



Equality Act 2010

2010 CHAPTER 15

PART 10

CONTRACTS, ETC.

Supplementary

147 Meaning of “qualifying [^{F1}settlement agreement]”

- (1) This section applies for the purposes of this Part.
- (2) A qualifying [^{F2}settlement agreement] is a contract in relation to which each of the conditions in subsection (3) is met.
- (3) Those conditions are that—
 - (a) the contract is in writing,
 - (b) the contract relates to the particular complaint,
 - (c) the complainant has, before entering into the contract, received advice from an independent adviser about its terms and effect (including, in particular, its effect on the complainant's ability to pursue the complaint before an employment tribunal),
 - (d) on the date of the giving of the advice, there is in force a contract of insurance, or an indemnity provided for members of a profession or professional body, covering the risk of a claim by the complainant in respect of loss arising from the advice,
 - (e) the contract identifies the adviser, and
 - (f) the contract states that the conditions in paragraphs (c) and (d) are met.
- (4) Each of the following is an independent adviser—
 - (a) a qualified lawyer;
 - (b) an officer, official, employee or member of an independent trade union certified in writing by the trade union as competent to give advice and as authorised to do so on its behalf;

Status: Point in time view as at 29/07/2013.

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- (c) a worker at an advice centre (whether as an employee or a volunteer) certified in writing by the centre as competent to give advice and as authorised to do so on its behalf;
 - (d) a person of such description as may be specified by order.
- (5) Despite subsection (4), none of the following is an independent adviser [^{F3}to the complainant] in relation to a qualifying [^{F2}settlement agreement]—
- (a) a person [^{F4}(other than the complainant)] who is a party to the contract or the complaint;
 - (b) a person who is connected to a person within paragraph (a);
 - (c) a person who is employed by a person within paragraph (a) or (b);
 - (d) a person who is acting for a person within paragraph (a) or (b) in relation to the contract or the complaint;
 - (e) a person within subsection (4)(b) or (c), if the trade union or advice centre is a person within paragraph (a) or (b);
 - (f) a person within subsection (4)(c) to whom the complainant makes a payment for the advice.
- (6) A “qualified lawyer”, for the purposes of subsection (4)(a), is—
- (a) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation;
 - (b) in relation to Scotland, an advocate (whether in practice as such or employed to give legal advice) or a solicitor who holds a practising certificate.
- (7) “Independent trade union” has the meaning given in section 5 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (8) Two persons are connected for the purposes of subsection (5) if—
- (a) one is a company of which the other (directly or indirectly) has control, or
 - (b) both are companies of which a third person (directly or indirectly) has control.
- (9) Two persons are also connected for the purposes of subsection (5) in so far as a connection between them gives rise to a conflict of interest in relation to the contract or the complaint.

Textual Amendments

- F1** Words in s. 147 heading substituted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), ss. 23\(6\), 103\(3\); S.I. 2013/1648, art. 2\(c\)](#)
- F2** Words in s. 147(2)(5) substituted (29.7.2013) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), ss. 23\(6\), 103\(3\); S.I. 2013/1648, art. 2\(c\)](#)
- F3** Words in s. 147(5) inserted (6.4.2012) by [The Equality Act 2010 \(Amendment\) Order 2012 \(S.I. 2012/334\), art. 2\(2\)](#)
- F4** Words in s. 147(5)(a) inserted (6.4.2012) by [The Equality Act 2010 \(Amendment\) Order 2012 \(S.I. 2012/334\), art. 2\(3\)](#)

Commencement Information

- I1** S. 147 wholly in force at 1.10.2010; s. 147 not in force at Royal Assent see s. 216; s. 147(4) in force for certain purposes at 6.7.2010 by [S.I. 2010/1736, art. 2, Sch.](#); s. 147 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2317, art. 2\(1\)\(10\)\(b\)](#) (with [art. 15](#))

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148 Interpretation

- (1) This section applies for the purposes of this Part.
- (2) A reference to treatment of a description prohibited by this Act does not include treatment in so far as it is treatment that would contravene—
 - (a) Part 1 (public sector duty regarding socio-economic inequalities), or
 - (b) Chapter 1 of Part 11 (public sector equality duty).
- (3) “Group insurance arrangement” means an arrangement between an employer and another person for the provision by that other person of facilities by way of insurance to the employer’s employees (or a class of those employees).
- (4) “Collective agreement” has the meaning given in section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (5) A rule of an undertaking is a rule within subsection (6) or (7).
- (6) A rule within this subsection is a rule made by a trade organisation or a qualifications body for application to—
 - (a) its members or prospective members,
 - (b) persons on whom it has conferred a relevant qualification, or
 - (c) persons seeking conferment by it of a relevant qualification.
- (7) A rule within this subsection is a rule made by an employer for application to—
 - (a) employees,
 - (b) persons who apply for employment, or
 - (c) persons the employer considers for employment.
- (8) “Trade organisation”, “qualifications body” and “relevant qualification” each have the meaning given in Part 5 (work).

Status:

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