

SCHEDULES

SCHEDULE 2

Section 8

EXTENSION OF LIMITATION PERIODS TO ALLOW FOR CONCILIATION

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

- 1 The Trade Union and Labour Relations (Consolidation) Act 1992 is amended as follows.
- 2 In section 66 (complaint of infringement of right under section 64), after subsection (2) insert—
 - “(2A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- 3 In section 68A (complaint of infringement of right under section 68), after subsection (1) insert—
 - “(1A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 4 In section 70C (section 70B: complaint to employment tribunal), after subsection (2) insert—
 - “(2A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- 5 In section 87 (complaint in respect of employer’s failure under section 86), after subsection (2) insert—
 - “(2A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- 6 In section 139 (time limit for proceedings under sections 137 and 138), after subsection (3) insert—
 - “(4) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 7 (1) Section 145C (time limit for proceedings under sections 145A and 145B) is amended as follows.
 - (2) The existing text becomes subsection (1).
 - (3) After that subsection insert—
 - “(2) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 8 In section 147 (time limit for proceedings under section 146), after subsection (3) insert—

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- “(4) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 9 (1) Section 171 (time limit for proceedings under sections 168, 168A, 169 and 170) is amended as follows.
- (2) The existing text becomes subsection (1).
- (3) After that subsection insert—
- “(2) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 10 (1) Section 175 (time limit for proceedings under section 174) is amended as follows.
- (2) The existing text becomes subsection (1).
- (3) After that subsection insert—
- “(2) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (1)(a).”
- 11 In section 189 (complaint: contravention of section 188), after subsection (5) insert—
- “(5A) Where the complaint concerns a failure to comply with a requirement of section 188, section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (5)(b).”
- 12 In section 192 (complaint by employee to employment tribunal: contravention of section 190), after subsection (2) insert—
- “(2A) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsection (2)(a).”
- 13 After section 292 insert—

“292A Extension of time limits to facilitate conciliation before institution of proceedings

- (1) This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a “relevant provision”).
- (2) In this section—
- (a) Day A is the day on which the complainant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the complainant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.
- (3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

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(4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) Where an employment tribunal has power under this Act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section.”

14 In Schedule A1 (collective bargaining: recognition), in paragraph 157 (complaint to employment tribunal: contravention of paragraph 156), after sub-paragraph (3) insert—

“(4) Section 292A (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of sub-paragraph (1) (a).”

Employment Rights Act 1996 (c. 18)

15 The Employment Rights Act 1996 is amended as follows.

16 In section 11 (references to employment tribunals: contravention of section 8), after subsection (5) insert—

“(6) Where the reference concerns compliance with section 8, section 207B (extension of time limits to facilitate conciliation before institution of proceedings) also applies for the purposes of subsection (4)(a).”

17 In section 23 (complaints to employment tribunals: contravention of section 13, 15, 18(1) or 21(1)), in subsection (3A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.

18 In section 34 (complaints to employment tribunals: contravention of section 28), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.

19 In section 48 (complaints to employment tribunals: contravention of Part 5), in subsection (4A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.

20 In section 51 (complaints to employment tribunals: contravention of section 50), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.

21 In section 54 (complaints to employment tribunals: contravention of section 52 or 53), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.

22 In section 57 (complaints to employment tribunals: contravention of section 55 or 56), in subsection (2A), for the words from “applies” to the end substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply for the purposes of subsection (2)(a)”.

23 In section 57ZC (complaint to employment tribunal: agency workers), after subsection (3) insert—

“(3A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) and section 207B (extension of time limits to facilitate

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- conciliation before institution of proceedings) apply for the purposes of subsection (3)(a).”
- 24 In section 57B (complaint to employment tribunal: contravention of section 57A), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 25 In section 60 (complaints to employment tribunals: contravention of section 58 or 59), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 26 In section 63 (complaints to employment tribunals: contravention of section 61 or 62), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 27 In section 63C (complaints to employment tribunals: contravention of section 63A or 63B), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 28 In section 63I (complaints to employment tribunals: contravention of section 63F(4), (5) or (6) or 63I(1)(b)), in subsection (7), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 29 In section 70 (complaints to employment tribunals: contravention of section 64, 67 or 68), in subsection (8), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 30 In section 70A (complaints to employment tribunals: agency workers), after subsection (7) insert—
- “(7A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply for the purposes of subsections (2)(a) and (5)(a).”
- 31 In section 80 (complaint to employment tribunal: parental leave), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 32 In section 80H (complaints to employment tribunals: contravention of section 80G(1) or 80H(1)(b)), in subsection (7), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 33 In section 111 (complaints to employment tribunal: contravention of section 92 or Part 10), in subsection (2A), for “applies” substitute “and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) apply”.
- 34 In section 164 (claims for redundancy payment: contravention of section 135), after subsection (4) insert—
- “(5) Section 207B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of subsections (1)(c) and (2).”
- 35 After section 207A (extension of time limits because of mediation in certain cross-border disputes) insert—

Status: This is the original version (as it was originally enacted).

“207B Extension of time limits to facilitate conciliation before institution of proceedings

- (1) This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a “relevant provision”).

But it does not apply to a dispute that is (or so much of a dispute as is) a relevant dispute for the purposes of section 207A.

- (2) In this section—

- (a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

- (3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted.

- (4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

- (5) Where an employment tribunal has power under this Act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section.”

National Minimum Wage Act 1998 (c. 39)

36 The National Minimum Wage Act 1998 is amended as follows.

37 In section 11 (failure of employer to allow access to records), after subsection (4) insert—

“(4A) Where the complaint is presented to an employment tribunal in England and Wales or Scotland, section 11A applies for the purposes of subsection (3).”

38 After section 11 insert—

“11A Extension of time limit to facilitate conciliation before institution of proceedings

- (1) In this section—

- (a) Day A is the day on which the worker concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and

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- (b) Day B is the day on which the worker concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.
 - (2) In working out when the time limit set by section 11(3) expires the period beginning with the day after Day A and ending with Day B is not to be counted.
 - (3) If the time limit set by section 11(3) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.
 - (4) The power conferred on the employment tribunal by subsection (4) of section 11 to extend the time limit set by subsection (3) of that section is exercisable in relation to that time limit as extended by this section.”
- 39 In section 24 (enforcement of right under section 23), in subsection (2)(a), for “sections 48(2) to (4)” substitute “sections 48(2) to (4A)”.

Employment Relations Act 1999 (c. 26)

- 40 In section 11 of the Employment Relations Act 1999 (complaint to employment tribunal), after subsection (2) insert—
- “(2A) Section 207A(3) (extension because of mediation in certain European cross-border disputes) and section 207B (extension of time limits to facilitate conciliation before institution of proceedings) of the Employment Rights Act 1996 apply for the purposes of subsection (2)(a).
 - (2B) Subsections (2) and (2A) are to be treated as provisions of the Employment Rights Act 1996 for the purposes of sections 207A and 207B of that Act.”

Pensions Act 2008 (c. 30)

- 41 In section 56 of the Pensions Act 2008 (enforcement of right under section 55), in subsection (2), for “sections 48(2) to (4)” substitute “sections 48(2) to (4A)”.

Equality Act 2010 (c. 15)

- 42 The Equality Act 2010 is amended as follows.
- 43 In section 123 (time limits: proceedings under section 120), in subsection (1), for “section 140A” substitute “sections 140A and 140B”.
- 44 In section 129 (time limits: proceedings under section 127)—
- (a) in subsection (3), for “section 140A” substitute “sections 140A and 140B”;
 - (b) in subsection (4), after “the period mentioned in the second column” insert “, subject to section 140B”.
- 45 After section 140A (extension of time limits because of mediation in certain cross-border disputes) insert—

“140B Extension of time limits to facilitate conciliation before institution of proceedings

- (1) This section applies where a time limit is set by section 123(1)(a) or 129(3) or (4).

But it does not apply to a dispute that is (or so much of a dispute as is) a relevant dispute for the purposes of section 140A.

- (2) In this section—

- (a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and
- (b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

- (3) In working out when the time limit set by section 123(1)(a) or 129(3) or (4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

- (4) If the time limit set by section 123(1)(a) or 129(3) or (4) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

- (5) The power conferred on the employment tribunal by subsection (1)(b) of section 123 to extend the time limit set by subsection (1)(a) of that section is exercisable in relation to that time limit as extended by this section.”