

EMPLOYMENT ACT 2002

EXPLANATORY NOTES

SUMMARY OF REGULATORY IMPACT ASSESSMENT

Better dispute management

173. The Act provides for improved dispute resolution in the workplace and in the employment tribunal system. Existing problems in the current system of dispute resolution have contributed towards increasing numbers of Employment Tribunal applications. These are putting employers, employees and the tribunal system itself under strain. A dispute resolved in the workplace, especially one resolved early and informally, will reduce workplace tensions and increase retention of valuable staff. A dispute resolved in a Tribunal often leads to the end of the employment relationship. For the employee this means the loss of a job; for the employer it means unnecessary recruitment and lost skills. And where a dispute does have to go through the Tribunal process, cases should be resolved more quickly, reducing uncertainty for applicants and employers alike.
174. The Act contains several measures to address this. Not all of them have implications that need to be assessed in a regulatory impact assessment. Those included in the RIA are:
- Implied term of contract to confer right/obligation to follow ‘three steps’ grievance and discipline procedures;
 - All written statements of terms and conditions to include reference to workplace procedures (removal of small firms exemption);
 - Tribunals to mitigate awards to reflect whether three steps were followed and whether terms and conditions were provided;
 - Removing procedural traps in unfair dismissal cases;
 - Fixed period of conciliation in all Tribunal cases;
 - Changes to reduce wasted costs;
 - Introduction of questionnaires in equal pay cases.
175. The individual paragraphs below contain costs and benefit estimates for these provisions. There are strong overlaps between most of these proposals. The total benefits and costs are less than the sum of the individual benefits and costs.
176. Proposals for (i) Implied term of contract to confer right/obligation to follow ‘three steps’ grievance and discipline procedures; (ii) All written statements of terms and conditions to include reference to workplace procedures (removal of small firms exemption); and (iii) Tribunals to mitigate awards to reflect whether three steps were followed and whether terms and conditions were provided
177. All employers will have to introduce a satisfactory (that is, according to minimum standards) 3-step dispute and grievance procedure to deal with employment issues

*These notes refer to the Employment Act 2002
(c.22) which received Royal Assent on 8 July 2002*

arising in the workplace. Employees are also obliged to use this procedure. If either party does not fulfil their obligation, this will be reflected in the award.

178. This provides both employees and employers with an incentive to start a discussion about any problems, which may arise. This should in the medium to longer term improve employment relationships and open up the way both parties handle conflicts. Employers will feel the benefit of a clear transparent process that helps them to resolve problems. Employees who otherwise would have left because they felt they had been treated unfairly, or because the relationship had deteriorated over the months leading up to a Tribunal case, may now decide to stay.
179. The evidence suggests that most large employers have procedures that already meet the minimum standard. A disproportionate share of tribunal applications arise in workplaces where procedures are absent or have not been followed adequately. Greater use of procedures should therefore reduce significantly the volume of tribunal applications.
180. The estimated reduction in the number of applications is between 30,000 and 40,000 applications per year. Employers save time and money (£60– 80 million), employees save their own time and reduce stress levels and there are savings to the taxpayer through fewer cases (£11–15 million). There will be a time lag between the more widespread introduction of procedures in firms and a reduction in Tribunal applications of perhaps one year.
181. There are costs to employers. There are one-off costs arising from the introduction or revision of disciplinary and grievance procedures where these do not already meet the minimum requirements, and from incorporating these into the written statement of employment (£46–86 million). There are also on-going costs arising from the management time involved in greater use of these procedures (£42–90 million per year).