

Radical Reforms to UK's Employment Laws

28 November 2011

Radical reforms to the UK employment law system—possibly the most radical in decades—were outlined on 23 November by Vince Cable, the UK's Business Secretary. The announcement came after months of speculation and in response to the government's consultation on resolving workplace disputes and the "Red Tape Challenge" review of employment law.

The changes seek to retain key protections for employees, whilst "de-regulating to reduce the onerous and unnecessary demands on businesses". The changes include reforming the way in which disputes are resolved; an overhaul of the Employment Tribunal system; and the merging, simplification, or scrapping of more than 70 employment regulations.

Since coming to power in May 2010, the government has been seeking ways to improve how businesses hire, manage, and end relationships with employees. In his speech on 23 November, however, Dr. Cable confirmed that "we are not re-balancing employment law simply in the direction of employers . . . [nor is this] an attempt to give businesses an easy ride at the expense of staff." The overriding aim appears to be to reduce the effects of unnecessarily complicated legislation and to modernise employment relations with a view towards encouraging businesses to grow, thereby kick-starting economic recovery.

In terms of measures to reduce workplace disputes, Dr. Cable announced the government's intention to radically reform the Employment Tribunal system and stated that his reforms will deliver £40 million in direct savings to employers each year. In his announcement, Dr. Cable committed that the government will do the following:

- Require all employment disputes to go to the Advisory, Conciliation and Arbitration Service (ACAS) so that parties are offered dispute resolution through consultation before a matter can be taken to an Employment Tribunal.
- Introduce a system of "protected conversations" which would allow employers to have discussions with employees about subjects, such as retirement or poor performance, in an open manner so these subjects are not used in Employment Tribunal claims.
- Close a whistleblowing case law loophole, which allows employees to blow the whistle about their own personal work contracts.

- Increase the qualification period for unfair dismissal to two years, beginning April 2012.
- Publish a consultation on measures to simplify compromise agreements, which will be renamed “settlement agreements”.
- Consider whether a “rapid resolution” scheme, which would offer a quicker and cheaper alternative to Employment Tribunals, should be developed.
- Publish a consultation on the introduction of fees for anyone wishing to take a claim to an Employment Tribunal.
- Commission a judge-led review of the existing rules of Employment Tribunal procedures to address concerns that Employment Tribunals have become complex and inefficient and are no longer fit for their purpose.
- Seek views on introducing compensated “no-fault” dismissals for firms with fewer than 10 employees.
- Examine the existing dismissal processes with a view towards “slimming them down”. This could include working with ACAS to change their code or publishing supplementary dismissal guidance for small businesses.

The Red Tape Challenge reviewed policies and regulations that place requirements on employers and sought views on whether they are still necessary and appropriate, and/or whether they could be simplified or better implemented and enforced. The proposals that emanate from the Red Tape Challenge include the following:

- Publishing a call for evidence on two key issues for businesses: firstly in relation to proposals to simplify the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and secondly in relation to reducing the current collective consultation period where employers contemplate making more than 100 redundancies.
- Consolidating 17 National Minimum Wage Regulations into one set of regulations, which will make it easier for employers to understand their obligations in this area.
- Consulting early next year on how to streamline the regulatory regime for the recruitment sector so that business can use agency workers as flexibly as possible. In 18 months’ time, the intention is to review the Agency Worker Regulations and to simplify this legislation where possible.
- Creating a portable Criminal Records Bureau checking service that can be viewed online instantly by employers, as opposed to a new check being required each time an individual changes jobs.

Many of the changes focus on legislative reform; however, Dr. Cable stated that this is only the beginning, as “we want to see a wider change in the employment relations culture”. It seems, therefore, that the 23 November announcement is proposed to be part of a wide package of workplace reform. We will send out further communications as more detail is released.

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