



REFRESHING LAW

*Down to Earth*

**Changes to come with the new bill**

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April 2025



# Injury to feelings in discrimination

- lower band of **£1,200 to £12,100**
- middle band of **£12,100 to £36,400**
- upper band of **£36,400 to £60,700**
- the most exceptional cases capable of exceeding **£60,700**.



# DAY 1 UNFAIR DISMISSAL RIGHTS



# Present

- As you know at present generally the right to not be unfairly dismissed doesn't kick in until the person has 2 years service
- There are exceptions – automatically unfair dismissals



# Present

- Basic award – weeks' pay now £719 so maximum award £21570
- Compensatory award – one years' salary capped at £118,223
- 3 months to issue claim



# Bill

- 6 months to issue claim
- Remove the qualifying period – s108 claims will be able to be brought from day one.



- Initial Period of Employment
- New concept – likely to be 9 months
- Modified procedure compared to ‘full’ rights
- Right to be accompanied
- Maximum compensatory award



# Knock on on Redundancy

- Initial period of employment does not apply to redundancy
- Everyone will have to go into the same full process





# Manager awareness of the change

- Biggest impact you can have right now is communicating this to as many people as many times as you can – start now



# Actions you can take

- Make sure there are job descriptions
- Do they clearly set out what is expected in the role?



# Actions you can take

- Reinforce your probationary period clauses
- Improvement probationary review hygiene
- Ensure mechanism to record probationary reviews



# Knock on effect on reasons

- Right to receive written reasons for dismissal will also lower to from day 1



# Positives

- Less tempting for those under 2 years to try and bring discrimination and whistleblowing claims?



# Impact on recruitment?

- Greater use agency workers to trial people?



# MAKING CONTRACT CHANGES



# Present

- Agreement of the parties needed to change contracts
- Employers have the upper hand in negotiations as can force through changes
- Protective awards 90 days pay per employee





# Recent ACAS Code of Practice on Fire and Rehire

- Risk 25% increase in compensation if not followed
- Main change is have to involve ACAS



# Bill

- New right to claim automatically unfair dismissal if the reason for the dismissal is the employer sought to vary the contract and the employee didn't agree
- 6 months to bring claim
- Protective award 180 days per employee



# Redundancy consultation in more cases

- 20 or more affected within a 90 day period at 'one establishment'
- Will be new trigger threshold across entire workforce as well



# Sole pathway through

- Reason for variation is to eliminate, prevent or significantly mitigate any financial difficulties which at the time of the dismissal was affecting or likely to affect the employer's immediate future
- ET told to take account of the extent to which there has been consultation and offers to agree



# Massive swing of power to staff side

- Emboldened TU
- Employees who realise this law is on their side



# Actions you can take

- If you need to vary your contracts at all do it before this becomes law



# Once in force

- Reaching agreement will be key



# Small groups

- Might be able to 'buy' a change
- Settlement agreements





# Other alternatives

- If you can't reach agreement, end contracts and outsource work to third parties instead (contracting)



# What about variation clauses?

- We have the right to amend your contract at any time
- Not effective, never have been





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