

## EMPLOYMENT LAW

### EMPLOYMENT LAW REFORMS

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**The most radical reform to employment law for decades was announced by the Business Secretary, Vince Cable, on 23 November, following the publication of the Government's Response to the Consultation on Resolving Workplace Disputes and the Red Tape Challenge Review of employment law.**

The main proposals arising from the Response to the Consultation on Resolving Workplace Disputes are:

- > to increase the qualifying period of employment for unfair dismissal claims to two years from April 2012
- > to consult on the introduction of "protected conversations" to enable employers and employees to talk about their workplace concerns, such as poor performance, without the fear that such a discussion may be used against them during the legal process if talks break down
- > to make mediation more accessible and less costly, especially for smaller businesses which often do not have the human resources expertise to deal with employee issues
- > to introduce compulsory mediation through Acas for all claims before being lodged with the Tribunal, in an attempt to engage parties in early conciliation without recourse to the Tribunal
- > to consult on the development of a rapid resolution scheme for quicker more cost-effective determinations in low value, straightforward claims
- > to modernise Employment Tribunals. Mr Justice Underhill, the outgoing president of the Employment Appeals Tribunal has been tasked with leading a fundamental review of the Employment Tribunal Rules of Procedure to deliver a streamlined procedural code. There are also proposals to change the rules regarding costs orders, witness statements and expenses and for Judges to sit alone in unfair dismissal cases
- > to amend the laws on Compromise Agreements (to be re-named Settlement Agreements) to give employers reassurance in using them for settlement of discrimination claims; to develop a standard text to reduce costs; and to enable them to cover existing and future causes of action without listing all claims or potential claims
- > to introduce financial penalties for employers who breach employment rights, payable to the Exchequer, subject to a discretion exercisable by Employment Judges to ensure that employers are not penalised for inadvertent errors.

The Business Secretary also announced that the government intends to launch a call for evidence on two proposals which may assist small businesses, namely, the introduction of a no-fault dismissal system for micro-businesses with fewer than 10 employees and the simplification of dismissal processes, including changes to the Acas Code or supplementary guidance for small businesses.

Proposals resulting from the red tape challenge include:

- > a call for evidence over on the consultation rules for collective redundancies and reduction of the 90 day minimum consultation period for more than 100 redundancies
- > a call for evidence on the simplification of the Transfer of Undertakings (Protection of Employment) regime
- > a proposal to consult regarding the regulatory regime for the recruitment sector
- > creation of a universally portable CRB check which can be viewed by employers online, from early 2013.

Clearly, most of these changes will be beneficial to employers, reducing claims and providing quicker and more cost effective procedures for resolving disputes. It is estimated that the reforms will deliver net savings to business of more than £10 million per year, with wider benefits to employers of more than £40 million each year. In proposing these reforms, however, the government says that it is not re-balancing employment law in favour of employers but striking a balance between protecting employees and creating an environment for employers, in particular small companies, which allows them to grow and expand.

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