

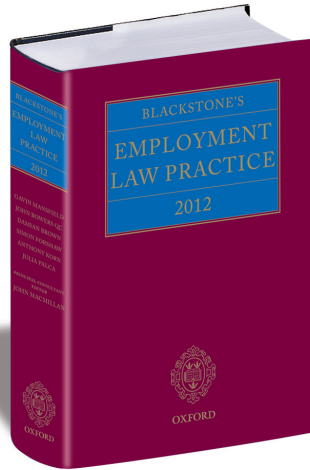
NEW EDITION

## Blackstone's Employment Law Practice 2012

Edited by **Gavin Mansfield**, Barrister, Littleton Chambers; **John Bowers QC**, Barrister, Littleton Chambers; **Damian Brown**, Barrister, Littleton Chambers; **Simon Forshaw**, Barrister, 11 King's Bench Walk; **Anthony Korn**, Barrister, No. 5 Chambers; and **Julia Palca**, General Counsel, Olswang; Part-time Employment Tribunal Judge

Principal Consultant Editor: **John MacMillan**, Regional Chairman, Employment Tribunals

Contributors: **Jonathan Schwarz**, Temple Tax Chambers, and **Brian Napier QC**, Advocate, Scotland, and Barrister, England and Wales, Cloisters



- The only text to provide everything you need for bringing, defending, and appealing employment cases in one single, portable volume
- Unbeatable combination of clear, comprehensive commentary with key legislation
- Expert author team handpicked to provide concise, practical coverage
- Designed for quick and easy access - clear page design, quick reference guides, and procedural checklists guide you swiftly through this area of law

The only text to provide everything you need for bringing, defending, and appealing employment cases in one single, portable volume, *Blackstone's Employment Law Practice* provides an unbeatable combination of clear, comprehensive commentary with key legislation.

Drawing together comprehensive coverage of practice and procedure in the employment tribunal, Employment Appeal Tribunal, and Central Arbitration Committee, *Blackstone's Employment Law Practice* is an essential purchase for any serious employment practitioner. Ideal for preparing for and during a case in tribunal or court, it includes trusted advice on specialist topics, such as the application of TUPE and calculation of costs.

Reviews from previous edition

*"this invaluable book has everything you need to advise clients and appear before tribunals with confidence. Why use multiple books when this one is the only one you need?"*

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Philip Wood, Dawsons, ELA Briefing

978-0-19-969284-2 | Paperback | £75.00 | 1,096 Pages | March 2012

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## Blackstone's Employment Law Practice 2011

978-0-19-958921-0 | Paperback | £75.00  
1,104 Pages | April 2011

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<b>SUMMARY</b>	
(1) A party may appeal to the EAT on the grounds that an employment tribunal has wrongly applied a principle of law, misunderstood a statute, reached a decision that no reasonable tribunal could have reached (errors), or come to a conclusion that was perverse since there was no evidence whatever to support it.	



**Gavin Mansfield** is a leading junior at Littleton Chambers, specializing in employment and discrimination law, with an emphasis on the commercial aspects of the employment relationship. With a practice focussing on High Court disputes involving restrictive covenants, garden leave, team moves and wrongful dismissal, Gavin is lauded as a leading junior by Chambers and Partners, Legal 500 and Legal Experts.

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<b>SUMMARY</b>	
(1) Interest accrues on employment tribunal awards. The current rate of interest is 8 per cent.	
(2) There are different rules for discrimination awards where interest can be ordered from the date of the act of discrimination (rather than the award date) or a mid-point date between the act of discrimination and the calculation date.	
<b>A. INTEREST ON AWARDS GENERALLY</b>	
27.01	The Employment Tribunal (Interest) Order 1996, SI 1996/679 (1996 Order) provides that where the whole or part of a sum of money has been awarded in a claim other than a discrimination claim and remains unpaid 42 days from the promulgation of the employment tribunal's decision, interest accrues at the rate specified in s 17 of the Judgments Act 1958. The relevant decisions are those requiring one party to pay a sum of money to the other. In relation to discrimination claims, the interest begins to accrue immediately after the award is made (Employment Tribunal (Interest on Awards in Discrimination Cases) Regulations 1996, SI 1996/2083) but note that the position as regards discretionary awards is subject to change pursuant to s 139 of the Equality Act 2010 (EqA 2010).
27.02	Interest accrues on the sum net of any repayments, tax, or national insurance.
27.03	Where there is a review or appeal, interest still accrues from the original decision but on such lower or greater sums as are appropriate (1996 Order, arts 5, 6, 7 and 11).
27.04	Where there is an appeal from a decision on liability and the appellate tribunal makes a monetary award the relevant decision is that of the appellate court (1996 Order, art 6).
27.05	Finally, where a tribunal has made a declaration as to rights under a contract, interest is not payable if there was an obligation to pay the sum before the employment tribunal's decision. The Order came into force on 1 April 1996, but also applies to cases decided before that date, save that 1 April 1996 is deemed to be the date of the employment tribunal's decision.

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<b>Employment Appeal Tribunal</b>	
<b>Part D The Substantive Law</b>	
<b>CHECKLIST OF ISSUES FOR TRIBUNAL CLAIMS CONNECTED WITH DISMISSAL</b>	
<b>Wrongful dismissal</b>	
1. Has the employer without cause terminated the employment contract of employment without either:	
1.1	allowing the employee to work out all his notice; or
1.2	paying the employee in lieu of his salary and benefits for all of his unworked notice period? If so, or if the employer has acted in such a way that he has constructively dismissed the employee (see para 29.12-29.14) the employee has been wrongfully dismissed?
2. Is the maximum claim for £25,000 or less?	
The employment tribunal cannot award more than £25,000 damages for breach of contract. If the claim is for more, the employee might be better advised to bring proceedings in the High Court or county court (Employment Tribunal Extension of Jurisdiction (England and Wales) Order 1994, art 10; Employment Tribunal Extension of Jurisdiction (Scotland) Order 1994, art 10). Any excess over any maximum £25,000 award cannot be recovered by a claim in the High Court (see para 29.06).	
3. Was the claim brought within three months of the EAT of the employer's contract? (See para 29.08 for the extension of EAT.)	
If no, it will be out of time (1994 Order, art 7) and a claim should be brought in the High Court or county court.	
4. Did the employer dismiss the employee for cause, but ignoring any contractual procedural requirements such as disciplinary and warning procedures which are expressly or impliedly incorporated into the employment contract of employment (for example, because expressly referred to in the contract, staff handbook, or collective agreement)?	
If so, the employee will be wrongfully dismissed (Garrison v McDonald upon Thomas (1980) ICR 755) but there are likely to be only two remedies.	
4.1 damages limited to the period between actual dismissal and the date dismissal should have taken place and proper procedures been followed; or	
4.2 very rarely and only if sought promptly enough an injunction obtained in the High Court preventing the employer from terminating the employment until proper procedures are undertaken (Ridgway v London Borough of Hammersmith and Fulham 1991 ICR 514, DC).	
5. Did the employee commit a material breach of contract?	
If yes, the employer has a full defence to a wrongful dismissal claim.	
A breach of contract may be a breach of an express term of a contract or staff manual or it may be that the employee has shown himself to be so incompetent or to have conducted himself so badly as to entitle the employer to terminate the contract. It is not the duty to appeal as to whether the employee has shown himself to be so incompetent or misconducted as to justify dismissal as the case as those which apply in unfair dismissal (para 29.20-29.42, 29.49-29.51). The court will examine all of the employee's conduct before dismissal, whether or not the employer knew of the conduct before it terminated the contract (Boston Deep Sea Fishing and Ice Co v Esobar (1888) 39 QJ 139).	
<b>UNFAIR DISMISSAL: GENERAL CHECKLIST</b>	
<b>Issues</b>	
1. Was the individual an employee (see para 29.07 and 29.18/80)?	
If not, he has no unfair dismissal rights.	
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NEW EDITION

## Employee Competition

Covenants, Confidentiality, and Garden Leave

Second Edition

Edited by **Paul Goulding QC**, Barrister, Blackstone Chambers

- Extensively revised new edition of a leading authority on employee competition, cited in judgments including *Tullett Prebon v BGC* (Court of Appeal), *Crowson Fabrics Ltd v Rider & Ors*, and *RDF Media v Clements*
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- Written by a team of leading experts from Blackstone Chambers and Olswang, led by Paul Goulding QC

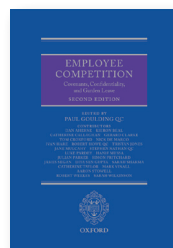
Written by a team of leading practitioners from Blackstone Chambers and Olswang, the book combines an authoritative account of the substantive law with an overview of the relevant procedural issues. Topics covered include good faith and related duties, fiduciary duties, confidential information, garden leave, and restrictive covenants. Comprehensive coverage of available remedies (including injunctions, damages, and account of profits) ensures that the book is of real, practical value to practitioners.

Foreword to the first edition

*“Readers of this book will find a clear and detailed exposition of the relevant principles, thoughtful analysis, and wise advice. I confidently expect that this book will very quickly become the indispensable text for lawyers operating in this area.”*

Sir Patrick Elias, Lord Justice of Appeal

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NEW EDITION

## Whistleblowing

Law and Practice

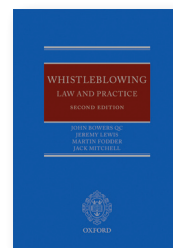
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**John Bowers QC**, Barrister, Littleton Chambers; **Martin Fodder**, Barrister, Littleton Chambers; **Jeremy Lewis**, Barrister, Littleton Chambers; and **Jack Mitchell**, Barrister, 3PB Barristers

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586 Pages | January 2012



NEW EDITION

## Employment Tribunal Remedies

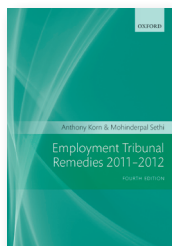
Fourth Edition

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- Comprehensive guide to the remedies, including financial awards, available for claims brought to the tribunal
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*Employment Tribunal Remedies* is a new edition of the established work, which was previously published as *Employment Tribunal Compensation*.

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NEW EDITION

## Redundancy: The Law and Practice

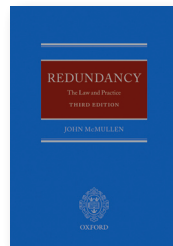
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**John McMullen**

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NEW EDITION

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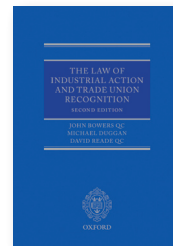
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NEW EDITION

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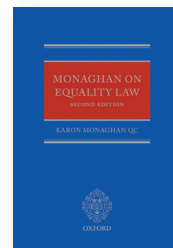
Written by a leading employment and human rights practitioner, the new edition of *Monaghan on Equality Law* combines a comprehensive survey of UK equality law with an analytical critique of the legal framework and the concepts that underpin it. The text provides practical guidance on equality law as it applies to specific practice areas. It will continue to cover the history of equality law, domestically, regionally and internationally. It will also consider the social and political context for it, and will further explore domestic law in detail and will review the main EU and international human rights instruments addressing discrimination.

Review from previous edition

*"This book is a thorough and detailed exposition of the subject that will repay many return visits. The fluid nature of equality law means that it is always hard to pin down and difficult to know when to stop. For equality law practitioners and academics alike it will provide a significant source of information and ideas that will be a welcome addition to equality library."*

Gay Moon, Head of the Equality Project, JUSTICE

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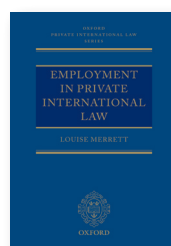


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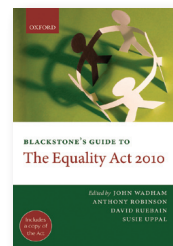


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See page 17 for more on this title

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NEW EDITION

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