



# Employment Tribunals Act 1996

## 1996 CHAPTER 17

### PART I

#### [<sup>F1</sup>EMPLOYMENT TRIBUNALS]

##### *Conciliation*

#### 18 Conciliation.

- (1) This section applies in the case of [<sup>F1</sup>employment tribunal] proceedings and claims which could be the subject of [<sup>F1</sup>employment tribunal] proceedings—
- (a) under—
    - (i) section 2(1) of the <sup>M1</sup>Equal Pay Act 1970,
    - (ii) section 63 of the <sup>M2</sup>Sex Discrimination Act 1975, or
    - (iii) section 54 of the <sup>M3</sup>Race Relations Act 1976,
  - (b) arising out of a contravention, or alleged contravention, of section 64, 68 [<sup>F2</sup>, 86], 137, 138, 146, 168, 169, 170, 174, 188 or 190 of the <sup>M4</sup>Trade Union and Labour Relations (Consolidation) Act 1992,
  - (c) under section 8 of the <sup>M5</sup>Disability Discrimination Act 1995,
  - (d) arising out of a contravention, or alleged contravention, of section 8, 13, 15, 18(1), 21(1), 28 [<sup>F3</sup>, 92 or 135,] or of Part V, VI, VII or X, of the <sup>M6</sup>Employment Rights Act 1996,
  - [<sup>F4</sup>(dd) under or by virtue of section 11, 18, 20(1)(a) or 24 of the National Minimum Wage Act 1998;]
  - (e) which are proceedings in respect of which an [<sup>F1</sup>employment tribunal] has jurisdiction by virtue of section 3 of this Act, <sup>F5</sup>. . .
  - (f) arising out of a contravention, or alleged contravention, of a provision specified by an order under subsection (8)(b) as a provision to which this paragraph applies [<sup>F6</sup>. . .
  - <sup>F7</sup>(ff) under regulation 30 of the <sup>M7</sup>Working Time Regulations 1998,]. . .
  - (g) under regulation 27 or 32 of the Transnational Information and Consultation of Employees Regulations 1999.

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[<sup>F8</sup>or

(h) arising out of a contravention, or alleged contravention of regulation [<sup>F9</sup>5(1) or]7(2) of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.]

(2) Where an application has been presented to an [<sup>F1</sup>employment tribunal], and a copy of it has been sent to a conciliation officer, it is the duty of the conciliation officer—

- (a) if he is requested to do so by the person by whom and the person against whom the proceedings are brought, or
- (b) if, in the absence of any such request, the conciliation officer considers that he could act under this subsection with a reasonable prospect of success,

to endeavour to promote a settlement of the proceedings without their being determined by an [<sup>F1</sup>employment tribunal].

(3) Where at any time—

- (a) a person claims that action has been taken in respect of which proceedings could be brought by him before an [<sup>F1</sup>employment tribunal], but
- (b) before any application relating to that action has been presented by him a request is made to a conciliation officer (whether by that person or by the person against whom the proceedings could be instituted) to make his services available to them,

the conciliation officer shall act in accordance with subsection (2) as if an application had been presented to an [<sup>F1</sup>employment tribunal].

(4) Where a person who has presented a complaint to an [<sup>F1</sup>employment tribunal] under section 111 of the <sup>M8</sup>Employment Rights Act 1996 has ceased to be employed by the employer against whom the complaint was made, the conciliation officer shall (for the purpose of promoting a settlement of the complaint in accordance with subsection (2)) in particular—

- (a) seek to promote the reinstatement or re-engagement of the complainant 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 complainant does not wish to be reinstated or re-engaged, or where reinstatement or re-engagement is not practicable, and the parties desire the conciliation officer to act, seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the complainant.

(5) Where at any time—

- (a) a person claims that action has been taken in respect of which a complaint could be presented by him to an [<sup>F1</sup>employment tribunal] under section 111 of the Employment Rights Act 1996, but
- (b) before any complaint relating to that action has been presented by him a request is made to a conciliation officer (whether by that person or by the employer) to make his services available to them,

the conciliation officer shall act in accordance with subsection (4) as if a complaint had been presented to an [<sup>F1</sup>employment tribunal] under section 111.

(6) In proceeding under this section a conciliation officer shall, where appropriate, have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.

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- (7) Anything communicated to a conciliation officer in connection with the performance of his functions under this section shall not be admissible in evidence in any proceedings before an <sup>F1</sup>employment tribunal], except with the consent of the person who communicated it to that officer.
- (8) The Secretary of State may by order—
- (a) direct that further provisions of the Employment Rights Act 1996 be added to the list in subsection (1)(d), or
  - (b) specify a provision of any other Act as a provision to which subsection (1)(f) applies.

#### Textual Amendments

- F1** Words in s. 18 substituted (1.8.1998) by 1998 c. 8, s. **1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F2** Words in s. 18(1)(b) inserted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 16**; S.I. 1998/1658, art. 2(1), **Sch. 1**
- F3** Words in s. 18(1)(d) substituted (1.10.1998) by 1998 c. 8, s. **11(1)**; S.I. 1998/1658, art. 2(2), **Sch. 2**
- F4** S. 18(1)(dd) inserted (1.11.1998 for specified purposes and otherwise 1.4.1999) by 1998 c. 39, s. **30(1)** (with s. 36); S.I. 1998/2574, art. 2, **Sch. 1, Sch. 2**
- F5** Word in s. 18(1)(e) omitted (1.10.1998) by virtue of S.I. 1998/1833, **reg. 33(a)**
- F6** Word in s. 18(1)(f) omitted (15.1.2000) by virtue of S.I. 1999/3323, **reg. 33(1)**
- F7** S. 18(1)(ff) and word “or” immediately preceding inserted (1.10.1998) by S.I. 1998/1833, **reg. 33(b)**
- F8** S. 18(1)(h) and word “or” immediately preceding it inserted (1.7.2000) by S.I. 2000/1551, **reg. 10, Sch. para. 1(a)(ii)**
- F9** Words in s. 18(1)(h) inserted (1.5.2001) by S.I. 2001/1107, **reg. 2**

#### Modifications etc. (not altering text)

- C1** S. 18(1)(d) amended (4.9.2000) by 1999 c. 26, s. **14(b)**; S.I. 2000/2242, **art. 2(1)**  
S. 18(1)(d) extended (6.6.2000) by S.I. 2000/1299, **art. 2**
- C2** S. 18(1)(f) applied (6.6.2000) by S.I. 2000/1229, **art. 3**

#### Marginal Citations

- M1** 1970 c. 41.  
**M2** 1975 c. 65.  
**M3** 1976 c. 74.  
**M4** 1992 c. 52.  
**M5** 1995 c. 50.  
**M6** 1996 c. 18.  
**M7** S.I. 1998/1833.  
**M8** 1996 c. 18.

## 19 Conciliation procedure.

<sup>F10</sup>Employment tribunal] procedure regulations shall include in relation to <sup>F10</sup>employment tribunal] proceedings in the case of which any enactment makes provision for conciliation—

- (a) provisions requiring a copy of the application by which the proceedings are instituted, and a copy of any notice relating to it which is lodged by or on behalf of the person against whom the proceedings are brought, to be sent to a conciliation officer,

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- (b) provisions securing that the applicant and the person against whom the proceedings are brought are notified that the services of a conciliation officer are available to them, and
- (c) provisions postponing the hearing of any such proceedings for such period as may be determined in accordance with the regulations for the purpose of giving an opportunity for the proceedings to be settled by way of conciliation and withdrawn.

#### Textual Amendments

**F10** Words in s. 19 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

VALID FROM 01/04/2009

#### [<sup>F11</sup>19A Conciliation: recovery of sums payable under [<sup>F12</sup> settlements ]

- (1) Subsections (3) to (6) apply if—
  - (a) a conciliation officer—
    - (i) has taken action under [<sup>F13</sup> any of sections 18A to 18C ] in a case, and
    - (ii) issues a certificate in writing stating that a [<sup>F14</sup> settlement ] has been reached in the case, and
  - (b) all of the terms of the [<sup>F14</sup> settlement ] are set out—
    - (i) in a single relevant document, or
    - (ii) in a combination of two or more relevant documents.
- (2) A document is a “relevant document” for the purposes of subsection (1) if—
  - (a) it is the certificate, or
  - (b) it is a document that is referred to in the certificate or that is referred to in a document that is within this paragraph.
- (3) Any sum payable by a person under the terms of the [<sup>F15</sup> settlement ] (a “ [<sup>F15</sup> settlement ] sum”) shall, subject to subsections (4) to (7), be recoverable—
  - (a) in England and Wales, by execution issued from [<sup>F16</sup> the county court ] or otherwise as if the sum were payable under an order of that court;
  - (b) in Scotland, by diligence as if the certificate were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) A [<sup>F17</sup> settlement ] sum is not recoverable under subsection (3) if—
  - (a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and
  - (b) that declaration is made.
- (5) If rules of court so provide, a [<sup>F18</sup> settlement ] sum is not recoverable under subsection (3) during the period—
  - (a) beginning with the issue of the certificate, and
  - (b) ending at such time as may be specified in, or determined under, rules of court.

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- (6) If the terms of the [F19 settlement] provide for the person to whom a [F19 settlement] sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under subsection (3)—
- (a) in England and Wales, only if [F16 the county court] so orders;
  - (b) in Scotland, only if the sheriff so orders.
- (7) Once an application has been made for a declaration under subsection (4) in relation to a sum, no further reliance may be placed on subsection (3) for the recovery of the sum while the application is pending.
- (8) An application for a declaration under subsection (4) may be made to an employment tribunal, [F16 the county court] or the sheriff.
- (9) Employment tribunal procedure regulations may (in particular) make provision as to the time within which an application to an employment tribunal for a declaration under subsection (4) is to be made.
- (10) Rules of court may make provision as to—
- (a) the time within which an application to [F16 the county court] for a declaration under subsection (4) is to be made;
  - (b) the time within which an application to the sheriff for a declaration under subsection (4) is to be made;
  - (c) when an application (whether made to [F16 the county court], the sheriff or an employment tribunal) for a declaration under subsection (4) is pending for the purposes of subsection (7).

[ A term of any document which is a relevant document for the purposes of F20(10A) subsection (1) is void to the extent that it purports to prevent the disclosure of any provision of any such document to a person appointed or authorised to act under section 37M.]

- (11) Nothing in this section shall be taken to prejudice any rights or remedies that a person has apart from this section.
- (12) In this section “ [F21 settlement] ” (except in the phrase “ [F21 settlement] sum”) means a settlement<sup>F22</sup> ... to avoid proceedings or bring proceedings to an end.]

### Textual Amendments

- F11** S. 19A inserted (1.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 142, 148**; S.I. 2008/2696, **art. 6(a)**
- F12** Word in s. 19A heading substituted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 23(2)(c), 103(3)**; S.I. 2013/1648, **art. 2(c)**
- F13** Words in s. 19A(1)(a)(i) substituted (6.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 1 para. 7**; S.I. 2014/253, **art. 3(f)** (with **art. 5(1)**)
- F14** Word in s. 19A(1) substituted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 23(2)(a), 103(3)**; S.I. 2013/1648, **art. 2(c)**
- F15** Word in s. 19A(3) substituted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 23(2)(a), 103(3)**; S.I. 2013/1648, **art. 2(c)**
- F16** Words in s. 19A substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, **art. 2(c)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- F17** Word in s. 19A(4) substituted (29.7.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 23(2)(a)**, 103(3); S.I. 2013/1648, art. 2(c)
- F18** Word in s. 19A(5) substituted (29.7.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 23(2)(a)**, 103(3); S.I. 2013/1648, art. 2(c)
- F19** Word in s. 19A(6) substituted (29.7.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 23(2)(a)**, 103(3); S.I. 2013/1648, art. 2(c)
- F20** S. 19A(10A) inserted (6.4.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 150(4)**, 164(1) (with s. 150(8)); S.I. 2016/321, reg. 3(d)
- F21** Word in s. 19A(12) substituted (29.7.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 23(2)(b)(i)**, 103(3); S.I. 2013/1648, art. 2(c)
- F22** Words in s. 19A(12) omitted (29.7.2013) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 23(2)(b)(ii)**, 103(3); S.I. 2013/1648, art. 2(c)

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