EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT TRIBUNALS EXTENSION OF JURISDICTION (ENGLAND AND WALES) (AMENDMENT) ORDER 2026

2026 No. XXXX

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee. This instrument relates to other statutory instruments that are being laid in a similar timeframe. Please see paragraph 11 for further details.

2. Declaration

2.1 Minister Sackman, Minister of State at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Rawfiah Choudry, Deputy Director, for Fees and Tribunals policy, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rachel Price at the Department for Business and Trade can be contacted by telephone at 07511880747, or email at the following address with any queries regarding the instrument: rachel.price@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Employment Tribunals Extension of Jurisdiction (England and Wales) (Amendment) Order 2026 amends the time limit for employees to present claims of breach of contract of employment or sums due under such a contract ('contract of employment claims') to the Employment Tribunal from three months to six months.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 In the plan to Make Work Pay, the Government committed to implementing the Law Commission's 2020 recommendation to increase the time limit within which employees are able to make a claim to the Employment Tribunal from three months to

six months, bringing the time limit for all claims in line with the time limit for statutory redundancy and equal pay claims.

5.2 Increasing the time limit for submitting a claim to the Employment Tribunal simplifies the approach to time limits for different types of claims, allows more time for employees and employers to resolve disputes without needing to go to an Employment Tribunal, and supports the preparation of robust cases. This results in less judicial time spent on establishing evidence or considering time limit extensions, better directing resources towards delivering justice.

5.3 The Employment Rights Act 2025 increases most Employment Tribunal time limits from three months to six months, with some time limits being amended via statutory instruments.

5.4 This statutory instrument increases the time limit for employees to present contract of employment claims to the Employment Tribunal from three months to six months, ensuring consistency with the changes to time limits made by the Employment Rights Act 2025, the Employment Tribunal (Extension of Time Limits) (Miscellaneous Amendments and Transitional Provisions) Regulations 2026, and the Employee Study and Training (Procedural Requirements) (Amendment) Regulations 2026.

What was the previous policy, how is this different?

5.5 The three-month time limit applied to most Employment Tribunal claims under employment legislation including the Employment Rights Act 1996 and the Trade Union and Labour Relations (Consolidation) Act 1992 and was originally set to support the fast and more informal method of making a claim through an Employment Tribunal. In recent years, the demand for Employment Tribunals has increased sharply and experience has shown that three months is no longer a realistic amount of time for many people to prepare a robust claim and raise funds for legal costs, as was noted by the Law Commission in 2020.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 to extend the three-month Employment Tribunal time limit for contract of employment claims brought by employees to six months in line with the amendments to time limits made by the Employment Rights Act 2025, the Employment Tribunal (Extension of Time Limits) (Miscellaneous Amendments and Transitional Provisions) Regulations 2026, and the Employee Study and Training (Procedural Requirements) (Amendment) Regulations 2026.

6.2 Article 3 makes transitional provision so that this amendment applies only where the effective date of termination of the contract giving rise to the claim – or, where there is no date of termination, the last day upon which the employee worked in the employment which has terminated - occurs on or after 1 October 2026.

Why was this approach taken to change the law?

6.3 We considered whether to amend this time limit through the Employment Rights Act 2025. We decided it would be more appropriate and in line with common practice to exercise existing delegated powers to make the amendment by secondary legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 In the Plan to Make Work Pay, the government set out its commitment to increasing Employment Tribunal time limits in line with the Law Commission recommendation in April 2020. As such, we have not undertaken a consultation in relation to this statutory instrument, which seeks to take forward the government's Make Work Pay manifesto commitment alongside the Employment Rights Act 2025.

7.2 However, we have considered the consultations carried out by the Law Commission and the previous government, which have informed our thinking on this measure.

7.3 The Law Commission consulted on Employment Law Hearing Structures in England and Wales between September 2018 and January 2019. Overall, the majority of consultees favoured increasing the Employment Tribunal time limit from three months to six months in all types of case, as this would help to address practical barriers for employees such as the need for time to complete internal grievance processes, delays in submitting claims, and financial constraints.

7.4 Following the consultation, the Law Commission published its report in April 2020, with 23 recommendations relating to Employment Tribunals, including increasing the time limit for all Employment Tribunal claims (including Equality Act 2010 based claims) from three months to six months.

7.5 The consultation summary and final report is available on the Law Commission's website at https://lawcom.gov.uk/project/employment-law-hearing-structures/#3-Documents

7.6 Government Equalities Office (now Office for Equality and Opportunity) also consulted on sexual harassment in the workplace between July 2019 and October 2019. The majority of respondents felt that the three-month time limit was too short. Several respondents also mentioned that the time limit is particularly insufficient in cases of pregnancy and maternity discrimination.

7.7 The consultation outcome was published in July 2021. The findings included support for a duty requiring employers to prevent sexual harassment, protections from third-party harassment, and extending time limits for Equality Act 2010 based cases to the Employment Tribunal from three months to six months.

7.8 The outcome and government response is available on GOV.UK at https://www.gov.uk/government/consultations/consultation-on-sexual-harassment-in-the-workplace/outcome/consultation-on-sexual-harassment-in-the-workplace-government-response

8. Applicable Guidance

8.1 The changes to Employment Tribunal time limits from three months to six months will be updated in existing guidance on making claims to an Employment Tribunal on GOV.UK on 1 October 2026. Notice of these changes will be provided on GOV.UK in advance of the changes coming into effect.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment ('IA') was prepared for the complete set of changes to Employment Tribunal time limits being made via the Employment Rights Act 2025 and related secondary legislation, including this statutory instrument, and is published at: https://assets.publishing.service.gov.uk/media/67c5725416dc9038974dbd3c/Impact_assessment_employment_tribunals_time__limits.pdf.

Impact on businesses, charities and voluntary bodies

9.2 The overall impact on businesses is uncertain. The monetizable impacts assessed in the IA show an Equivalent Annual Net Direct Cost to business (EANDCB) of £13.6m, largely driven by costs to businesses of familiarisation with the new rules and the estimated 5% increase in Employment Tribunal claims. Households are also expected to incur costs for taking claims forward but will have improved access to justice and potential redress. The overall impact of these measures is expected to be positive, however the quantifiable annual direct cost to households is assessed at £5.3m, driven by the costs associated with bringing an Employment Tribunal claim. There is no impact on charities and voluntary bodies, apart from impacts on the households of the employees of the charities and voluntary bodies, which has been assessed already, as set out above.

9.3 We were unable to quantify the impact on different businesses by size. However, small and micro businesses may face disproportionate challenges due to their limited resources. The policy aims to standardise time limits which will simplify and remove uncertainty in the system which will be beneficial for smaller businesses.

9.4 The impact on the public sector is an annual recurring cost due to increased demand on the government's enforcement system which is estimated to be £5.3m, made up of the cost to Acas of providing early conciliation to the additional cases and HMCTS of increasing tribunal capacity to meet the additional demand.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is a post-implementation review which will be conducted 5 years after the regulations come into force. The review will include a literature/rapid evidence review to understand what academic reviews of the measure and its outcomes have been undertaken and engagement with businesses to understand the costs and impact from the measure. We will also monitor the policy impacts utilising existing data sources.

10.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Sackman has made the following statement: "In accordance with section 28 of the Small Business, Enterprise and Employment Act 2015, I have considered whether it is appropriate to include a review provision in this instrument. I have concluded that it is not appropriate because an existing review mechanism has been agreed to consider the full impact of the changes to Employment Tribunal time limits being made via the Employment Rights Act 2025 and through this and other statutory instruments."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument relates to the Employment Tribunal (Extension of Time Limits) (Miscellaneous Amendments and Transitional Provisions) Regulations 2026, the Employee Study and Training (Procedural Requirements) (Amendment) Regulations 2026, and section 152 and schedule 12 to the Employment Rights Act 2025. Together that Act and the instruments will increase Employment Tribunal time limits from three to six months for the majority of Employment Tribunal claims. The planned commencement date for all these changes is 1 October 2026.

12. European Convention on Human Rights

12.1 Minister Sackman has made the following statement regarding Human Rights: "In my view the provisions of the Employment Tribunals Extension of Jurisdiction (England and Wales) (Amendment) Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").