



Enterprise and Regulatory Reform Act 2013

2013 CHAPTER 24

PART 2

EMPLOYMENT

Conciliation

7 Conciliation before institution of proceedings

(1) After section 18 of the Employment Tribunals Act 1996 (conciliation) insert—

“18A Requirement to contact ACAS before instituting proceedings

(1) Before a person (“the prospective claimant”) presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter.

This is subject to subsection (7).

(2) On receiving the prescribed information in the prescribed manner, ACAS shall send a copy of it to a conciliation officer.

(3) The conciliation officer shall, during the prescribed period, endeavour to promote a settlement between the persons who would be parties to the proceedings.

(4) If—

- (a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or
- (b) the prescribed period expires without a settlement having been reached,

Status: This is the original version (as it was originally enacted).

the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective claimant.

- (5) The conciliation officer may continue to endeavour to promote a settlement after the expiry of the prescribed period.
- (6) In subsections (3) to (5) “settlement” means a settlement that avoids proceedings being instituted.
- (7) A person may institute relevant proceedings without complying with the requirement in subsection (1) in prescribed cases.

The cases that may be prescribed include (in particular)—

cases where the requirement is complied with by another person instituting relevant proceedings relating to the same matter;
cases where proceedings that are not relevant proceedings are instituted by means of the same form as proceedings that are;
cases where section 18B applies because ACAS has been contacted by a person against whom relevant proceedings are being instituted.

- (8) A person who is subject to the requirement in subsection (1) may not present an application to institute relevant proceedings without a certificate under subsection (4).
- (9) Where a conciliation officer acts under this section in a case where the prospective claimant has ceased to be employed by the employer and the proposed proceedings are proceedings under section 111 of the Employment Rights Act 1996, the conciliation officer may in particular—
 - (a) seek to promote the reinstatement or re-engagement of the prospective claimant by the employer, or by a successor of the employer or by an associated employer, on terms appearing to the conciliation officer to be equitable, or
 - (b) where the prospective claimant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the prospective claimant.
- (10) In subsections (1) to (7) “prescribed” means prescribed in employment tribunal procedure regulations.
- (11) The Secretary of State may by employment tribunal procedure regulations make such further provision as appears to the Secretary of State to be necessary or expedient with respect to the conciliation process provided for by subsections (1) to (8).
- (12) Employment tribunal procedure regulations may (in particular) make provision—
 - (a) authorising the Secretary of State to prescribe, or prescribe requirements in relation to, any form which is required by such regulations to be used for the purpose of providing information to ACAS under subsection (1) or issuing a certificate under subsection (4);
 - (b) requiring ACAS to give a person any necessary assistance to comply with the requirement in subsection (1);

- (c) for the extension of the period prescribed for the purposes of subsection (3);
- (d) treating the requirement in subsection (1) as complied with, for the purposes of any provision extending the time limit for instituting relevant proceedings, by a person who is relieved of that requirement by virtue of subsection (7)(a).

18B Conciliation before institution of proceedings: other ACAS duties

- (1) This section applies where—
 - (a) a person contacts ACAS requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to relevant proceedings against that person, and
 - (b) ACAS has not received information from the prospective claimant under section 18A(1).
- (2) This section also applies where—
 - (a) a person contacts ACAS requesting the services of a conciliation officer in relation to a matter that (if not settled) is likely to give rise to relevant proceedings by that person, and
 - (b) the requirement in section 18A(1) would apply to that person but for section 18A(7).
- (3) Where this section applies a conciliation officer shall endeavour to promote a settlement between the persons who would be parties to the proceedings.
- (4) If at any time—
 - (a) the conciliation officer concludes that a settlement is not possible, or
 - (b) a conciliation officer comes under the duty in section 18A(3) to promote a settlement between the persons who would be parties to the proceedings,the duty in subsection (3) ceases to apply at that time.
- (5) In subsections (3) and (4) “settlement” means a settlement that avoids proceedings being instituted.
- (6) Subsection (9) of section 18A applies for the purposes of this section as it applies for the purposes of that section.”

(2) Schedule 1 (conciliation: minor and consequential amendments) has effect.

8 Extension of limitation periods to allow for conciliation

Schedule 2 (extension of limitation periods to allow for conciliation) has effect.

9 Extended power to define “relevant proceedings” for conciliation purposes

- (1) Section 18 of the Employment Tribunals Act 1996 (conciliation) is amended as follows.
- (2) In subsection (8) (power of Secretary of State and Lord Chancellor to amend list in subsection (1) of section 18), for paragraphs (a) and (b) substitute “amend the

definition of “relevant proceedings” in subsection (1) by adding to or removing from the list in that subsection particular types of employment tribunal proceedings.”

(3) After subsection (8) insert—

“(9) An order under subsection (8) that adds employment tribunal proceedings to the list in subsection (1) may amend an enactment so as to extend the time limit for instituting those proceedings in such a way as appears necessary or expedient in order to facilitate the conciliation process provided for by section 18A.

(10) An order under subsection (8) that removes employment tribunal proceedings from the list in subsection (1) may—

- (a) repeal or revoke any provision of an enactment that, for the purpose mentioned in subsection (9), extends the time limit for instituting those proceedings;
- (b) make further amendments which are consequential on that repeal or revocation.”