

Employment Tribunal Fees Abolished

In the know

Following an extensive court battle involving trade union, UNISON, the Supreme Court has ruled that the Employment Tribunal system in Great Britain is unlawful. This is a huge decision for employees and employers alike and has resulted in immediate change.

Employment Tribunal Fee System

- In July 2013, a system was introduced which saw claimants having to pay a fee to take their employer to Employment Tribunal;
- Two different levels of fee were set: £390 for Type A claims (unpaid wages etc) and £1200 for Type B claims (unfair dismissal, discrimination etc);
- Claim numbers dropped significantly – reports showed an overall reduction of 79% after fees were introduced.

Judicial Review

- UNISON launched a court battle against the Government upon introduction of the fee system, campaigning for its removal;
- Both the High Court and the Court of Appeal rejected their claim. However, the Supreme Court has now ruled that ET fees are unlawful;
- This was because, the Court said, the high level of the fee stops people from getting the justice they deserve after being treated unlawfully by their employer;
- It also said that fees discriminate against groups with a protected characteristic e.g. women, because generally women earn less than men and so would be less likely to be able to afford the fee.

Government Took Immediate Action

- Immediately after the ruling, the Government announced that ET fees were to be removed;
- The Government website was changed to inform claimants that they did not need to pay a fee to make

a claim. Therefore, from 26th July 2017, claimants are able to take their employer to Tribunal for free;

- The Government also confirmed that everyone who has paid a fee will be refunded;
- Although details are not yet available, the refund is likely to extend to employers who were ordered to pay the fee back to a claimant after having unsuccessfully defended a claim.

Impact on Employers

- It is likely that the number of claims made to Employment Tribunal will increase because claimants no longer need to pay;
- The number of 'have a go' claims from employees who wish to try their luck in Tribunal may well increase;
- This means employers need to be sure that their workplace practices are watertight and leave no room for argument from employees;
- Employers may have adopted routine practices against the backdrop of a reduced likelihood of employees making a claim because it was too expensive. These practices should now be reviewed to identify any gaps that could create exposure to a potential claim;
- Employers should also consider their risk in relation to actions taken within the last 3 months as this is the time limit on making a claim to Tribunal.

Croner Tips

Advice from an expert consultant is essential at this time when employees become aware of the renewed easy access to employment rights enforcement.

Please contact the Business Support Helpline for advice on your specific situation before acting on the information in this article.