

UK Employment Law Changes

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Government's efforts to spur economic growth lengthen the qualifying period for unfair dismissal claims and streamline Employment Tribunal procedures.

In April 2012, a number of changes to UK employment law will be introduced. This LawFlash explains the changes and examines the possible implications for UK employers.

Background

The current UK government launched its **Growth Review in November 2010, which aims to further economic prosperity in the UK**. As part of this effort, the government intends to change the UK's often lenient employment law to remove barriers to recruitment and support employers' and employees' efforts to resolve disputes at an earlier stage. The government also wants to ensure that businesses feel more confident when hiring new staff.

The government launched a consultation on Resolving Workplace Disputes in January 2011, which led to a number of proposed changes. This April, the first of those changes will come into force.

Key Change: Unfair Dismissal

On 6 April 2012, the qualifying period for unfair dismissal will increase from one to two years. This means that new hires will have to wait longer to receive statutory protection against unfair dismissal.

The change only affects new staff employed on or after 6 April 2012. As such, a number of employers will have taken advantage of this change by postponing start dates until after 6 April.

It is anticipated that employees who do not meet the service requirement but who want to bring a claim in any event may use other routes — such as discrimination or whistleblowing — to ensure their claims are not barred by this change in the law. This practice already happens with employees who do not meet the one year service requirement and, therefore, the incidences of other claims with no minimum service requirements may increase.

Other Changes

The rest of the April 2012 changes affect Employment Tribunal practice and procedure and, as such, their impact on employers may not be felt immediately. The changes are summarised below and will affect all cases presented on or after 6 April 2012 or, in the case of judges sitting alone on unfair dismissal claims, all cases heard on or after 6 April 2012.

- Witness statements will be "taken as read" unless the Employment Tribunal directs otherwise. This means that the Employment Tribunal will read the statements rather than have the statements read out loud to the Tribunal by the witnesses. This change should speed up proceedings.
- The maximum amount of costs an Employment Tribunal can award will increase from £10,000 to £20,000. In addition, the rules on deposit orders — which a party can be ordered to pay if their case has little reasonable prospect of success — will be changed to increase the maximum deposit from £500 to £1,000. As both cost awards and deposit orders are rarely made by Tribunals, the effect of these changes may be minimal. However, it should increase their deterrent value.
- Employment Tribunal judges will sit alone on unfair dismissal claims without any lay members unless the judge orders otherwise. Currently, two lay members sit alongside the judge. Typically, however, a claimant will bring a number of Tribunal claims rather than just an unfair dismissal claim alone; hearings of those multiple claims will not be affected by the change.
- The payment of state-funded expenses for a witness's attendance at the Tribunal will be withdrawn. As an alternative, Employment Tribunals will have a general discretion to order any party to pay any witness's expenses. The government had envisaged that only parties calling a witness pursuant to a witness order could be ordered to cover that witness's costs, but the amendment instead gives the Tribunals general discretion.

Future Changes

A number of future changes have also been proposed, including the introduction of fees for bringing a claim, a focus on early conciliation of claims by ACAS (the UK's Advisory, and financial penalties for employers that lose Tribunal claims ..

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