

Settlement agreement template

[Before using this template it is important to ensure you have read the guidance on completing the agreement set out in the Acas booklet 'Settlement Agreements: A guide']

Dated [enter date DD/MM/YYYY]

SETTLEMENT AGREEMENT

(Subject to Contract)

[Insert name of Employer]

-and-

[Insert name of Employee]

THIS SETTLEMENT AGREEMENT (the 'Agreement') is dated
[enter date]: DD/MM/YYYY.

This Agreement is made between [insert Employer name] ('the Employer') and [insert Employee name] ('the Employee').

1: Background

- 1.1. The Employee has been employed by the Employer as [enter job title] since [enter start date].
- 1.2. The Employer and Employee have agreed to settle the Particular Claims on the terms set out in this Agreement.
- 1.3. The Employer enters into this Agreement without any admission of liability.

2: Definitions and Interpretations

- 2.1. In this agreement:

'Claims' means any claim, claims or causes of action that the Employee has or may have against the Employer.

'Particular Claims' are those Claims which the Employee and Employer intend to be settled by this Agreement, arising out of the Employee's employment or the termination of employment, as set out in Annex A *[if the Agreement is being used in Scotland the following additional words should be inserted at the end of this clause 'as set out in Annex A which is hereby incorporated into this agreement']*.

'Termination date' means the date on which the employment has ended or will end, as set out in clause 3.1.

- 2.2. References to the singular in this Agreement shall include references to the plural and vice versa and words in the masculine include the feminine and vice versa.
- 2.3. The headings in this Agreement are for ease of reference and shall not affect interpretation.

3: Termination Date and Notice

- 3.1 The Employee's employment with the Employer will terminate on [enter date: DD/MM/YYYY] ('the Termination Date'). The Employer and Employee will continue to be bound by the terms and conditions of employment until the Termination Date.
- 3.2 [Provided that the Employee continues to comply with the terms and conditions of their employment, the Employer will pay the Employee's usual wages/salary [and bonus/commission] (less tax and National Insurance contributions) up to and including the Termination Date. [Along with the final wages/salary/bonus/commission payment, the Employer will also pay a sum in respect of [insert number] days accrued but untaken holidays (less tax and National Insurance contributions).]]

[OR]

[The Employer will pay the Employee [insert number] weeks' pay in lieu of notice (PILON) which will be paid less tax and National Insurance contributions. This PILON comprises [insert details of amounts corresponding to wages/salary, bonus/commission, accrued but untaken holidays, and so on.] The amount of post-employment notice pay (PENP) for HMRC purposes is [insert amount]]

- 3.3 Except as set out in this Agreement, the employee will have no right to any benefits under the terms and conditions of employment after the Termination date.

4: Withdrawal of proceedings and waiver

- 4.1 The Employee accepts that this Agreement is in full and final settlement of all of the Particular Claims set out in Annex A.
- 4.2 The Employee agrees immediately upon signature of this Agreement to write to the relevant employment tribunal(s) or court(s) to withdraw any proceedings that have already been presented but which have been settled by this Agreement, and not to present to an employment tribunal or any other court any Claim which is a Particular Claim.
- 4.3 The Employer and Employee acknowledge that it is their intention that this Agreement is in full and final settlement of all of the Particular Claims.

5: Settlement Payment

- 5.1 Subject to the Employee complying with the terms of this Agreement, the Employer will pay the Employee [£ insert figure] ('the Settlement Payment'). The Settlement Payment will be paid within 14 days of receipt by the Employer of a signed copy of this Agreement and the signed certificate from the Employee's adviser which is set out at Annex C *[if the Agreement is being used in Scotland the following additional words should be inserted at the end of this clause 'Annex C, which is hereby incorporated into this Agreement']*.
- 5.2 The Employer and Employee believe that [the first £30,000 of] the Settlement Payment is not subject to tax or National Insurance.
- 5.3 The [Employee/Employer] agrees to indemnify the [Employer/Employee] for any further tax and/or Employee's National Insurance contributions due in respect of the Settlement Payment.
- 5.4 [The Employer agrees to provide the Employee with a reference in the terms agreed in the attached Annex *[identify the Annex]*, and when responding to a written or verbal request for a reference from a prospective employer, will do so in a manner which is consistent with the agreed reference.]

6: Conditions Regulating Settlement Agreements

The Employer and the Employee agree and acknowledge that the conditions regulating settlement agreements which are contained in the legislative provisions listed in Annex B *[if the Agreement is being used in Scotland the following additional words should be inserted here: 'which is hereby incorporated into this Agreement']* have been satisfied.

[7: Employer's Property and Employee's Property]

- 7.1 The Employee warrants that [he/she] [has returned] [OR will return by the Termination date] [OR will return by *(insert agreed date)*] all property belonging to the Employer, including all records, correspondence, documents and any other information and that the Employee has not retained any copies.
- 7.2. The Employer warrants that it [has returned] [OR will return by the Termination date] [OR will return by *(insert agreed date)*] all property belonging to the Employee.]

8: Confidentiality

- 8.1. [The Employee agrees that [he/she] will continue to be bound by the terms and conditions of employment which relate to confidentiality and restrictive covenants: see clause[s] *(insert number(s))* of those terms and conditions. For the avoidance of doubt, those terms do not affect the Employee's right to make, nor otherwise prevent the Employee from making, a public interest disclosure under the Public Interest Disclosure Act 1998 (PIDA).]
- 8.2. [The Employer and Employee agree that they will keep the existence and terms of this Agreement confidential (with the exception of disclosure to immediate family or relevant professional advisers, provided that those persons agree to keep the information confidential, or where disclosure is required by law). For the avoidance of doubt, this clause does not affect the Employee's right to make, nor otherwise prevents the Employee from making, a public interest disclosure under the Public Interest Disclosure Act 1998 (PIDA).]

9: Employee's Representations and Warranties

- 9.1 The Employee represents and warrants that there are no circumstances of which [he/she] is aware or ought reasonably to be aware which would amount to a material breach of the terms and conditions of employment which would justify summary dismissal.
- 9.2 The Employee acknowledges that the Employer has acted in reliance on these representations and warranties in entering into this Agreement.

10: Employee's Advice and Costs

- 10.1 The Employee confirms that [he/she] has received advice from an independent adviser ('the Adviser') as to the terms and effect of this Agreement, including its effect on the Employee's ability to present any Claim before an employment tribunal or other court.
- 10.2 The Employer will pay the Employee's reasonable costs incurred in connection with the preparation of this Agreement up to a maximum of [**£** *insert figure*] plus VAT. Such fees will be payable directly to the Adviser on receipt from the Adviser of an invoice addressed to the Employee and marked payable by the Employer. The Employer agrees to pay these costs within 30 days of receipt of the invoice.

11: Entire Agreement and Enforceability

- 11.1. This Agreement sets out the entire agreement between the parties and supersedes all prior statements, representations, terms and conditions, warranties and guarantees whenever given and whether orally or in writing.
- 11.2. No variation of this Agreement shall be effective unless it is agreed by both parties and in writing.
- 11.3. If any term of the Agreement is held to be illegal, invalid or unenforceable, in whole or in part, such part shall be deemed not to form part of the Agreement but the legality, validity or enforceability of the remainder of the Agreement shall not be affected.

12: Jurisdiction

[This Agreement shall be governed by and construed in accordance with the law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts in England and Wales in relation to any Particular Claim or any matter connected with this Agreement.]

[OR, if the Agreement is being used in Scotland]

[This Agreement shall be governed by and construed in accordance with Scots law and the parties agree to submit to the exclusive jurisdiction of the Scottish courts in relation to any Particular Claim or any matter connected with this Agreement.]

13: Third Parties

[The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and only the Employer and Employee shall have rights under it.]

[OR, if the Agreement is being used in Scotland]

[The parties intend that no third party shall have rights under this Agreement.]

Notwithstanding that this Agreement is marked 'subject to contract', once it has been signed and dated by the Employer and Employee it will become an open and binding document [*insert the words "(subject to Clause 8.2)" if that clause has been included in the Agreement*].

.....

**Signed by
on behalf of the Employer**

Date

.....

Signed by the Employee

Date

ANNEX A

THE PARTICULAR CLAIMS

*[If the Agreement is being used in Scotland the following text should be added here:
'This is Annex A to the Settlement Agreement between [insert name of Employer]
and [insert name of Employee] as referred to and incorporated into that
Agreement.]*

The matters listed below are Particular Claims:

*[Delete the first sentence below and the table of claim numbers below if none of the
claims being settled have yet been presented to an employment tribunal]*

The following Employment Tribunal claims:

Claim number	This claim concerns
[insert claim number]	[insert brief details of claim]
[repeat as necessary]	[repeat as necessary]

The following claims arising from the Employee's employment or the termination of employment:

[Delete any claims in this list that are not relevant]

1. Under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA):
 - (a) sections 68 (deduction of unauthorised subscriptions)
 - (b) section 86 (exemption or objection to contributing to political fund)
 - (c) section 137 (refusal of employment on grounds related to union membership)
 - (d) section 145A (inducements relating to union membership or activities)
 - (e) section 145B (inducements relating to collective bargaining)
 - (f) section 146 (detriment on grounds related to union membership or activities)
 - (g) section 152 (dismissal on grounds related to union membership or activities)
 - (h) section 153 (selection for redundancy on grounds related to union membership or activities)
 - (i) section 168 (time off for carrying out trade union duties)
 - (j) section 168A (time off for union learning representatives)
 - (k) section 169 (payment for time off for union learning representative activities)
 - (l) section 170 (time off for trade union activities)
 - (m) section 191 (termination of employment during protected period)

- (n) section 192 (failure to pay remuneration under a protective award)
 - (o) sections 238 and 238A (dismissal connected to industrial action)
 - (p) paragraph 156 of Schedule A1 (detriment on grounds related to union recognition, bargaining or voting)
 - (q) paragraph 161 of Schedule A1 (dismissal on grounds related to union recognition, bargaining or voting)
 - (r) paragraph 162 of Schedule A1 (selection for redundancy on grounds related to union recognition, bargaining or voting)
2. Under the Employment Rights Act 1996 (ERA):
- (a) section 8 (right to itemised pay statement)
 - (b) section 13 (right not to suffer unauthorised deductions)
 - (c) section 15 (right not to have to make payments)
 - (d) section 28 (right to guarantee payment)
 - (e) Part V (protection from suffering detriment)
 - (f) Part VI (time off work)
 - (g) Part VII (suspension from work)
 - (h) section 63F (request in relation to training and study)
 - (i) section 80(1) (in relation to the postponement, attempted prevention or prevention of parental leave)
 - (j) sections 80F and 80G (duties in relation to an application for a change in terms and conditions of employment for flexible working)
 - (k) section 92 (right to written statement of reasons for dismissal)
 - (l) Part X (unfair dismissal)
 - (m) section 135 (right to a redundancy payment)
3. Any claim under the Protection from Harassment Act 1997
4. Under the National Minimum Wage Act 1998:
- (a) section 10 (worker's right of access to records)
 - (b) section 23 (right not to suffer a detriment)
5. Under section 10 (right to be accompanied) of the Employment Relations 1999
6. Under Part 5 of the Equality Act 2010:
- (a) Direct discrimination;
 - (b) Discrimination arising from disability
 - (c) Indirect discrimination
 - (d) In respect of the duty to make adjustments
 - (e) Harassment
 - (f) Victimisation
 - (g) In relation to the:
 - (i) effect of a non-discrimination rule
 - (ii) effect, or a breach, of an equality clause or rule
 - (iii) enforceability of a contractual or non-contractual term

7. That the Employer instructed, caused, induced or knowingly aided any act which is unlawful under the Equality Act 2010.
8. Under the Working Time Regulations 1998:
 - (a) regulations 10(1) and (2) (daily rest)
 - (b) regulations 11(1), (2) and (3) (weekly rest period)
 - (c) regulation 12(1) and (4) (rest breaks)
 - (d) regulation 13 (entitlement to annual leave)
 - (e) regulation 13A (entitlement to additional annual leave)
 - (f) regulation 14(2) (entitlement to compensation related to entitlement to leave where worker's employment terminated during leave year)
 - (g) regulation 16(1) (payment in respect of periods of annual leave)
 - (h) regulation 24 (compensatory rest where worker required to work during rest period or rest break)
 - (i) regulation 24A (adequate rest for mobile workers where relevant parts of regulations 10, 11 and 12 are excluded)
 - (j) regulation 27(2) (compensatory rest for young workers where there has been a force majeure)
 - (k) regulation 27A(4)(b) (compensatory rest for young workers under other exceptions)
9. Under regulation 19 (detriment relating to pregnancy, maternity or parental leave) of the Maternity and Parental Leave etc Regulations 1999.
10. Under the Transnational Information and Consultation Regulations 1999:
 - (a) regulation 25 (right to time off for members of a European Works Council)
 - (b) regulation 26 (right to remuneration for time off)
 - (c) regulation 31 (right not to suffer a detriment)
11. Under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000:
 - (a) regulation 5 (less favourable treatment on the grounds of being a part-time worker)
 - (b) regulation 7(2) (right not to be subjected to a detriment)
12. Under the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002:
 - (a) regulation 3 (less favourable treatment on the grounds of being a fixed-term employee)
 - (b) regulation 6(2) (right not to be subjected to a detriment)
 - (c) regulation 8 (successive fixed-term contracts)
 - (d) regulation 9 (right to receive written statement of variation)

13. Under regulation 28 (detriment relating to paternity or adoption leave) of the Paternity and Adoption Leave Regulations 2002
14. Under the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003:
 - (a) regulation 10 (entitlement to adequate rest)
 - (b) regulation 11 (entitlement to annual leave and payment for leave)
15. Under the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004:
 - (a) regulation 7 (entitlement to adequate rest)
 - (b) regulation 11 (entitlement to annual leave and payment for leave)
16. Under the Information and Consultation of Employees Regulations 2004:
 - (a) regulation 27 (right to time off for information and consultation representatives)
 - (b) regulation 28 (right to remuneration for time off)
 - (c) regulation 32 (right not to suffer a detriment)
17. Under regulation 13 (duty to inform and consult representatives) of the Transfer of Undertakings (Protection of Employment) Regulations 2006
18. Under the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006:
 - (a) schedule, para. 2 (right to time off for functions as a representative)
 - (b) schedule, para. 3 (right to remuneration for time off for functions as a representative)
 - (c) schedule, para. 8 (right not to be subject to a detriment)
19. Under the Companies (Cross-Border Mergers) Regulations 2007:
 - (a) regulation 43 (right to time off for members of special negotiating body etc.)
 - (b) regulation 44 (right to remuneration for time off in capacity as member of special negotiating body)
 - (c) regulations 49 or 50 (right not to be subject to a detriment)
20. Under the Cross-border Railway Services (Working Time) Regulations 2008:
 - (a) regulation 3 (entitlement to daily rest)
 - (b) regulation 4 (sole driver's entitlement to break)
 - (c) regulation 5 (breaks for drivers)
 - (d) regulation 6 (breaks for other drivers)
 - (e) regulation 7 (entitlement to weekly rest)
21. Under the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009:
 - (a) regulation 26 (time off for membership of a special negotiating body)
 - (b) regulation 27 (remuneration for time off)
 - (c) regulation 31 (detriment for membership of a special negotiating body)

22. Under the Employment Relations Act 1999 (Blacklists) Regulations 2010:
- (a) regulation 5 (refusal of employment relating to a prohibited list)
 - (b) regulation 6 (refusal of employment agency services relating to a prohibited list)
 - (c) regulation 9 (detriment relating to a prohibited list)
23. Under regulation 33 (detriment relating to additional paternity leave) of the Additional Paternity Leave Regulations 2010
24. For personal injury (except any latent personal injury)
25. For breach of contract
26. In relation to notice or pay in lieu of notice.
27. *[Any other claim arising under UK statute, UK common law and/or under European Law (except any accrued and future pension rights) which the parties wish to settle can be added here. Any such claim or claims must be specifically listed.]*

ANNEX B

CONDITIONS REGULATING SETTLEMENT AGREEMENTS

*[If the Agreement is being used in Scotland the following text should be added here:
'This is Annex B to the Settlement Agreement between [insert name of Employer]
and [insert name of Employee] as referred to and incorporated into that
Agreement.']*

- section 288(2B) of the Trade Union and Labour Relations Consolidation Act 1992
- section 203(3) of the Employment Rights Act 1996
- section 49(4) of the National Minimum Wage Act 1998
- section 147(3) of the Equality Act 2010
- regulation 35(3) of the Working Time Regulations 1998
- regulation 41(4) of the Transnational Information and Consultation of Employees Regulations 1999
- regulation 9 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- regulation 10 of the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- the Employment Relations Act 1999
- the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003
- sub-paragraphs (a) to (e) of r40(4) of the Information and Consultation of Employees Regulations 2004
- the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004
- sub-paragraphs (a) to (e) of paragraph 13(1) of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006
- sub-paragraphs (a) to (e) of r62(4) of the Companies (Cross-Border Mergers) Regulations 2007
- the Cross-border Railway Services (Working Time) Regulations 2008
- sub-paragraphs (a) to (e) of r39(4) of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

ANNEX C

DECLARATION FROM THE EMPLOYEE'S INDEPENDENT ADVISER

*[If the Agreement is being used in Scotland the following text should be added here:
'This is Annex C to the Settlement Agreement between [insert name of Employer]
and [insert name of Employee] as referred to and incorporated into that
Agreement.']*

I can confirm that:

1. I am a relevant independent adviser within the meaning of the legislation listed in Annex B above.
2. I advised [insert name of Employee] ('the Employee') on the terms and effect of the agreement between [him/her] and [insert name of Employer] and, in particular, its effect on [his/her] ability to pursue [his/her] rights before an employment tribunal or other court.
3. At the time that I provided advice to the Employee, a contract of insurance, or an indemnity provided for members of a professional body, covering the risk of a claim by the Employee in respect of loss arising as a consequence of my advice was in force.

Signed

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Adviser's organisation

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Address of Adviser's organisation

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