

Your Legal Questions

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Q Is it correct that the Government is proposing to introduce fees for bringing claims in the Employment Tribunals?

A Yes. The Government is proposing a two stage "pay as you go" scheme to be introduced from the latter half of 2013. The first fee will be payable when the claim is lodged and another if the claim proceeds, payable 4–6 weeks in advance of the hearing.

The system provides for two levels of fee depending on the type of claim being brought, with a fee of £160 (level 1) or £250 (level 2) payable on issuing proceedings and a further £230 (level 1) or £950 (level 2) being paid in advance of the hearing. Level 1 claims include breach of contract, redundancy and holiday pay claims. Level 2 claims include unfair dismissal and discrimination claims.

This means that unless you qualify for fee exemption under the HM Courts & Tribunals Service remission system, which will only be available for those on low incomes, the cost of bringing an unfair dismissal claim, which tend to be the most common, will be £1200. This excludes any solicitors' fees.

It was originally proposed that a successful party would have the automatic right to recover tribunal fees from the other party if their claim was successful. However, the most recent proposals stop short of this and simply give the Employment Tribunals a discretionary power to make an award that the unsuccessful party reimburses the successful party for any fees paid. This will leave the claimant not knowing when they bring a claim whether they can recover the fees. This may cause them to settle early for a lesser amount to avoid having to pay a hearing fee.

Contrary to the Government's stated position, it is hard to believe that the new fee structure is designed to do anything other than reduce the number of claims.

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