

*These notes refer to the Employment Act 2002
(c.22) which received Royal Assent on 8 July 2002*

EMPLOYMENT ACT 2002

EXPLANATORY NOTES

SUMMARY OF REGULATORY IMPACT ASSESSMENT

Wasted costs

189. The Act includes provisions that provide stronger disincentives to unreasonable behaviour both up to and during the hearing process, through changes to the rules on award of costs and a new provision for awards in respect of a party's preparation time. The tribunal will be able to make an award in respect of time spent by parties in preparing the case where cases or defences are misconceived (which includes having no reasonable prospect of success), or where the other party has behaved unreasonably. Costs awards will be possible against representatives who are acting on a for profit basis where it is their behaviour that has triggered the cost award.
190. The proposals should discourage a small number of weak Tribunal applications (100-500 per year) and will also encourage more settlements and fewer hearings. In addition, more cost awards will be made, providing more compensation to those at the receiving end of unreasonable behaviour.
191. It is estimated that savings to the taxpayer will amount to a little under £1 million per year, together with benefits to employers from less applications of £0.2-1 million. There will also be increased flows of payment between employers and applicants arising from the increased use of cost awards. Applicants are expected to benefit by £0.4-0.5 million whereas respondents are expected to benefit by £0.7-1.1 million (respondents benefit more because they are likely to incur more management time and legal representation in dealing with a Tribunal application).