POLICY NOTE

THE EMPLOYMENT TRIBUNALS EXTENSION OF JURISDICTION (AMENDMENT) (SCOTLAND) ORDER 2026

SSI 2026/327

The above instrument is made in exercise of the powers conferred by sections 3, 8(3) and 41(4) of the Employment Tribunals Act 1996. It is subject to the affirmative procedure.

Summary Box

The UK Employment Rights Act 2025 contains a measure to increase employment tribunal time limits from 3 to 6 months for the majority of claims in England, Scotland and Wales, as well as for industrial tribunals in Northern Ireland in certain circumstances. UK Government are taking forward secondary legislation to amend for England and Wales certain Employment Tribunal time limits that are contained in secondary legislation with an aim to have the changes take effect on the 1st October 2026.

There is separate secondary legislation which provides the ET time limit for employees' contract of employment claims brought by employees in Scotland - the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994. Employees' contract of employment claims include claims for breach of a contract of employment, or for a sum due under such a contract, where the claim arises or is outstanding on the termination of the employment.

Under The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, the power to amend this legislation via Order sits with Scottish Ministers, however this power may only be exercised with the agreement of the UK Secretary of State.

UK Ministers have written to Scottish Ministers to invite them to exercise this power with the agreement of the Secretary of State to ensure parity with the time limits for contract of employment claims by employees in England and Wales.,

The SSI will extend the time for employees to lodge a contract of employment claim from three to six months thus allowing more time for internal procedures to conclude, potentially reducing the number of tribunal claims by resolving issues earlier, particularly through ACAS conciliation.

Scottish Government officials have discussed these proposals with UKG and highlighted that, due to the Scottish Parliamentary election and summer recess periods, there is insufficient time for this change to be implemented by 1 October 2026 in Scotland to align with the timeline for England and Wales.

Policy Objectives

This proposed change will allow parity across the three Nations (England, Wales and Scotland) and ensure consistency by applying the same time limit to contract of employment claims as applies to statutory redundancy and equal pay claims. The extension from 3 to 6 months will strengthen worker protections, make enforcement more accessible and give workers a stronger platform to challenge unfair treatment.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility
The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Employment Tribunal (Extension of Jurisdiction) (Amendment) (Scotland) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This draft amending instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
Tribunal time limit change was introduced via a UK government amendment to the then Employment Rights Bill, following political commitments made by Labour before and after taking office. These commitments centred on enhancing workers' rights, improving access to justice, making the employment tribunal system fairer and delivering the "Make Work Pay" agenda.

Impact Assessments
An impact assessment regarding Child Rights and Wellbeing (CRWIA) has been completed and the Scottish Government has concluded that the proposal will have no impact on children's rights.

An Equality Impact Assessment in full is not required. This change will standardise the time limit for submitting a claim to the ET across the majority of complaint jurisdictions, resulting in a fairer system for all employees across all protected characteristics. This is included within UKG's overall impact assessment Employment Tribunal Extended Times – https://assets.publishing.service.gov.uk/media/67c5725416dc9038974dbd3c/Impact_assessment_employment_tribunals_time__limits.pdf

Financial Effects
Overall it is envisaged there will be no costs as this proposal makes a technical amendment to the existing time limit for lodging contract of employment claims in Employment Tribunals.

The Minister for Business and Fair Work confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Jobs and Wellbeing Directorate
25 August 2026