

2014 No. 253

TERMS AND CONDITIONS OF EMPLOYMENT

**The Enterprise and Regulatory Reform Act 2013
(Commencement No. 5, Transitional Provisions and Savings)
Order 2014**

Made - - - -

11th February 2014

The Secretary of State makes the following Order in exercise of the powers conferred by sections 100 and 103(3) of the Enterprise and Regulatory Reform Act 2013(a).

Citation

1. This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Commencement No. 5, Transitional Provisions and Savings) Order 2014.

Provisions coming into force on 6th March 2014

2. Paragraphs 2 and 3 of Schedule 1 to, and section 7(2) (so far as relating to those paragraphs) of, the Enterprise and Regulatory Reform Act 2013 come into force on 6th March 2014.

Provisions coming into force on 6th April 2014

3. The following provisions of the Enterprise and Regulatory Reform Act 2013 come into force on 6th April 2014 subject to the transitional and saving provisions in articles 4 to 6—

- (a) section 7(1) (conciliation before institution of proceedings) (so far as not yet in force);
- (b) section 7(2) (conciliation before institution of proceedings) (so far as not yet in force);
- (c) section 8 (extension of limitation periods to allow for conciliation);
- (d) section 9 (extended power to define “relevant proceedings” for conciliation purposes) (so far as not yet in force);
- (e) section 16 (power of employment tribunal to impose financial penalty on employers etc);
- (f) Schedule 1 (conciliation: minor and consequential amendments) (so far as not yet in force);
- (g) Schedule 2 (extension of limitation periods to allow for conciliation); and
- (h) Schedule 3 (financial penalties: minor and consequential amendments).

Transitional and saving provisions

4.—(1) The requirement in section 18A(1) of the Employment Tribunals Act 1996(a) (requirement to provide information to ACAS before presenting a claim in an Employment Tribunal) and the requirement in section 18A(8) of that Act (requirement to have a certificate issued by ACAS when presenting a claim in an Employment Tribunal), which are inserted by section 7(1) of the Enterprise and Regulatory Reform Act 2013, have effect only in relation to claims presented to an Employment Tribunal on or after 6th May 2014, except as provided for in paragraph (2).

(2) If—

(a) in the period beginning on 6th April 2014 and ending on 5th May 2014 a prospective claimant provides ACAS with prescribed information in the prescribed manner about a matter in respect of which relevant proceedings could be instituted in an Employment Tribunal, and

(b) presents an application in relation to that matter on or before 5th May 2014,

section 18A(8) applies to that claimant and that claimant is to be treated as having complied with the requirement in section 18A(1) on the day that the prescribed information was provided.

(3) In this article “prescribed” has the meaning given by section 18A(10) of the Employment Tribunals Act 1996.

5.—(1) The substitutions in paragraphs 1, 5(9), 7, 10, 11 and 13 of Schedule 1 to the Enterprise and Regulatory Reform Act 2013 do not have effect where a conciliation officer has taken or takes action under section 18 of the Employment Tribunals Act 1996 in relation to—

(a) an application which has been presented to an employment tribunal and received by a conciliation officer on or before 5th April 2014, or

(b) a person who has made a request to a conciliation officer under section 18(3)(b) of the Employment Tribunals Act 1996 on or before 5th April 2014.

(2) The omission of section 18(3) and (5)(c) of the Employment Tribunals Act 1996 made by paragraph 5(8) of Schedule 1 to the Enterprise and Regulatory Reform Act 2013 does not have effect in relation to a person who has made a request to a conciliation officer under section 18(3) of the Employment Tribunals Act 1996 on or before 5th April 2014.

Jenny Willott

Parliamentary Under Secretary of State for Employment Relations and Consumer Affairs
11th February 2014

Department for Business, Innovation and Skills

(a) 1996 c. 17.

(b) Section 18(3) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2)(a), and the Employment Act 2008 (c. 24), section 5(1) and (2).

(c) Section 18(5) was substituted by the Employment Act, section 5(1) and (3).

EXPLANATORY NOTE

(This note is not part of the Order)

This is the fifth Commencement Order made under the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the Act”). Certain provisions came into force on the passing of the Act. Provisions commenced by previous Commencement Orders are noted below.

This Order commences certain provisions of the Act on 6th March 2014 and 6th April 2014.

Article 2 commences the provisions enabling Employment Tribunal regulations to be made relating to early conciliation of employment disputes.

Article 3(a) to (d), (f) and (g) commence provisions on early conciliation of employment disputes.

Article 3(e) and (h) commence provisions on financial penalties in the Employment Tribunals.

There are two elements to the transitional provisions on early conciliation in article 4. The early conciliation requirement in section 18A(1) of the Employment Tribunals Act 1996 will apply only in relation claims presented to an Employment Tribunal on or after 6th May 2014. However, if in the period beginning on 6th April 2014 and ending on 5th May 2014 individuals contact Acas for conciliation and present a claim, they will need a certificate from ACAS when they present the claim and will benefit from the changes to limitation periods made by Schedule 2 to the Enterprise and Regulatory Reform Act 2013.

The saving provisions in article 5 have the effect of preserving ACAS’ duties and powers for the purposes of particular proceedings or potential proceedings where they have been triggered under section 18(2) or (3) of the Employment Tribunals Act 1996 prior to the 6th April 2014. This means that any pre-claim or post-claim conciliation that ACAS has started before 6th April 2014 can continue. The new duty on ACAS under section 18A(3) of the Employment Tribunals Act 1996 to provide early conciliation applies from 6th April 2014, so any new requests for conciliation will be treated as early conciliation.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act are brought into force by commencement orders made before the date of this Order:

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 14	29th July 2013	2013/1648
Section 15(10)	29th July 2013	2013/1648
Section 19	25th June 2013	2013/1455
Section 23	29th July 2013	2013/1648
Section 25(1), (2) and (4)	1st October 2013	2013/2227
Section 27	1st October 2013	2013/2227
Section 63 (partially)	25th June 2013	2013/1455
Section 63 (partially)	1st October 2013	2013/2227
Section 65	1st October 2013	2013//2227
Sections 67 to 70	1st October 2013	2013/2227
Section 72(1)	25th June 2013	2013/1455
Section 72(2)	16th December 2013	2013/2979
Section 72(3)	16th December 2013	2013/2979
Section 72(4) (partially)	25th June 2013	2013/1455

Section 72(4) (partially)	1st October 2013	2013/1455
Section 72(4) (partially, in relation to England only)	1st October 2013	2013/1455(a)
Section 72(4) (partially, in relation to England only)	16th December 2013	2013/2979
Section 72(4) (partially)	16th December 2013	2013/2979
Section 72(4) (partially, in relation to England only)	31st March 2014	2013/2979
Section 73 (partially)	1st October 2013	2013/2227
Sections 79 to 82	1st October 2013	2013/2227
Section 90(7)	1st October 2013	2013/2227
In Schedule 4—		
Paragraphs 1 to 18, 20 to 28, 29(1), 31, 32, 34, 35, 51 (partially), 52 (partially), 53 (partially), 59, 60, 61(1) to (4) and 62 to 65	1st October 2013	2013/2227
In Schedule 17—		
Paragraphs 1 to 6	1st October 2013	2013/2227
Paragraph 9	25th June 2013	2013/1455
Paragraphs 10, 12 and 13	1st October 2013	2013/2227
Paragraph 20	25th June 2013	2013/1455
In Schedule 20—		
Paragraph 1	1st October 2013	2013/1455
Paragraph 2 (partially)	25th June 2013	2013/1455
Paragraph 2 (partially, in relation to England only)	1st October 2013	2013/1455
Paragraph 2 (partially, in relation to England only)	16th December 2013	2013/2979
Paragraph 2 (partially)	16th December 2013	2013/2979
Paragraph 2 (partially, in relation to England only)	31st March 2014	2013/2979
In Schedule 21—		
Paragraph 5	1st October 2013	2013/2227

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(a) S.I. 2013/2271 (C. 94), article 2(a), amends article 3(b) of S.I. 2013/1455 which partially commences section 72(4) of, and paragraph 2 of Schedule 20 to, the Enterprise and Regulatory Reform Act 2013.

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