



# Employment Protection (Consolidation) Act 1978

## 1978 CHAPTER 44

### PART VIII

#### RESOLUTION OF DISPUTES RELATING TO EMPLOYMENT

##### *Conciliation officers*

#### **133 General provisions as to conciliation officers.**

- (1) The provisions of subsections (2) to (6) shall have effect in relation to industrial tribunal proceedings, or claims which could be the subject of tribunal proceedings,—
- (a) arising out of a contravention, or alleged contravention, of any of the following provisions of this Act, that is to say, sections 8, 12, 19, 23, 27, 28, 29, 31, [<sup>F1</sup>31A] and 53; or
  - (b) arising out of a contravention, or alleged contravention, of section 99 or 102 of the <sup>M1</sup>Employment Protection Act 1975 or of a provision of any other Act specified by an order under subsection (7) as one to which this paragraph applies; or
  - (c) which are proceedings or claims in respect of which an industrial tribunal has jurisdiction by virtue of an order under section 131; [<sup>F2</sup>or
  - (d) arising out of a contravention, or alleged contravention, of section 4 of the <sup>M2</sup>Employment Act 1980.][<sup>F3</sup>; or]
  - [<sup>F4</sup>(e) arising out of a contravention, or alleged contravention, of section 1(1) or (2) or section 2(1) or 3(4) of the Wages Act 1986.][<sup>F5</sup>; or]
  - [<sup>F6</sup>(f) arising out of an infringement, or alleged infringement, of the right conferred by section 3 of the Employment Act 1988.]
  - [<sup>F7</sup>(g) under section 1 or 2 of the Employment Act 1990.]
- (2) Where a complaint has been presented to an industrial tribunal, and a copy of it has been sent to a conciliation officer, it shall be the duty of the conciliation officer—

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- (a) if he is requested to do so by the complainant and by the person against whom the complaint is presented, 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 complaint without its being determined by an industrial tribunal.
- (3) 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 industrial tribunal, 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 person against whom the complaint could be made) to make his services available to them, the conciliation officer shall act in accordance with subsection (2) as if a complaint has been presented to an industrial tribunal.
- (4) Subsections (2) and (3) shall apply, with appropriate modifications, to the presentation of a claim and the reference of a question to an industrial tribunal as they apply to the presentation of a complaint.
- (5) In proceeding under subsection (2) or (3) a conciliation officer shall, where appropriate, have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.
- (6) 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 industrial tribunal, except with the consent of the person who communicated it to that officer.
- (7) The Secretary of State may by order—
- (a) direct that further provisions of this Act be added to the list in subsection (1) (a);
  - (b) specify a provision of any other Act as one to which subsection (1)(b) applies.

#### Textual Amendments

- F1** Words inserted by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), **Sch. 1 para. 17**
- F2** [S. 133\(1\)\(d\)](#) inserted by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), **Sch. 1 para. 17**
- F3** “; or” inserted by [Wages Act 1986 \(c. 48, SIF 43:2\)](#), s. 32(1), **Sch. 4 para. 9**
- F4** [S. 133\(1\)\(e\)](#) inserted by [Wages Act 1986 \(c. 48, SIF 43:2\)](#), s. 32(1), **Sch. 4 para. 9**
- F5** “; or” inserted by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33, **Sch. 3 para. 2(3)**
- F6** [S. 133\(1\)\(f\)](#) inserted by [Employment Act 1988 \(c. 19, SIF 43:5\)](#), s. 33, **Sch. 3 para. 2(3)**
- F7** [S. 133\(1\)\(g\)](#) inserted by [Employment Act 1990 \(c. 38, SIF 43:5\)](#), s. 3(5), [Sch. 1 paras. 1, 4](#) (with application in relation to a complaint under ss. 1 or 2 of that 1990 Act)

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

- C1** [S. 133](#) extended by [S.I. 1981/1794](#), **regs. 11(9), 13**

#### Marginal Citations

- M1** 1975 c. 71.
- M2** 1980 c. 42.

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### 134 Functions of conciliation officers on complaint under s. 67.

- (1) Where a complaint has been presented to an industrial tribunal under section 67 by a person (in this section referred to as the complainant) and a copy of it has been sent to a conciliation officer, it shall be the duty of the conciliation officer—
  - (a) if he is requested to do so by the complainant and by the employer against whom it was presented, or
  - (b) if, in the absence of any such request, the conciliation officer considers that he could act under this section with a reasonable prospect of success,to endeavour to promote a settlement of the complaint without its being determined by an industrial tribunal.
- (2) For the purpose of promoting such a settlement, in a case where the complainant has ceased to be employed by the employer against whom the complaint was made,—
  - (a) the conciliation officer shall in particular 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; but
  - (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 under this section, he shall seek to promote agreement between them as to a sum by way of compensation to be paid by the employer to the complainant.
- [<sup>F8</sup>(3) Where—
  - (a) a person claims that action has been taken in respect of which a complaint could be presented by him under section 67, and
  - (b) before any complaint relating to that action has been so presented, 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 subsections (1) and (2) above as if a complaint had been presented.]
- (4) In proceeding under subsections (1) to (3), a conciliation officer shall where appropriate have regard to the desirability of encouraging the use of other procedures available for the settlement of grievances.
- (5) 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 industrial tribunal, except with the consent of the person who communicated it to that officer.

#### Textual Amendments

**F8** S. 134(3) substituted by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), [Sch. 1 para. 18](#)

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