

## Labour and Employment Client Service Group

From Bryan Cave, London

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## UK employment law changes for 2011

**This client briefing sets out the key changes to UK employment law expected to take place in 2011, including the just-announced changes to the default retirement age and paternity leave.**

### HR action items

Now is the time to consider updating staff handbooks and policies in light of the upcoming 2011 changes in the law. For businesses regulated by the UK's Financial Services Authority (FSA), consideration should also be given to the FSA's new Remuneration Code requirements. (Click on [FSA: final UK Remuneration Code](#) to view a detailed briefing note on this topic).

### 1. Abolition of the Default Retirement Age

On 13 January 2011 the UK Government announced its intention to abolish the default retirement age (currently 65) with effect from 1 October 2011. However, transitional 'phasing-out' arrangements will also come into force from 6 April 2011.

During the transitional period employers will not be able to issue new notifications of compulsory age-65 retirement, but notifications issued before 6 April 2011 can continue, providing:

- the date of retirement is before 1 October 2011; and
- the current statutory retirement consultation procedures are met.

Employers will be prohibited from retiring employees by reason of the current default retirement age after 1 October 2011.

## **2. FSA – new Remuneration Code**

At the end of 2010, the FSA published the final version of its Remuneration Code, which came into force on 1 January 2011. Firms currently within scope of the Remuneration Code will need to comply with the revised code from 1 January 2011. Firms coming within the scope for the first time should comply as soon as reasonably practicable, but in any event, by 1 July 2011. (Click on [FSA: final UK Remuneration Code](#) to view a detailed briefing note on this topic).

## **3. Maternity and paternity leave**

On 17 January 2011 the Government announced that new fathers will be able to take up to 10 months paid paternity leave under plans to allow parents to share childcare. As of April 2011:

- a father of a baby due on or after 3 April 2011 will be allowed up to 26 weeks' additional paternity leave if the mother returns to work after 20 weeks. Some of the leave may be paid if taken during the mother's maternity pay period; and
- the rate of statutory maternity, paternity and adoption pay will increase from £124.88 per week to £128.73 per week, as of 3 April 2011.

## **4. Flexible working**

From 6 April 2011, the right of a parent to request flexible working will be extended to parents of children under the age of 18. Currently, the right to request flexible working only applies to parents of children under the age of 17 (or 18 if the child has a disability).

The Government has announced that it intends to extend the right to request flexible working to all employees and will consult on the proposals in January 2011. Consultation will be completed by March 2011, and responses will be reviewed by the Government by December 2011.

## **5. Positive action**

As of 6 April 2011, employers will be able to treat individuals with protected characteristics more favourably during recruitment and promotion when faced with two or more candidates of equal merit. The more favourable treatment must be intended to address under-represented people in the workforce.

This is one of the changes implemented by the UK's new Equality Act 2010 (which came into operation in October 2010 in most respects). (Click on [1 October 2010: new UK Equality Act](#) to view a detailed briefing note on this topic).

## **6. Equal treatment for agency workers**

Agency workers will be entitled to equal treatment in respect of certain basic 'employment' conditions from 1 October 2011.

This includes terms relating to pay and holidays, after an agency worker has worked in a role for at least 12 weeks.

## 7. Bribery

The UK's Bribery Act 2010 is expected to come into force in April 2011, although the UK Government is holding last-minute discussions to consider whether the UK's implementation of OECD requirements is too stringent compared to the implementation by other countries.

The legislation replaces current UK anti-corruption laws (which date back to the turn of the 20<sup>th</sup> century) and includes offences of:

- bribing another person;
- bribing a foreign official; and
- (for commercial organisations) failing to prevent bribery - a strict liability offence.

The corporate offence of failing to prevent bribery is subject to a potential defence that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct.

HR should ensure that staff handbooks/policies (including for UK businesses with non-UK subsidiaries or other overseas operations) include an appropriate policy dealing with these offences.

A separate outline and summary of provisions on the UK Bribery Act 2010 is available upon request.

To discuss any of these issues further, please direct your queries to your Bryan Cave contact or:

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