

Adrian Beecroft report on employment law: issues the Government is taking further or considering, or not taking forward¹

Issues that we are taking further or considering

1. Unfair dismissal – we have extended the qualifying period from one to two years (from April 2012).
2. Third-party harassment provision in the Equality Act – last week launched a consultation on the repeal of this provision.
3. Monitor the impact of the removal of the Default Retirement Age (DRA) – we are committed to reviewing the impact of the removal of the DRA in 2016.
4. Implement the employment tribunals *Resolving Workplace Disputes* reforms – we have already published the Government Response and implemented a number of changes to streamline employment tribunals.
5. Take forward the recommendations from the Employment Tribunal System Steering Board to improve consistency – being taken forward as part of the Fundamental Review of the Rules of Procedure by Mr Justice Underhill.
6. Look at streamlining the employment tribunal rules – being taken forward as part of the Fundamental Review of the Rules of Procedure by Mr Justice Underhill, and we will consult on any proposed changes in the autumn.
7. Introduce fees to employment tribunals – Ministry of Justice (MoJ) have consulted on proposals to introduce fees and a Government Response will be issued in due course. Cap awards in cases of discrimination – it would be illegal under EU rules to introduce a cap so this would not be achievable.
8. Criminal Records Bureau checks should address the issue of portability – these will be available through the introduction of a new portable disclosure service in early 2013.
9. Work Permit Checks – UK Border Agency plans to launch a new outsourced commercial service to ensure employers and public service providers are able to make quick and easy real time checks on the validity of biometric residence permits.
10. Make it easier to bring workers from abroad by improving the online application process for employers and remove requirement to advertise roles in JobCentre Plus – not taking this forward in full as the report has misunderstood the current system but from June 2012 jobs paying more than £70K or requiring PhD-level skills will no longer need to be advertised in JobCentre Plus.
11. No fault dismissal – we have issued a Call for Evidence on no fault dismissal for micro businesses, and this will close on 8 June.

¹ Position as of 22 May 2012

12. Remove gold-plating in TUPE – we issued a Call for Evidence on the TUPE rules which closed on 31 January and we are considering the responses. If there is a call for change, we would consult on any proposals.
13. Reduce the consultation period for collective redundancies to 30 days – we issued a call for evidence on the consultation rules which closed on 31 January. We will be consulting on proposals shortly.
14. Include No Win No Fee services as part of the broader review of tribunals. MoJ are taking forward recommendations of Lord Justice Jackson’s review of civil litigation costs which will have a beneficial impact on the employment tribunals system.
15. Review Employment Agency Regulations – we are reviewing the rules governing the recruitment sector.
16. Close Employment Agency Standards Inspectorate – we are reviewing how the recruitment sector is regulated.
17. Permanent exemption from duties to automatically enrol employees into a workplace pension for micro businesses of less than 5 employees. We are not taking this recommendation forward. We have, however, acted to give smaller businesses more breathing space, in the light of economic circumstances, by postponing the implementation of automatic auto-enrolment for small employers until the next Parliament.

Issues that we are not planning to take forward

18. Exempt micro businesses from various employment laws, which we are not planning to take forward (with exception of Pensions auto-enrolment).
19. Legislate to ensure Polkey reduction applies to basic award as well as compensatory award. We are not taking this forward as there are already several reasons for which a basic award can be reduced.
20. Simplify Immigration Law – Home Office not planning to take this forward because of broader immigration priorities but will keep this under review.
21. Scrap proposals for Equal Pay Audits – The Government is considering equal pay audits as part of the response to the Modern Workplaces consultation, and will make an announcement in due course.
22. Do not implement the Agency Workers Regulations - already proceeded to implement – but will be reviewing paperwork burdens in 2013.
23. Abolish the Gangmaster Licensing Authority (GLA) – the role of the GLA has been considered as part of the Red Tape Challenge and outcomes will be announced shortly.

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