



timetable for employment law legislation  
 upcoming changes for employers to be aware of

legislation	date in force	summary
Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP), Statutory Adoption Pay (SAP)	1 April 2012	<ul style="list-style-type: none"> <li>■ Prescribed rate increased to £135.45 per week (or 90% of earnings if lower) for SPP, SAP and prescribed rate SMP.</li> <li>■ Lower Earnings Limit (LEL) £107 per week.</li> </ul>
Increase in qualifying service for unfair dismissal claims (Amendments to Employment Rights Act 1996)	6 April 2012	<ul style="list-style-type: none"> <li>■ Qualifying period of employment for bringing a claim for unfair dismissal will be 2 years.</li> <li>■ Likely to apply only to those whose employment starts on or after 6 April 2012.</li> </ul>
Statutory Sick Pay	6 April 2012	<ul style="list-style-type: none"> <li>■ Rate increased to £85.85 per week.</li> </ul>

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<b>Amendments to Employment Tribunal (ET) procedural rules</b>	<b>Anticipated 6 April 2012</b>	<ul style="list-style-type: none"> <li>■ Unfair dismissal cases will be heard by Employment Judges sitting alone (i.e. without lay members) unless ET directs otherwise. EAT judges will always hear cases alone unless they direct otherwise.</li> <li>■ Deposit orders limit to be increased to £1,000.</li> <li>■ Cost awards limit to be increased to £20,000.</li> <li>■ Witness statements will be taken as read unless ET directs otherwise.</li> <li>■ State funding for expenses of witnesses at ET will be removed. Losing party will ultimately pay.</li> <li>■ Further review of ET procedural rules to be taken forward by Mr Justice Underhill.</li> </ul>
<b>Pensions Act 2007</b>	<b>6 April 2012</b>	<ul style="list-style-type: none"> <li>■ Contracting out of the second state pension on a money purchase basis is abolished.</li> </ul>
<b>Protection of Freedoms Bill; amending the Safeguarding Vulnerable Groups Act (SVGA) 2006</b>	<p>Under the SGVA 2006, a new vetting and barring system for people working with children or vulnerable adults has been partially in force since <b>12 October 2009</b></p> <p>The Bill will amend the SGVA from <b>early 2012</b></p> <p>Changes for CRB checks from <b>early 2013</b></p>	<ul style="list-style-type: none"> <li>■ Under the Bill, the SVGA 2006 will be amended as follows: <ul style="list-style-type: none"> <li>– amended definition of regulated activity;</li> <li>– requirement to register with the ISA and be monitored abolished;</li> <li>– concept of controlled activity abolished;</li> <li>– amended test for barring an individual;</li> <li>– CRB and ISA to merge;</li> <li>– updating and amending CRB checks system.</li> </ul> </li> <li>■ CRB checks will be portable between jobs and viewable online.</li> </ul>
<b>Amendments to the Working Time Regulations 1998</b>	<b>Anticipated 2012</b> Government Response to Modern Workplaces Consultation delayed	<ul style="list-style-type: none"> <li>■ Proposal to allow the carry-over of paid holiday where a worker has been unable to take it due to sick leave or maternity, paternity, adoption, or parental leave, or to rearrange it where the worker falls sick during paid holiday.</li> <li>■ Employers could insist on it being taken in the current year if there is still an opportunity, or require it to be taken in the following holiday year if there is a business need.</li> <li>■ In relation to sick leave, carry over and rescheduling would only apply to the 4 weeks' minimum leave, not the 1.6 week's additional leave.</li> </ul>

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<p><b>Pensions Act 2008 (as amended)</b></p>	<p><b>Staged in from 1 October 2012</b>            For further information please contact John.Hamilton@blaw.co.uk or another member of our Pensions team</p> <p>Based on information as at February 2012</p>	<ul style="list-style-type: none"> <li>■ Eligible workers not already enrolled into a qualifying workplace pension scheme must be automatically enrolled into employer's pension scheme (provided it meets certain minimum qualifying standards) or new personal accounts scheme, known as the National Employment Savings Trust (NEST) with option for employees to opt out.</li> <li>■ For the purpose of auto-enrollment, eligible workers are those aged between 22 and state pension age and earning above the income tax personal allowance (£7,475 pa in 2011/12 proposed to increase to £8,105 pa for 2012/13). Employees at other ages will be able to opt in, as will employees whose earnings fall below this level.</li> <li>■ contributions become payable on 'qualifying' earnings (including bonuses, overtime, statutory maternity, paternity and adoption pay) falling within a specified earnings band (set in 2006/7 as between £5,715 pa and £33,540 pa and proposed to increase to £5,564 pa and £39,853 pa for 2012/13). The qualifying earnings band is set to be reviewed annually.</li> <li>■ Not-for-profit trustee corporation called NEST Corporation to run NEST once it is in operation (taking over from the Personal Accounts Delivery Authority (PADA) currently responsible for setting up NEST's infrastructure).</li> <li>■ Automatic enrolment compulsory for the largest employers from October 2012 and phased in for all other existing employers until April 2017 (followed by all new employers by February 2018).</li> <li>■ The level of pension contribution will be phased in over time to help employers and individuals adjust. For defined contribution arrangements, full contributions of 8% of Qualifying Earnings will have to be paid from 1 October 2018, made up from 4% employee contribution, 3% employer contribution and 1% tax relief.</li> </ul>
<p><b>Parental Leave</b></p>	<p><b>By 8 March 2013</b>            EU law requires implementation by 8 March 2012 but UK Government will make use of an EU exception which allows a further year for implementation</p>	<ul style="list-style-type: none"> <li>■ Minimum requirement of parental leave to increase from 13 weeks to 18 weeks under EU law (included as part of flexible parental leave reform plans – see below).</li> </ul>

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<b>Employment Tribunal reforms</b>	ET fees <b>2013</b> or <b>2014</b> (consultation closes <b>6 March 2012</b> )  Timing of other reforms to be confirmed	<ul style="list-style-type: none"> <li>■ Introduction of fees for issuing an ET claim with potential further fee prior to ET hearing. Charges for certain applications during the ET process. Losing party may be ordered to reimburse cost of fees.</li> <li>■ ET claims to be preceded by one month period of 'Early Conciliation' (EC) with ACAS.</li> <li>■ Claimants will submit a simple form. Only when the EC period is complete, or the Claimant or Respondent elects not to enter EC, can the ET1 be lodged. Claimants will be allowed one month from the end of EC to lodge their claim.</li> <li>■ Consultation on introducing 'protected conversations' to initiate conversations about employment issues without it being used in evidence.</li> <li>■ Introduction of power to impose a penalty on employers that lose an ET case if their behaviour had aggravating features. Penalty would be 50% of the value of the award made to the Claimant up to a limit of £5,000. Prompt payment would reduce this by 50%.</li> <li>■ Review of compromise agreements (to be renamed 'settlement agreements'). Consultation on model text with guidance for employers. Also aims to resolve areas of current uncertainty.</li> <li>■ Long term reform to build workplace mediation into the process of resolving workplace disputes. Pilot the training of SMEs in the use of mediation. Set up local mediation networks.</li> <li>■ Potential revisions to ACAS Code of Practice on Disciplinary and Grievance Procedures.</li> <li>■ Consultation on concept of 'no-fault dismissal' for micro-businesses (fewer than 10 employees).</li> </ul>
<b>Public Interest Disclosure Act 1998</b> <b>Employment Rights Act 1996</b>	<b>To be confirmed</b>	<ul style="list-style-type: none"> <li>■ Amendment to prevent allegations of breach of employment contract from constituting a 'protected disclosure'.</li> </ul>
<b>Flexible Working requests</b>	<b>2015</b>	<ul style="list-style-type: none"> <li>■ Proposal to extend right to request flexible working to all employees with 26 weeks' service.</li> <li>■ Statutory process for requests would be replaced by duty to consider request 'reasonably'. New statutory code of practice would provide guidance on 'reasonable' process.</li> </ul>
<b>Equal pay</b>	<b>2015</b>	<ul style="list-style-type: none"> <li>■ Employers found to have breached equal pay obligations would be required to conduct an equal pay audit except in limited circumstances.</li> </ul>
<b>Flexible parental leave</b>	Earliest implementation <b>April 2015</b>	<ul style="list-style-type: none"> <li>■ 18 weeks' maternity leave and pay for mother alone.</li> <li>■ 2 weeks' ordinary paternity leave retained.</li> <li>■ Thereafter parents can choose who takes leave: 4 weeks exclusively for each parent and the remaining weeks to be taken by either parent which may be taken concurrently.</li> <li>■ Current paid leave period extended by up to 4 weeks to ensure mother's entitlement remains the same.</li> <li>■ Potential flexibility to take leave part-time or in more than one block.</li> <li>■ Unpaid leave for fathers to attend ante-natal appointments.</li> <li>■ Extension of existing parental leave beyond child's fifth birthday.</li> </ul>

## legislation recently in force

legislation	date in force	summary
<b>Employment Rights (Increase of Limits) Order 2011</b>	<b>1 February 2012</b>	<ul style="list-style-type: none"> <li>■ The limit on a week's pay for redundancy pay or unfair dismissal purposes increased to £430. Maximum compensatory award for unfair dismissals increased to £72,300. Guarantee payment increased to £23.50 per day.</li> </ul>
<b>Agency Workers Regulations 2010</b>	<b>1 October 2011</b>	<ul style="list-style-type: none"> <li>■ Provides for equal treatment in many areas between agency workers and permanent employees.</li> <li>■ From day one of their assignment agency workers are entitled to information on job vacancies, equal access to on-site facilities such as canteen, childcare and transport services, and improved rights for new and expectant mothers.</li> <li>■ Agency workers who have been on assignment with the same end user for 12 weeks are entitled to the same basic working conditions – for example pay, working hours and holiday – as directly engaged staff.</li> <li>■ Agency workers may not be subjected to a detriment for exercising their rights under the regulations.</li> <li>■ End users could be liable if they supply incomplete or inaccurate data to staffing agencies.</li> <li>■ Additional information about agency workers to be supplied in collective bargaining, collective redundancy and TUPE situations.</li> </ul>
<b>National Minimum Wage</b>	<b>1 October 2011</b>	<ul style="list-style-type: none"> <li>■ Adult rate increased to £6.08 per hour.</li> <li>■ 18-20 year-old rate increased to £4.98 per hour.</li> <li>■ 16-17 year-old rate increased to £3.68 per hour.</li> <li>■ Apprentice rate increased to £2.60.</li> </ul>

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<b>Bribery Act 2010</b>	<b>1 July 2011</b>	<ul style="list-style-type: none"> <li>■ Criminal offence to offer, promise or give a bribe; to request, agree to receive or accept a bribe; to bribe a foreign public official. "Bribe" is a financial or other advantage used to induce improper performance of a public or business function or activity.</li> <li>■ Criminal offence for a commercial organisation to fail to prevent bribery on its behalf unless the organisation can show it had 'adequate procedures' in place to prevent such conduct. The Ministry of Justice has published Guidance on how to put in place 'adequate procedures'.</li> <li>■ Penalty on conviction is up to ten years' imprisonment or unlimited fine.</li> <li>■ Actions outside the UK are covered.</li> </ul>
<b>Transnational Information and Consultation of Employees (Amendment) Regulations 2010</b>	<b>5 June 2011</b> Applicable to companies which have 1,000 or more employees in the EEA and at least 150 in each of two separate Member States	<ul style="list-style-type: none"> <li>■ Implement the recast European Works Council (EWC) Directive by amending the Transnational Information and Consultation of Employees Regulations 1999.</li> <li>■ Amongst other matters, introduce new obligations on the way that information and consultation should take place in EWCs and for EWC agreements to be adapted following significant company structure changes.</li> <li>■ New right for representatives of EWCs to receive training.</li> </ul>
<b>Repeal of the Default Retirement Age (DRA) (Schedule 9 of the Equality Act ; Schedule 6 of the Employment Equality (Age) Regulations 2006)</b>	No new notices of Intended Retirement Date since <b>6 April 2011</b> Certain employees fall within transitional provisions until <b>October 2012</b>	<ul style="list-style-type: none"> <li>■ The DRA and statutory retirement procedures repealed.</li> <li>■ Dismissals for retirement are age discriminatory unless objectively justified or unless employee falls within transitional provisions.</li> <li>■ Retirement is no longer a potentially fair reason for dismissal.</li> </ul>
<b>National Insurance Contributions and thresholds</b>	<b>6 April 2011</b>	<ul style="list-style-type: none"> <li>■ Employers' National Insurance Contributions rose by 1%.</li> <li>■ Employers' National Insurance thresholds increased by £21 per week above indexation.</li> </ul>
<b>Statutory Sick Pay</b>	<b>6 April 2011</b>	<ul style="list-style-type: none"> <li>■ Rate increased to £81.60 per week.</li> </ul>

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<p><b>Equality Act 2010</b></p> <p><b>Equality Act 2010 Codes of Practice (Services, Public Functions and Associations, Employment and Equal Pay) Order 2011</b></p> <p><b>Guidance on matters to be taken into account in determining questions relating to the definition of disability</b></p> <p><b>Equality Act 2010 (Statutory Duties) Regulations 2011</b></p>	<p><b>6 April 2011</b></p> <p>New version published under the Equality Act 2010 came into force <b>1 May 2011</b></p> <p>Public sector general Equality Duty – <b>5 April 2011</b></p> <p>Specific duties set out in Regulations came into force <b>July 2011</b></p>	<ul style="list-style-type: none"> <li>■ Extension of positive action so that employers can take under-representation into account when selecting between two equally well qualified candidates.</li> <li>■ Equality Act 2010 Code of Practice on Employment and Equality Act 2010 Code of Practice on Equal Pay brought into force.</li> <li>■ Socio-economic duty dropped.</li> <li>■ Dual discrimination dropped.</li> <li>■ No current plans to enforce gender pay reporting measures for private sector employers with 250 or more employees.</li> <li>■ Used by Employment Tribunals and medical or other professionals to assess whether a person is disabled under the Act.</li> <li>■ A new single Equality Duty for public sector employers (relating to most of the protected characteristics).</li> <li>■ Specific duties include publishing compliance data and, for public bodies with 150 or more employees, publishing workforce equality data.</li> </ul>
<p><b>Additional Paternity Leave Regulations 2010</b></p> <p><b>Additional Statutory Paternity Pay (General) Regulations 2010 etc</b></p>	<p>Applies to babies due or adoptions matched on or after <b>3 April 2011</b></p>	<ul style="list-style-type: none"> <li>■ Additional Paternity Leave (APL) for up to 26 weeks, no earlier than 20 weeks from the birth/adoption of the child.</li> <li>■ Additional Statutory Paternity Pay (ASPP) depends on how much remaining entitlement to Maternity Pay or Adoption Pay the mother has when she returns to work. Paid at the same rate as Ordinary Statutory Paternity Pay (£128.73 from 3 April 2011 – or 90% of earnings, whichever is lower).</li> </ul>
<p><b>Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP), Statutory Adoption Pay (SAP)</b></p>	<p><b>3 April 2011</b></p>	<ul style="list-style-type: none"> <li>■ Prescribed rate increased to £128.73 per week (or 90% of earnings if lower) for SPP, SAP and prescribed rate SMP.</li> <li>■ Lower Earnings Limit (LEL) £102 per week.</li> </ul>