



Government Proposals to Amend The Employment Tribunal System and Employment Law - November 2011

The requirements for binding compromise agreements are to be simplified with a new name proposed being settlement agreements. Compromise agreements are often viewed as being too long, legalistic and overly complicated. A change to a standard format, as suggested, would dramatically reduce the costs and time currently devoted to compromise agreements.

There will be a commitment to support the greater use of mediation, particularly by small employers, so that it becomes an established part of dispute resolution.

A review of current employment tribunal rules is to be undertaken by Mr Justice Underhill with a view to simplification.

There will be a requirement for all parties to consider going through an ACAS conciliation process before a tribunal hearing. ACAS will have one month (which may be extended for a further 2 weeks) in which to offer non-compulsory early conciliation, during which period the clock for the relevant time limit will be stopped. ACAS will retain its duty to provide post claim conciliation. A shortened claim form will also be introduced to allow ACAS to receive key details at the early conciliation stage.

Options for a 'rapid resolution scheme', to enable simple low value claims to be settled within three months.

Charges to bring tribunal claims will be the subject of a consultation to be undertaken by the Ministry of Justice. There will be two stages at which a fee may be charged; when a claim is lodged; and when the claim goes forward to a hearing. There may be an additional fee if the amount claimed exceeds £30,000.

Complaints about breach of employment contract to be taken out of whistleblowing law

The period for bringing a claim for unfair dismissal will be doubled from 1 year to 2 years.

Employment Judges to sit alone in unfair dismissal cases

Shortening tribunal hearings. The government has announced that witness statements should be taken as read, unless a judge or tribunal directs otherwise. Additionally, parties and witnesses attending tribunal hearings will no longer be able to claim for the payment of their expenses.

Financial penalties to be introduced on employers who breach employment rights, payable to the Exchequer, subject to a discretion exercisable by Employment Judges where negligence or malice is involved.

CRB checks are to be portable therefore it will no longer be necessary to undertake CRB checks for each new job that is undertaken. They will be available online.

The Agency Worker Directive paperwork is to be reviewed and simplified.

The National Minimum Wage Regulations are to be consolidated into one set of rules.

In collective redundancy procedures, it has been suggested that the 90-day consultation period can be too long. This may be modified to an alternative maximum period of 30/45/60 days, subject to consultation.

The TUPE rules in relation to service provision are to be reviewed.

Consultation on the introduction of protected conversations, with the proviso that they will not extend to protect discriminatory acts

Amendment to s147 of Equality Act 2010, to clarify compromise agreements can be used to settle discrimination claims

Maternity and paternity leave to be 'modernised', with emphasis on greater involvement for fathers.

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