

Voluntary Redundancy and Compromise Agreements

When considering redundancies employers will often favour a voluntary arrangement whereby the employer will offer his employee a payment based on his statutory entitlements or a sum exceeding these. In return the employee will sign an agreement that he or she will not make any claim to a Court or Tribunal in relation to the matter.

Compromise Agreements are one of the few exceptions to the normal rule that employees' rights cannot be changed or reduced by contract. To be effective they must comply with the criteria set out in Section 203 of the Employment Rights Act 1996.

Compromise Agreements of this sort can be used for a variety of employment claims such as unfair dismissal, sex and race discrimination, claims under the Part Time Workers and Fixed Time Employees Regulations and any other claims which could otherwise go to an Employment Tribunal.

To comply with Section 203 the Agreement should be in writing and should specify exactly which potential claim is being compromised. Sometimes employers try to play safe by including a long list of claims which are irrelevant, but this could, in some cases, actually render the Agreement unenforceable.

Some potential claims cannot be compromised, for example personal injury suffered by the employee in the course of his employment.

Section 203 also requires the employee to have received advice from a relevant independent advisor as to the terms of the proposed Agreement and its effect. The advisor must have professional indemnity insurance in place or be covered by a contract of insurance. Any solicitor will automatically have professional indemnity insurance in order to practice. The Agreement should identify the advisor and should also state that the conditions regulating the Compromise Agreement under the Employment Rights Act have been satisfied.

It is normal for the employer to be responsible for the costs of the Agreement.

Compromise Agreements are particularly useful where the facts are not in dispute, as is very often the case with a redundancy, as they can save the time and costs involved in applying to a Tribunal.

For more information on Compromise Agreements or other ways of settling employment disputes without resort to Tribunals and Courts, or of course for assistance if a Tribunal or Court application is necessary, feel free to contact our office.

You may also find the ACAS web site useful for further information - www.acas.org.uk

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