



# 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—
- [<sup>F2</sup>(a) under section 120 or 127 of the Equality Act 2010,]
  - (b) arising out of a contravention, or alleged contravention, of section 64, 68 [<sup>F3</sup>, 86], 137, 138, [<sup>F4</sup>145A, 145B,] 146, 168, [<sup>F5</sup>168A,] 169, 170, 174, 188 or 190 of the <sup>M1</sup>Trade Union and Labour Relations (Consolidation) Act 1992,
  - <sup>F6</sup>(c) .....
  - (d) [<sup>F7</sup>under or] arising out of a contravention, or alleged contravention, of section 8, 13, 15, 18(1), 21(1), 28 [<sup>F8</sup>, [<sup>F9</sup> 63F(4), (5) or (6), 63I(1)(b), ] [<sup>F7</sup>80G(1), 80H(1)(b),] 92 or 135,] or of Part V, VI, VII or X, of the <sup>M2</sup>Employment Rights Act 1996,
  - [<sup>F10</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>F11</sup> . . .
  - (f) [<sup>F12</sup>under or] 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>F13</sup> . . .
  - <sup>F14</sup>(ff) under regulation 30 of the <sup>M3</sup>Working Time Regulations 1998,] . . .
  - (g) under regulation 27 or 32 of the Transnational Information and Consultation of Employees Regulations 1999<sup>F15</sup>[<sup>F16</sup> . . .

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- (h) arising out of a contravention, or alleged contravention of regulation [F17]5(1) or] 7(2) of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000]
- [F18](i) arising out of a contravention, or alleged contravention of regulation 3 or 6(2) of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002; F19 . . .
- (j) under regulation 9 of those Regulations] F20 [F21 . . .
- F22(k)] . . . . .
- F23 [F24(1)] . . . . .
- [F25(m) under regulation 18 of the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003] F26 [F27 . . .
- (n) under regulation 41 or 45 of the European Public Limited-Liability Company Regulations 2004]
- [F28 [F29(o) under regulation 19 of the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004] F30 [F31 . . .
- (p) under regulation 29 or 33 of the Information and Consultation of Employees Regulations 2004] F32, F33 . . .
- (q) under paragraph 4 or 8 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006] F34 [F35 . . .
- F36(r)] . . . . .
- [F37(s) under regulation 30 or 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006] F38 [F39 . . .
- (t) under regulation 45 or 51 of the Companies (Cross-Border Mergers) Regulations 2007.] F40, F41 . . .
- (u) under regulation 17 of the Cross-border Railway Services (Working Time) Regulations 2008] F42, F43 . . .
- (v) under regulation 28 or 32 of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009(S.I. 2009/2401).] F44, or
- (w) under regulation 5, 6 or 9 of the Employment Relations Act 1999 (Blacklists) Regulations 2010.]

- (2) Where an application has been presented to an [F1]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 [F1]employment tribunal].

F45 [F46(2A)] . . . . .

- (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 [F1]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

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- person against whom the proceedings could be instituted) to make his services available to them,
- the conciliation officer [<sup>F47</sup> may endeavour to promote a settlement between the parties without proceedings being instituted ] .
- (4) Where a person who has presented a complaint to an [<sup>F1</sup>employment tribunal] under section 111 of the <sup>M4</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.
- [<sup>F48</sup>(5) Where a conciliation officer acts pursuant to subsection (3) in a case where the person claiming as specified in paragraph (a) of that subsection has ceased to be employed by the employer and the proceedings which he claims could be brought by him 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 that person 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 person 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 that person.]
- (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.
- (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 [<sup>F49</sup>and the Lord Chancellor, acting jointly,] 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** S. 18(1)(a) substituted by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 31(a) (as inserted) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5 (see S.I. 2010/2317, art. 2)

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- F3** 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**
- F4** Words in s. 18(1)(b) inserted (1.10.2004) by Employment Relations Act 2004 (c. 24), ss. 57(1), 59(3) (4), **Sch. 1 para. 25**; S.I. 2004/2566, **art. 3(b)** (subject to arts. 4-8)
- F5** Words in s. 18(1)(b) inserted (27.4.2003) by 2002 c. 22, ss. 53, 55(2), Sch. 7 para. 23(2)(a); S.I. 2003/1190, **art. 2(2)(b)**
- F6** S. 18(1)(c) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 31(b) (as inserted) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F7** Words in s. 18(1)(d) inserted (6.4.2003) by 2002 c. 22, s. 53, **Sch. 7 para. 23(2)(b)(i)(ii)**; S.I. 2002/2866, art. 2(1)-(3), **Sch. 1 Pt. 3**
- F8** 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**
- F9** Words in s. 18(1)(d) inserted (6.4.2010 for specified purposes) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 1 para. 16**; S.I. 2010/303, art. 4, Sch. 3
- F10** 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**
- F11** Word in s. 18(1)(e) omitted (1.10.1998) by virtue of S.I. 1998/1833, **reg. 33(a)**
- F12** Words in s. 18(1)(f) inserted (6.4.2003) by 2002 c. 22, s. 53, **Sch. 7 para. 23(2)(c)**; S.I. 2002/2866, art. 2(1)-(3), **Sch. 1 Pt. 3**
- F13** Word in s. 18(1)(f) omitted (15.1.2000) by virtue of S.I. 1999/3323, **reg. 33(1)**
- F14** S. 18(1)(ff) and word “or” immediately preceding inserted (1.10.1998) by S.I. 1998/1833, **reg. 33(b)**
- F15** Word at the end of s. 18(1)(g) omitted (1.10.2002) by virtue of S.I. 2002/2034, **reg. 11 Sch. 2 Pt. 1 para. 2(a)(i)**
- F16** 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)**
- F17** Words in s. 18(1)(h) inserted (1.5.2001) by S.I. 2001/1107, **reg. 2**
- F18** S. 18(1)(i)(j) inserted (1.10.2002) by S.I. 2002/2034, **reg. 11 Sch. 2 Pt. 1 para. 2(a)(ii)**
- F19** Word in s. 18(1)(i) omitted (1.12.2003) by virtue of The Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), reg. 39, **Sch. 5 para. 1(a)(i)**
- F20** Word in s. 18(1) omitted (2.12.2003) by virtue of The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), reg. 39(2), **Sch. 5 para. 1(a)(i)**
- F21** S. 18(1)(k) and preceding word inserted (1.12.2003) by The Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), reg. 39, **Sch. 5 para. 1(a)(ii)**
- F22** S. 18(1)(k) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 31(b) (as inserted) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F23** S. 18(1)(l) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 31(b) (as inserted) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F24** S. 18(1)(l) and preceding word inserted (2.12.2003) by The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), reg. 39(2), **Sch. 5 para. 1(a)(ii)**
- F25** S. 18(1)(m) inserted (24.12.2003) by The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 (S.I. 2003/3049), reg. 20, **Sch. 2 para. 2(2)**
- F26** Word at the end of s. 18(1)(m) repealed (6.4.2005) by The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 34(a)** (with reg. 3)
- F27** S. 18(1)(n) and preceding word inserted (8.10.2004) after paragraph (m) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 46**
- F28** S. 18(1)(n) inserted (16.8.2004) by The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 (S.I. 2004/1713), reg. 22, **Sch. 2 para. 1(2)**
- F29** S. 18(1)(n) renumbered as s. 18(1)(o) (6.4.2005) by virtue of The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 34(b)** (with reg. 3)
- F30** Word at the end of s. 18(1)(o) omitted (6.4.2006) by virtue of The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349), reg. 17, **Sch. para. 9(a)**
- F31** S. 18(1)(p) and preceding word inserted (6.4.2005) by The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 34(c)** (with reg. 3)

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- F32** S. 18(1)(q) and preceding word inserted (6.4.2006) by The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349), reg. 17, **Sch. para. 9(b)**
- F33** Word at the end of s. 18(1)(p) omitted (1.10.2006) by virtue of The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), reg. 49(1), **Sch. 8 para. 19(2)** (with reg. 44)
- F34** Word at the end of s. 18(1)(q) omitted (18.8.2006) by virtue of The European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059), **reg. 35(a)**
- F35** S. 18(1)(r) and preceding word inserted (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), reg. 49(1), **Sch. 8 para. 19(3)** (with reg. 44)
- F36** S. 18(1)(r) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 31(b) (as inserted) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F37** S. 18(1)(s) and preceding word inserted (18.8.2006) by The European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059), **reg. 35(b)**
- F38** Word in s. 18(1)(s) omitted (27.7.2008) by virtue of The Cross-border Railway Services (Working Time) Regulations 2008 (S.I. 2008/1660), reg. 1(1), **Sch. 3 para. 1(a)(i)**
- F39** S. 18(1)(t) and preceding word inserted (15.12.2007) by virtue of The Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 52(b)**
- F40** S. 18(1)(u) and word inserted (27.7.2008) by The Cross-border Railway Services (Working Time) Regulations 2008 (S.I. 2008/1660), reg. 1(1), **Sch. 3 para. 1(a)(ii)**
- F41** Word in s. 18(1) omitted (1.10.2009) by virtue of The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (S.I. 2009/2401), regs. 1(2), **33** (with regs. 4, 41)
- F42** S. 18(1)(v) and word inserted (1.10.2009) by The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (S.I. 2009/2401), regs. 1(2), **33** (with regs. 4, 41)
- F43** Word in s. 18(1)(u) omitted (2.3.2010) by virtue of The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), regs. 1(b), **17(4)(a)**
- F44** S. 18(1)(w) and word inserted (2.3.2010) by The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), regs. 1(b), **17(4)(b)**
- F45** S. 18(2A) repealed (6.4.2009) by Employment Act 2008 (c. 24), ss. 6(1), 22(1)(a), **Sch. Pt. 1**; S.I. 2008/3232, art. 2 (with art. 3, Sch.)
- F46** S. 18(2A) inserted (9.7.2004) by 2002 c. 22, ss. 24(2), 55(2); S.I. 2004/1717, **art. 2(1)**
- F47** Words in s. 18(3) substituted (6.4.2009) by Employment Act 2008 (c. 24), **ss. 5(2)**, 22(1)(a); S.I. 2008/3232, art. 2 (with art. 3, Sch.)
- F48** S. 18(5) substituted (6.4.2009) by Employment Act 2008 (c. 24), **ss. 5(3)**, 22(1)(a); S.I. 2008/3232, art. 2 (with art. 3, Sch.)
- F49** Words in s. 18(8) inserted (1.12.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, **Sch. 8 para. 38**; S.I. 2007/2709, **art. 4**

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

- C1** S. 18 applied (6.4.2006 with application as mentioned in reg. 21(1) of the applying S.I.) by The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), **reg. 16(1)** (with reg. 21(5))  
S. 18 applied (6.4.2006 with application as mentioned in reg. 21(1) of the applying S.I.) by The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), **reg. 12(7)**
- C2** 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**
- C3** S. 18(1)(f) applied (6.6.2000) by S.I. 2000/1229, **art. 3**

#### Marginal Citations

- M1** 1992 c. 52.  
**M2** 1996 c. 18.  
**M3** S.I. 1998/1833.

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**M4** 1996 c. 18.

## 19 Conciliation procedure.

[<sup>F50</sup>(1)] [<sup>F51</sup>Employment tribunal] procedure regulations shall include in relation to [<sup>F51</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, [<sup>F52</sup>and]
- (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, <sup>F53</sup> . . .

<sup>F53</sup>(c) . . . . .

[<sup>F54</sup>(2) <sup>F55</sup> . . . . .]

### Textual Amendments

- F50** S. 19 renumbered (9.7.2004) as s. 19(1) by 2002 c. 22, ss. 24(4), 55(2); S.I. 2004/1717, **art. 2(1)**
- F51** 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**
- F52** Word in s. 19(a) inserted (1.10.2004) by **Employment Act 2002 (c. 22), ss. 53, 55(2), Sch. 7 para. 23(3)**; S.I. 2004/2185, **art. 2**
- F53** S. 19(c) and word immediately before it repealed (6.4.2003) by 2002 c. 22, ss. 24(3), 54, **Sch. 8; S.I. 2002/2866, art. 2(4)(5), Sch. 2 Pt. 2**
- F54** S. 19(2) inserted (9.7.2004) by 2002 c. 22, ss. 24(4), 55(2); S.I. 2004/1717, **art. 2(1)**
- F55** S. 19(2) repealed (6.4.2009) by **Employment Act 2008 (c. 24), ss. 6(2), 22(1)(a), Sch. Pt. 1; S.I. 2008/3232, art. 2 (with art. 3, Sch.)**

## [<sup>F56</sup>19A Conciliation: recovery of sums payable under compromises

- (1) Subsections (3) to (6) apply if—
  - (a) a conciliation officer—
    - (i) has taken action under section 18 in a case, and
    - (ii) issues a certificate in writing stating that a compromise has been reached in the case, and
  - (b) all of the terms of the compromise 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 compromise (a “compromise sum”) shall, subject to subsections (4) to (7), be recoverable—



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- (a) in England and Wales, by execution issued from a 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 compromise 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 compromise 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.
- (6) If the terms of the compromise provide for the person to whom a compromise 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 a 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, a 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 a 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 a county court, the sheriff or an employment tribunal) for a declaration under subsection (4) is pending for the purposes of subsection (7).
- (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 “compromise” (except in the phrase “compromise sum”) means a settlement, or compromise, to avoid proceedings or bring proceedings to an end.]

#### Textual Amendments

**F56** 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)

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