EXPLANATORY MEMORANDUM TO

THE EMPLOYMENT TRIBUNALS (EARLY CONCILIATION: EXEMPTIONS AND RULES OF PROCEDURE) (AMENDMENT) REGULATIONS 2026

2026 No. 1144

1. Introduction

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

2. Declaration

2.1 Kate Dearden MP, Minister of State at the Department for Business, Innovation, Science 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, Innovation, Science and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rachel Price at the Department for Business, Innovation, Science and Trade can be contacted by telephone at: 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 The Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 are being amended to include additional information that prospective claimants must provide to Acas (the Advisory, Conciliation and Arbitration Service) in order to comply with the requirement to provide prescribed information to Acas before instituting proceedings at an Employment Tribunal. This instrument also provides clarification and makes further provision regarding the early conciliation procedure.

Where does the legislation extend to, and apply?

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

4.3 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 The Advisory, Conciliation and Arbitration Service (Acas) offer an early conciliation service where an Acas conciliator helps a prospective claimant (usually a worker) to

try and reach a legal agreement with the prospective respondent (usually their employer). This can help them avoid going to an Employment Tribunal.

5.2 Under section 18A of the Employment Tribunals Act 1996, prospective claimants must contact Acas before they can institute relevant proceedings at an Employment Tribunal (subject to limited exceptions). This must be done by providing prescribed information in an early conciliation notification form online, by post or by telephoning Acas. Acas must then endeavour to promote a settlement between the prospective parties which avoids proceedings being instituted. Where Acas concludes that early conciliation is not possible or 12 weeks has passed, whichever is earlier, Acas must issue a certificate, which enables proceedings to be instituted.

5.3 This Statutory Instrument requires further information to be provided to Acas, such as confirming whether the prospective claimant wishes to reach a settlement and, where they do, indicating what the disputed matter is and confirming whether the prospective claimant is employed by the prospective respondent. This would allow Acas to triage cases to conciliators more quickly and begin conciliation sooner as less time will be spent obtaining further information from prospective claimants. This should benefit both businesses and workers by reducing information gaps between the parties, enabling Acas to focus its conciliation resources more effectively to better meet their service demand and so should better enable Acas to promote settlements.

5.4 This Statutory Instrument provides that Acas is not required to contact the prospective respondent in cases where it has already concluded before doing so that settlement is not possible. This ensures that Acas does not need to spend time doing this when they have already concluded that settlement is not possible in the rare cases when this is clear to them before they have spoken to the prospective respondent. This should also enable Acas to focus its conciliation resources more effectively and so better meet their service demand and better able them to promote settlements.

What was the previous policy, how is this different?

5.5 The current Acas notification form requires a prospective claimant to provide their name and address and those of the prospective respondent. Additional information, including information about the dispute, is optional.

5.6 This Statutory Instrument requires a prospective claimant to provide further information and makes the related fields in the early conciliation form mandatory rather than optional.

5.7 Previously Acas were required to make reasonable attempts to contact the prospective respondent where the prospective claimant has given consent for them to do so.

5.8 This Statutory Instrument provides that Acas is no longer required to contact the prospective respondent in cases where it has already concluded before doing so that settlement is not possible, such as cases with multiple respondents.

6. Legislative and Legal Context

How has the law changed?

6.1 Under section 18A of the Employment Tribunals Act 1996, prospective claimants must provide prescribed information to Acas before they can institute relevant proceedings in the Employment Tribunal (subject to limited exceptions). The prescribed information is set out in the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 and was limited to the names and addresses of the prospective claimant and respondent.

6.2 This Statutory Instrument amends the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 to add the following to the prescribed information that prospective claimants must provide to Acas:

- Confirmation of whether or not the prospective claimant wishes to reach a settlement;
- The prospective claimant and prospective respondent's telephone number and email addresses, where they have them;
- Whether the prospective claimant consents to Acas contacting the prospective respondent;
- An indication of what the disputed matter is;
- An indication of when the disputed matter occurred;
- Whether the prospective claimant raised the disputed matter with the prospective respondent; and
- Whether the prospective claimant is or was employed by the prospective respondent.

6.3 Where there are multiple prospective respondents and/or multiple matters, the details above should be provided for each, except for whether the prospective claimant raised the disputed matter with the prospective respondent (in which case confirmation must be given of whether a matter was raised with a prospective respondent).

6.4 This Statutory Instrument also amends the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 to provide that Acas does not need to contact the prospective respondent in the rare cases where it has already concluded before doing so that settlement is not possible.

6.5 This Statutory Instrument also makes clarifications, in particular, to make clear that the prospective claimant's and respondent's actual addresses do not need to be included on the early conciliation form and certificate and an address at which they can be contacted at, for example, that of a representative, can be included instead.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 Acas undertook targeted stakeholder engagement with members of the Dispute Resolution System Taskforce which consists of Business Representative Organisations, Trade Unions, Legal Representative Organisations, and Third Sector Organisations. There was broad support from all groups for this change. Acas has also undertaken user testing on the existing form which confirmed that users experience no issues interacting with the questions on the form that are mandatory as a result of this Instrument.

7.2 As the Statutory Instrument requires prospective claimants to share more information with Acas, BIST consulted the Information Commissioner in compliance with article 36(4) of the UK General Data Protection Regulation.

8. Applicable Guidance

8.1 Existing guidance prompts will continue to be available on the notification form to support users with completing the questions.

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 lower than the £10m threshold. A De Minimis assessment has been completed. and is published alongside this instrument.

9.2 The De Minimis assessment shows that there will be no expected cost to business of familiarising themselves with the regulatory change.

Impact on businesses, charities and voluntary bodies

9.3 Impacts are proportionate to claim volumes and there's no differential burden, so no disproportionate effect on small and micro firms. This change will benefit workers across all sectors, including vulnerable groups and those sharing protected characteristics as it will enable more time for Acas to assign a conciliator and provide an opportunity for meaningful conciliation to take place, if the prospective claimant and respondent agree to do so.

9.4 It is not appropriate to exempt small and micro businesses from this legislation as the Early Conciliation requirement applies across all sectors and businesses of all sizes.

9.5 The impact on HMG is expected to be positive, as the legislation should free up Acas resource, which in turn can be diverted to resolving disputes earlier, achieving positive knock-on effects to both businesses and workers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Acas will monitor users' experiences of the notification process through user testing, stakeholder engagement and operational feedback on an ongoing basis and will review the form and guidance prompts where any issues are identified.

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").