



Employment Tribunals Act 1996

1996 CHAPTER 17

^{F1}PART I

[^{F1}EMPLOYMENT TRIBUNALS]

Conciliation

18 Conciliation [^{F1} : relevant proceedings etc.] .

[^{F2}(1) In this section and sections 18A to 18C “relevant proceedings” means employment tribunal proceedings—]

- [^{F3}(a) under section 66, 68A, 70C, 87, 137, 138, 145A, 145B, 146, 168, 168A, 169, 170, 174, 189 or 192 of, or paragraph 156 of Schedule A1 to, the Trade Union and Labour Relations (Consolidation) Act 1992,
- (b) under section 11, 23, 34, 63I, 70, 70A, 80(1), 80H, 93, 111, 163 or 177 of the Employment Rights Act 1996, or under Part 5 or 6 of that Act,
- (c) under section 11, 19D(1)(a) or 24 of the National Minimum Wage Act 1998,
- (d) under section 56 of the Pensions Act 2008,
- (e) under section 120 or 127 of the Equality Act 2010,
- (f) under regulation 11 of the Safety Representatives and Safety Committees Regulations 1977,
- (g) under article 6 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994,
- (h) under article 6 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994,
- (i) under paragraph 2 of Schedule 2 to the Health and Safety (Consultation with Employees) Regulations 1996,
- (j) under regulation 30 of the Working Time Regulations 1998,
- (k) under regulation 27 or 32 of the Transnational Information and Consultation of Employees Regulation 1999,
- (l) under regulation 8 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000,

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- (m) under regulation 7 or 9 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002,
- (n) under regulation 22 of the Merchant Shipping (Hours of Work) Regulations 2002,
- (o) under regulation 15 of the Flexible Working (Procedural Requirements) Regulations 2002,
- (p) under regulation 18 of the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003,
- (q) under regulation 18 of the Civil Aviation (Working Time) Regulations 2004,
- (r) under regulation 19 of the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004,
- (s) under regulation 29 or 33 of the Information and Consultation of Employees Regulations 2004,
- (t) under paragraphs 4 or 8 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006,
- (u) under regulation 30 or 34 of the European Cooperative Society (Involvement of Employees) Regulations 2006,
- (v) under regulation 45 or 51 of the Companies (Cross-Border Mergers) Regulations 2007,
- (w) under regulation 17 of the Cross-border Railway Services (Working Time) Regulations 2008,
- (x) under regulation 9 of Ecclesiastical Offices (Terms of Service) Regulations 2009,
- (y) under regulation 28 or 32 of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009,
- (z) under regulation 18 of the Agency Workers Regulations 2010,
- (z1) under regulation 17 of the Employee Study and Training (Procedural Requirements) Regulations 2010,^{F4}...
- (z2) under regulation 5, 6 or 9 of the Employment Relations Act 1999 (Blacklists) Regulations 2010.^{F5}, or
- (z3) under regulation 3 of the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015.]]

[^{F6}(1A) Sections 18A and 18B apply in the case of matters which could be the subject of relevant proceedings, and section 18C applies in the case of relevant proceedings themselves.]

^{F7}(2)

[^{F8}(2A) ^{F9}

^{F7}(3)

^{F7}(4)

^{F7}(5)

(6) In proceeding under [^{F10}any of sections 18A to 18C] 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 ^[F10]any of sections 18A to 18C] shall not be admissible in evidence in any proceedings before an ^[F11]employment tribunal], except with the consent of the person who communicated it to that officer.
- (8) The Secretary of State ^[F12]and the Lord Chancellor, acting jointly,] may by order ^[F13]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.]
- ^[F14](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.]

Textual Amendments

- F1** Words in s. 18 heading inserted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 1 para. 5(2)**; S.I. 2014/253, art. 3(f)
- F2** Words in s. 18(1) substituted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 1 para. 5(3)**; S.I. 2014/253, art. 3(f)
- F3** S. 18(1)(a)-(z2) substituted for s. 18(1)(a)-(y) (6.4.2014) by The Employment Tribunals Act 1996 (Application of Conciliation Provisions) Order 2014 (S.I. 2014/431), arts. 1, **2**
- F4** Word in s. 18(1) omitted (11.1.2016) by virtue of The Employment Tribunals Act 1996 (Application of Conciliation Provisions) Order 2015 (S.I. 2015/2054), arts. 1, **2(2)(a)**
- F5** S. 18(1)(z3) and word inserted (11.1.2016) by The Employment Tribunals Act 1996 (Application of Conciliation Provisions) Order 2015 (S.I. 2015/2054), arts. 1, **2(2)(b)**
- F6** S. 18(1A) inserted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 1 para. 5(7)**; S.I. 2014/253, art. 3(f)
- F7** S. 18(2)-(5) omitted (6.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 1 para. 5(8)**; S.I. 2014/253, art. 3(f) (with art. 5(2))
- F8** S. 18(2A) inserted (9.7.2004) by 2002 c. 22, ss. 24(2), 55(2); S.I. 2004/1717, **art. 2(1)**
- F9** 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.)
- F10** Words in s. 18(6)(7) substituted (6.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 1 para. 5(9)**; S.I. 2014/253, art. 3(f) (with art. 5(1))
- F11** 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**
- F12** 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**
- F13** Words in s 18(8) substituted for s. 18(8)(a)(b) (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 9(2)**, 103(1)(i)(3); S.I. 2014/253, art. 3(d)
- F14** S. 18(9)(10) inserted (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 9(3)**, 103(1)(i)(3); S.I. 2014/253, art. 3(d)

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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\(7\)](#)

[^{F15}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,
- 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

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- 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).

Textual Amendments

F15 Ss. 18A, 18B inserted (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), **ss. 7(1), 103(1)(i)(3)**; S.I. 2014/253, art. 3(a)(b) (with arts. 4, 5)

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—

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- (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.]

Textual Amendments

F15 Ss. 18A, 18B inserted (25.4.2013 for specified purposes, 6.4.2014 in so far as not already in force) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), ss. 7\(1\), 103\(1\)\(i\)\(3\)](#); S.I. 2014/253, art. 3(a)(b) (with arts. 4, 5)

[^{F16}18C Conciliation after institution of proceedings

- (1) Where an application instituting relevant proceedings has been presented to an employment tribunal, and a copy of it has been sent to a conciliation officer, the conciliation officer shall endeavour to promote a settlement—
- (a) if 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 the officer could act under this section with a reasonable prospect of success.
- (2) Where a person who has presented a complaint to an employment tribunal under section 111 of the Employment Rights Act 1996 has ceased to be employed by the employer against whom the complaint was made, the conciliation officer may 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.
- (3) In subsection (1) “settlement” means a settlement that brings proceedings to an end without their being determined by an employment tribunal.]

Textual Amendments

F16 S. 18C inserted (6.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 1 para. 6](#); S.I. 2014/253, art. 3(f)

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19 Conciliation procedure.

[^{F17}(1)] [^{F18}Employment tribunal] procedure regulations shall include in relation to [^{F18}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, [^{F19}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, ^{F20} . . .

^{F20}(c)

[^{F21}(2) ^{F22}]

Textual Amendments

- F17** 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)**
- F18** 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**
- F19** 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**
- F20** 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**
- F21** S. 19(2) inserted (9.7.2004) by 2002 c. 22, ss. 24(4), 55(2); S.I. 2004/1717, **art. 2(1)**
- F22** 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.**)

[^{F23}19A Conciliation: recovery of sums payable under [^{F24} settlements]

- (1) Subsections (3) to (6) apply if—
 - (a) a conciliation officer—
 - (i) has taken action under [^{F25} any of sections 18A to 18C] in a case, and
 - (ii) issues a certificate in writing stating that a [^{F26} settlement] has been reached in the case, and
 - (b) all of the terms of the [^{F26} 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 [^{F27} settlement] (a “ [^{F27} settlement] sum”) shall, subject to subsections (4) to (7), be recoverable—
 - (a) in England and Wales, by execution issued from [^{F28} the county court] or otherwise as if the sum were payable under an order of that court;

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- (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 [^{F29} 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 [^{F30} 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.
- (6) If the terms of the [^{F31} settlement] provide for the person to whom a [^{F31} 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 [^{F28} 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, [^{F28} 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 [^{F28} 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 [^{F28} 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 ^{F32}(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 “ [^{F33} settlement] ” (except in the phrase “ [^{F33} settlement] sum”) means a settlement^{F34}... to avoid proceedings or bring proceedings to an end.]

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Textual Amendments

- F23** S. 19A inserted (1.4.2009) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 142](#), 148; S.I. 2008/2696, [art. 6\(a\)](#)
- F24** 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\(c\)](#)
- F25** 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\(1\)](#))
- F26** 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\(c\)](#)
- F27** 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\(c\)](#)
- F28** 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](#))
- F29** 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\(c\)](#)
- F30** 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\(c\)](#)
- F31** 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\(c\)](#)
- F32** 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\(d\)](#)
- F33** 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\(c\)](#)
- F34** 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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