

## What to expect in 2011

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As we start a new year, we look in this Cripps Alert at what employers can expect in 2011.

### **1. Increase in compensation limits and statutory pay rates**

The maximum compensatory award for unfair dismissal is reviewed each year. From 1 February 2011 it will increase to £68,400. The maximum amount of a week's pay which is used for calculating the basic award and a statutory redundancy payment will rise to £400 per week.

The Government has announced its intention to raise the rates of statutory maternity, paternity and adoption pay to £128.73 per week. The earnings threshold for these payments will rise to £102. Statutory sick pay will increase to £81.60 per week. All of these increases will apply from 11 April 2011.

### **2. Default retirement age**

The default retirement age (DRA) will be abolished from October 2011 with transitional arrangements taking effect from 6 April 2011. This means that, from April 2011, employers will no longer be able to rely on the DRA to end the employment of an employee aged 65 or over. The Government is expected to publish guidance for employers later in January. We looked at the impact of this change in September 2010 and will update you later this year.

### **3. Extension of flexible working**

The right to request flexible working currently applies to employees with children aged under 17 (or under 18 if disabled). This will be extended to employees with children aged under 18 from April 2011. The Government is considering extending this right to all employees.

Employers will need to amend their flexible leave policy to take account of this change.

### **4. Additional Paternity Leave**

Employees whose babies are due on or after 3 April 2011 or who are notified that they have been matched with a child for adoption on or after 3 April 2011 may be able to take additional paternity leave. The new right is to an additional 26 weeks' leave which must be taken by the child's first birthday. The right will only arise if the

employee's spouse, civil partner or partner has returned to work with some of their statutory maternity or adoption leave untaken.

Employers will need to ensure that their maternity and paternity policies are updated to include this new leave.

### **5. Bribery Act 2010**

The Bribery Act is due to come into force in April 2011. It introduces a new criminal offence of an organisation failing to prevent bribery by individuals (employees or agents) acting on the organisation's behalf. The only defence available to employers will be to show that they have 'adequate procedures' in place to prevent bribery. What is meant by 'adequate procedures' should be set out in Government guidance to be published later this month. When the guidance is available we will provide further advice on how to prepare for this legislation.

### **6. Equality Act 2010**

Most of the Equality Act came into force in October 2010. However there are a couple of provisions which employers need to note in 2011.

The first relates to positive action in recruitment and promotion which will be brought into force in April 2011. Employers will be allowed to apply voluntary positive action in recruitment and promotion processes when faced with two or more candidates of equal merit, to address under-representation in the workforce.

The second provision relates to gender pay reporting. The Government has stated its intention to work with employers to develop a voluntary scheme for gender pay reporting in the private and voluntary sectors. This will be aimed at organisations with 150 or more employees.

### **7. Agency Worker Regulations 2010**

The Agency Worker Regulations 2010 are due to come into force in October 2011. Under the Regulations, the basic working and employment conditions for agency workers should be no less favourable than if the person had been employed directly by the hirer. There is a 12 week qualifying period before the agency worker accrues this right.

## 8. Change to Minimum Wage Regulations

The National Minimum Wage (Amendment) (No.2) Regulations came into force on 1 January 2011. The Regulations now provide that expenses paid to a worker for travelling to a workplace, which are eligible for tax relief under section 338 of the Income Tax (Earnings and Pensions) Act 2003, will not count towards payment of the minimum wage.

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