

ET fee reimbursement: how it works

In the know

The Government has announced details of the initial pilot scheme it will use to ensure that everyone who has paid an Employment Tribunal fee receives their money back. This comes after the Supreme Court Ruling in July this year that ET fees were unlawful. Here. We take a look at the how the scheme will work.

ET fees were found to be unlawful

- When Employment Tribunal fees were introduced in July 2013, the Lord Chancellor announced he would undertake to reimburse all fees paid if the scheme was found to be unlawful;
- Following Unison's successful challenge concluding in the Supreme Court deciding that fees were unlawful, it was confirmed that reimbursement of fees previously paid would take place;
- Employees and employers alike will be able to claim their money back;
- Reimbursement will, in the main, relate to claim fees, which were either £390 or £1200 in total but were paid in two stages. All fees paid will be reimbursed upon application with 0.5% interest added;
- This is likely to cost the Government a total of £32.5 million, which represents the amount collected in fees over the 4.5 year period they were payable.

Pilot scheme launched to test procedure

- During the initial roll out of the reimbursement scheme (set to take 3 or 4 weeks starting in late October), HMCTS will contact selected claimants and invite them to apply for reimbursement by completing a form and emailing it or posting it back;
- Once the pilot scheme - designed to test the system so that any problems can be identified and rectified - has concluded, all remaining claimant employees and respondent employers will be able to apply for reimbursement via an online system.

What can respondent employers claim?

- Employers will be able to apply for reimbursement where they were required to pay a fee for judicial mediation, for example, or where they were ordered by an Employment Tribunal to reimburse a claimant, who won their claim, for the fee they had to pay to bring the claim;
- Employers will have to produce evidence that they complied with the order and paid the sum;
- Reimbursement cannot be applied for in relation to a fee that was repaid to a claimant as part of a settlement sum because this did not involve an order from the Employment Tribunal.

instatement of old claims

- Claimants who had claims rejected because no fee had been paid will be given the opportunity to have their claim reinstated – there are around 7500 of these, according to HMCTS. A similar system will be applied to Employment Appeal Tribunal cases;
- Those who did not begin proceedings because of the requirement to pay a fee may be able to seek an extension of time to the usual claim time limit (three months) so that their claim can be brought.

Croner Tips

- **Employers may need to look back at old files to review any decisions they made to dismiss, for example, in case a claim is reinstated either because it was previously rejected or because an extension of time is permitted.**

The content of this briefing is correct at the time of publishing.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this article