

## Employment Bulletin December 2011 - New Year's Resolutions?

In what it has described as the "most radical reform to the employment law system for decades" the Government has published what could well be its New Year's resolutions.

The main items on their list (which are still subject to Parliament's approval) include:

- **Increasing the qualifying period for unfair dismissal claims**

The plan is to increase the length of service needed to pursue a claim for unfair dismissal from 1 year to 2 years. It is hoped this will not only give employers more time to assess the suitability of employees but also the confidence to deal with anyone unsuitable without fear of being sued.

This is surely a Christmas cracker for all employers and the anticipated reduction in the number of unfair dismissal claims will be widely welcomed. However, there are concerns that it may backfire with a likely increase in the number of discrimination claims (where there is no length of service condition).

- **Making employees pay to pursue claims**

The Government wants to introduce fees for:

- i) issuing claims in the Employment Tribunal; and
- ii) proceeding all the way to a hearing.

It's been reported that the fees could be £250 and £1,000 respectively, but this has yet to be confirmed.

The aim is to deter people from issuing vexatious and/or unmeritorious claims. However, whether this will be enough of a deterrent remains to be seen.

Nonetheless it is likely to lead to a reduction in the number of claims from genuine Claimants with legitimate claims. However, to ensure access to justice there are plans for any fees to be reduced, or even waived, for people who cannot pay.

- **Penalties for employers**

There are plans to introduce financial penalties for employers that lose a Tribunal claim. The penalty would be in addition to any compensation awarded to the employee and would be payable to the Exchequer, not the employee (a gift from the Government to themselves!)

Its thought the penalty could be up to 50% of the compensation awarded by the Tribunal, subject to a minimum of £100 and maximum of £5,000.

## Other proposals

Other proposals the Government will consider in 2012 include:

- Simplifying dismissal processes
- Introducing 'no fault' dismissals for firms with fewer than 10 employees
- Introducing 'protected conversations' to allow employers to raise workplace issues without the risk of facing a Tribunal claim
- Modernising maternity and paternity leave rights (again!)
- Extending the right to request flexible working to all employees
- Reviewing the new rules on agency workers (which only came into force in October 2011!)
- Introducing a 'Rapid Resolution' scheme for resolving 'straightforward' claims

It's clear the Government has been thinking hard of ways to try and reduce the costs and demands on businesses. However, commentators aren't convinced that these changes will result in a dramatic fall in the number of Tribunal claims. Perhaps the real problem is the frequency and extent of changes to employment legislation, which only makes it increasingly difficult for businesses to stay up to date.

So will it really be a prosperous 2012 for employers? Lets hope so.

Our next Bulletin will be in February 2012, and so all that remains is for us to send you our best wishes for the festive season and wish you a happy New Year.

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