Equality Act 2010?
 - The terms “woman”, “man” and “sex” in the Equality Act 2010 refer to biological sex
 - They do not include gender recognition status
- EHRC Guidance
 - Draft Code
 - Not specific guidance for employers

Peggie v NHS Fife Health Board and another

- Nurse suspended after objecting to sharing female changing room with trans doctor
- Doctor complained about comments made by the nurse and incidents where she had avoided dealing with the doctor in the department
- Disciplinary process concluded there was insufficient evidence to support the allegations
- Claims for harassment, victimisation, direct and indirect discrimination

Peggie v NHS Fife Health Board and another

- Tribunal found that the nurse had been harassed by failing to revoke the permission for the trans doctor to use the female changing room
- Other claims failed
- Conflicting rights requires a proportionality exercise
- Ignored the Workplace (Health, Safety and Welfare) Regulations 1992

Hutchinson and other v County Durham and Darlington NHS Foundation Trust

- Transitioning in Work Policy
- Requiring nurses to share the changing room with a biological male amounted to harassment and indirect discrimination
- Breach of the Workplace (Health, Safety and Welfare) Regulations 1992
- Failure to objectively justify

Implications for employers

- Single sex spaces
- Policies
- Practical alternatives
- Handling concerns and complaints
- Emotive subject



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Thank You

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