



Trade Union Reform and Employment Rights Act 1993

1993 CHAPTER 19

PART III

OTHER EMPLOYMENT MATTERS

Constitution and jurisdiction of tribunals

39 Agreements not to take proceedings before industrial tribunal

- (1) In section 140 of the 1978 Act (restrictions on contracting out)—
- (a) in subsection (2) (exceptions), after the paragraph (fa) inserted by paragraph 21 of Schedule 8 to this Act, there shall be inserted—
 - “(fb) to any agreement to refrain from instituting or continuing any proceedings specified in section 133(1) (except (c)) or 134(1) before an industrial tribunal if the conditions regulating compromise agreements under this Act are satisfied in relation to the agreement.”;
 - (b) after subsection (2), there shall be inserted—
 - “(3) The conditions regulating compromise agreements under this Act are that—
 - (a) the agreement must be in writing;
 - (b) the agreement must relate to the particular complaint;
 - (c) the employee must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed agreement and in particular its effect on his ability to pursue his rights before an industrial tribunal;
 - (d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the

Status: This is the original version (as it was originally enacted).

employee in respect of loss arising in consequence of the advice;

- (e) the agreement must identify the adviser; and
- (f) the agreement must state that the conditions regulating compromise agreements under this Act are satisfied.

(4) In subsection (3)—

“independent”, in relation to legal advice to the employee, means that it is given by a lawyer who is not acting in the matter for the employer or an associated employer; and

“qualified lawyer” means—

(a) as respects proceedings in England and Wales—

- (i) a barrister, whether in practice as such or employed to give legal advice, or
- (ii) a solicitor of the Supreme Court who holds a practising certificate;

(b) as respects proceedings in Scotland—

- (i) an advocate, whether in practice as such or employed to give legal advice, or
- (ii) a solicitor who holds a practising certificate.”.

(2) Schedule 6 to this Act shall have effect for making corresponding amendments in the Sex Discrimination Act 1975, the Race Relations Act 1976, the Wages Act 1986 and the Trade Union and Labour Relations (Consolidation) Act 1992.