



# CAMPAIGNING FOR WORKERS' RIGHTS!

## State of employment rights in 2016

In the last four years the Government has made it much easier and cheaper for employers to sack workers. And with the introduction of fees in employment tribunals many workers are denied access to justice. This update provides a summary of the main changes to employment law since 2012.

The [Prospect at Work](#) campaign seeks to challenge these changes and demonstrate the effectiveness of unions in protecting members' rights at work. Despite the Government's attack on employment rights and trade unions, unions make a real difference to members' working lives. In many ways the hostile political climate and reductions in the law demonstrate how crucial it is to build on union organisation.

Just some of the draconian measures introduced since 2012 are:

- An increase in qualifying service to pursue an unfair dismissal claim from 1 year to 2 years
- The cap on unfair dismissal compensation has been lowered to one year's gross pay
- 'Protected conversations' mean employers can make threats to dismiss workers without this being admissible in tribunal proceedings
- Consultation periods for large scale redundancies have been cut from 90 to 45 days
- The statutory questionnaire procedure under the Equality Act has been abolished
- Fees of up to £1,200 to bring a claim in the tribunal have, unsurprisingly, resulted in a dramatic fall off of claims of up to 70%

Following the attack on individual rights the Government launched the Trade Union Bill in July 2015. The Bill will make it much more difficult to take industrial action. It will restrict facility time and check off in the public sector. And it creates a number of new and unnecessary burdens on unions. See our [employment law briefing](#) on the Bill for more detail.

This continuing attack on employment rights legislation means workers have less statutory protection, and a very real need for effective trade unions, who can resolve problems in the workplace, collectively bargain terms and conditions, and protect fundamental rights.

The table attached outlines some of the key changes and where to find more information.

**Marion Scovell**  
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## CHANGES MADE SINCE 2012

Measure	Description	More Prospect information
<b>2012</b>	<b>From 6 April 2012</b>	
Unfair dismissal	The qualifying period for bringing an unfair dismissal claim was increased to 2 years for all employees starting a new job on or after 6 April 2012. Those in the employment before 6 April will still have the right to claim unfair dismissal after one year's employment.	EL Update 304
Judges sit alone in unfair dismissal cases	Employment Judges are allowed to sit alone in unfair dismissal cases, without the lay members of the tribunal.	EL Update 304
Changes to Employment Tribunal rules	<ul style="list-style-type: none"> <li>• The maximum amount a Judge can order in respect of costs increased to £20,000</li> <li>• The deposit payable to proceed with a case where the Judge considers there is little reasonable chance of success increased to a maximum of £1,000</li> <li>• Tribunals can order the losing party to meet the expenses of the witnesses on the other side who have been ordered to attend.</li> <li>• Tribunals are required to take witness statements as read, and only call for statements to be read out when there are specific reasons for this.</li> </ul>	EL Update 308
<b>2013</b>	<b>8 March 2013</b>	
Parental Leave	Increase number of weeks of parental leave to 18 weeks in line with the revised directive	EL Update 338
	<b>From 6 April 2013</b>	
Collective Redundancy Consultation	Minimum consultation period for 100 or more redundancies cut to 45 days Duty to consult does not apply to termination at end of fixed term contract	EL Update 336
	<b>From 25 June 2013</b>	
Deposits	New powers for Judges to order a deposit to proceed with a claim to be payable in respect of individual allegations in a case	EL update 325

Dismissal relating to political opinion	Remove 2 year qualifying period so that rights to claim unfair dismissal relating to political opinion or affiliation will apply from day 1 of employment	EL Update 355
Whistleblowing	A protected disclosure will only be where the worker reasonably believes the disclosure 'is made in the public interest'. Current requirement for disclosure to be made in good faith to be abolished, but compensation to be reduced if held not to be in good faith	EL Update 337
Composition of EAT	There will no longer be lay members of the EAT sitting on cases as a matter of course	EL update 355
<b>From 29 July 2013</b>		
Fees to bring ET cases	Introduction of fees for bringing ET and EAT cases and for making certain applications in a case. Fee to be paid to present a claim and a further fee payable before hearing (e.g. £250 and £950 for unfair dismissal or Equality Act claims)	EL Briefing – ET Fees
Fees for the Employment Appeal Tribunal	There is a fee payable to issue an appeal (£400) and a fee before hearing (£1,200)	EL Update 318
Changes to Employment Tribunal procedures	Simplification & clarification of rules, includes new powers on strike out, higher costs awards, combination of CMDs & PHRs	EL Update 354
Reduction in limit for the compensatory award in unfair dismissal cases	The amount of the compensatory award in unfair dismissal cases is limited to either 12 month's pay or the existing current maximum (£74,200)	Employment law update 358 Prospect submission – <a href="http://bit.ly/U1IVAr">bit.ly/U1IVAr</a>
Compromise Agreements	Compromise Agreements renamed 'Settlement' agreements	Employment law update 355
Confidentiality of negotiations before termination - 'Settlement Agreements'	Offers or suggestions by the employer for the employee to agree to leave employment for a sum of compensation must not be taken into account by ETs hearing unfair dismissal claims.	EL Update 357

	<b>From 1 September 2013</b>	
Rights for Shares/employment status	Creates new employment status of employee/shareholder, where workers given shares (of at least £2,000 in exchange for some statutory rights), including unfair dismissal and redundancy.	EL Updates 341 & 347 Prospect submission <a href="http://bit.ly/WzEKC3">bit.ly/WzEKC3</a>
	<b>From 1 October 2013</b>	
Acts of 3rd party harassment	Repeal of the provisions in Equality Act which provide employer liability for acts of harassment by 3rd parties such as customers or clients	EL Update 361 Prospect submission <a href="http://bit.ly/TiiLOT">bit.ly/TiiLOT</a>
Health & Safety	Removes civil liability for breaches of health & safety regs	EL Update 361
Whistleblowing	Protection against third party harassment	
<b>2014</b>	<b>From 31 January 2014</b>	
Transfer of Undertakings	Changes to coverage of the Regs by limiting the service provision, ability to change terms derived from a collective agreement after a year	Update 367  Submission <a href="http://bit.ly/Kye265">bit.ly/Kye265</a>
	<b>From 6 April 2014</b>	
Repeal of questionnaire procedure	Repeal of long standing procedure of using questionnaires in potential discrimination cases.	EL Update 369 Prospect submission <a href="http://bit.ly/TiiZFd">bit.ly/TiiZFd</a>
Early Conciliation before presenting an ET claim	Before presenting an ET claim the Claimant will be required to submit a form to ACAS. ACAS will then be under a duty to try to promote a settlement of the complaint. New rules will affect ET time limits, to allow for extra time for conciliation. Note – only mandatory from 6/5/14	Employment law update 313 & 371  Prospect submission <a href="http://bit.ly/Z6ryCB">bit.ly/Z6ryCB</a>
Financial Penalties	Where a Tribunal determines the employer has breached the worker's rights & there is an 'aggravating' factor they will be able to order employer to make a payment to the Secretary of State between £100 and £5,000.	Employment law update 313, 337 & 371
	<b>From 30 June 2014</b>	
Right to request Flexible Working	Extended to all employees (not just parents & carers) New ACAS code on procedure	EL Update 337 & 371

	<b>From 1 October 2014</b>	
Equal Pay Audits	Tribunals who have found an employer in breach of equal pay law will be able to order them to conduct an equal pay audit	EL Update 384 Submission <a href="http://bit.ly/Kre1kz">bit.ly/Kre1kz</a>
Time off for partners to attend ante-natal appointments	Rights to unpaid time off for partners to accompany an expected mother to up to 2 ante natal appointments	EL Update 383
Whistleblowing – Prescribed Persons	Revised list of Prescribed Persons for the purposes of making a protected disclosure	<a href="http://bit.ly/1nDhxgL">bit.ly/1nDhxgL</a>
National Minimum Wage	Increase in NMW from £6.31 to £6.50 for workers aged 21 and over	EL Update 374
	<b>From 1 December 2014</b>	
Shared parental leave	New rules to allow parents to share periods of maternity leave in respect of children born or adopted on or after 1 April 2015	EL Update 387
	<b>From 5 April 2015</b>	
Parental leave	The right to take unpaid parental leave applies to parents of children up to age 18	
	<b>From 1 July 2015</b>	
Limit on backdating unlawful deduction of wages claims	Compensation in claims for unlawful deduction of wages and holiday pay can only be backdated for a maximum of two years	EL Update 391
	<b>From 1 October 2015</b>	
National Minimum Wage	Increase in NMW from £6.50 to £6.70 for workers aged 21 and over	EL Update 395
	<b>From 11 January 2016</b>	
Zero Hours Contracts	Regulations to protect workers who have been dismissed or subjected to a detriment for failing to comply with an exclusivity clause	EL Update 409

There have been several changes due to evolving case law as well. Many of these are covered in [employment law updates](#) on Prospect's website.

The changes above apply to the law in England, Wales & Scotland. Members in Northern Ireland have not faced the same onslaught on employment rights. See the [Employment Rights Factcard](#) for a summary of rights at work in Northern Ireland.