EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT TRIBUNALS (EARLY CONCILIATION: EXEMPTIONS AND RULES OF PROCEDURE) (AMENDMENT) REGULATIONS 2025

2025 No. 1153

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Kate Dearden MP, Parliamentary Under-Secretary of State at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 James Stevens, Deputy Director for Employment Rights, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rachel Price at the Department for Business and Trade can be contacted by telephone: 07511880747, or email at the following address with any queries regarding the instrument: rachel.price@businessandtrade.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 ("the 2014 Regulations") to provide for a twelve-week period for the Advisory, Conciliation and Arbitration Service (Acas) to endeavour to promote a settlement between the parties (early conciliation).

4.2 The change increases the period for early conciliation from six weeks to twelve weeks. This new period will apply when a prospective claimant to an employment tribunal submits an early conciliation form to Acas on or after 1st December 2025.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 Prospective claimants must contact Acas if they are considering, or have decided to, make a claim to an employment tribunal.

5.2 Acas must endeavour to promote a settlement between the prospective claimant and the prospective respondent within six weeks of the date that Acas was contacted. If at any point during the period of early conciliation, the conciliation officer concludes that settlement of a dispute, or part of it is not possible, or if the conciliation ends without a settlement being reached, Acas must issue an early conciliation certificate to the prospective claimant and respondent.

5.3 An early conciliation certificate demonstrates that the prospective claimant has completed the early conciliation process. Prospective claimants will need the reference number from the certificate to complete any subsequent employment tribunal claim form.

5.4 Demand for early conciliation has been rising over the past year alongside an increase in the complexity of cases, placing the early conciliation service under significant pressure.

5.5 Opportunities for conciliation should be maximised as this is a vital service that supports workers, employees and employers to resolve disputes without the cost and time of going to an employment tribunal. Increasing the period for early conciliation from six weeks to twelve weeks will ease pressure on Acas, better enabling parties to take full advantage of the chance to settle disputes.

What was the previous policy, how is this different?

5.6 Since 2020, the period for early conciliation was six weeks. A change to the legislation is needed to extend this period to twelve weeks, to ease the current pressure on Acas for early conciliation.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations were made under the powers conferred by sections 18A(11) and (12)(c) and 41(4) of the Employment Tribunals Act 1996(a). Regulation 2 amends rule 6 of the Schedule to the 2014 Regulations to provide for a twelve-week period for early conciliation. Regulation 3 provides for a transitional arrangement in relation to the period for early conciliation, so that the new twelve-week period will apply when a prospective claimant submits an early conciliation form to Acas on or after 1st December 2025.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department undertook targeted engagement with major unions, business groups and legal stakeholders. It also informed the devolved governments. There was broad acceptance of the proposed change.

7.2 The Department will be reviewing the change to the early conciliation time period in October 2026.

8. Applicable Guidance

8.1 The change to the early conciliation time period from six weeks to twelve weeks will be updated in existing guidance on early conciliation.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the level of impact on business is expected to be low. A De Minimis assessment has been completed as the Equivalent Annual Net Direct Cost to Business (EANDCB) is expected to be negligible.

9.2 The De Minimis assessment shows that the cost to business of familiarising themselves with the regulatory change is offset by the benefit to business of increased early conciliation i.e. the reduction in costs to businesses associated with employment tribunal claims.

Impact on businesses, charities and voluntary bodies

9.3 The impact on business, charities or voluntary bodies is low.

9.4 The legislation does impact small or micro businesses, but the overall impact showed by the EANDCB is negligible.

9.5 It is not possible to exempt small and micro businesses from this legislation as the early conciliation service applies to workers and employees across all sectors and businesses of all sizes.

9.6 There will be a positive, although not significant, impact on the public sector due to the cost saving resulting from the reduction in costs which would have occurred due to additional employment claims if no change was made.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 A review of the time period for early conciliation will take place in October 2026 to determine if the twelve weeks period should remain in place.

10.2 This instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).