STATUTORY INSTRUMENTS

# 1988 No. 2072

# INDUSTRIAL TRIBUNALS

## The Employment Appeal Tribunal (Amendment) Rules 1988

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| *Made - - - -* | *28th November 1988* |
| *Laid before Parliament* | *7th December 1988* |
| *Coming into force -* | *29th December 1988* |

The Lord Chancellor, in exercise of the powers conferred on him by paragraphs 17 and 18 of Schedule 11 to the Employment Protection (Consolidation) Act 1978(a) and after consultation with the Lord President of the Court of Session, hereby makes the following Rules:

**1.** These Rules may be cited as the Employment Appeal Tribunal (Amendment) Rules 1988 and shall come into force on 29th December 1988.

**2.** In these Rules a rule referred to by number means the rule so numbered in the Employment Appeal Tribunal Rules 1980(b), and a form referred to by number means the form so numbered in the Schedule to those Rules.

**3.** In rule 5(b), for "section 8 of the Act" there shall be substituted "section 8 of the Employment Protection Act 1975(c)".

**4.** For rule 8 there shall be substituted–

"*Application under section 5 of the Employment Act 1980*(d) *or under section 5 of the Employment Act 1988*(e)

**8.** Every application to the Appeal Tribunal for:

(a) an award of compensation for unreasonable exclusion or expulsion from a trade union; or

(b) one or both of the following, that is to say–

(i) an award of compensation for unjustifiable discipline;

(ii) an order that the union pay to the applicant an amount equal to any sum which he has paid in pursuance of a determination falling within subsection (5)(b) of section 3 of the Employment Act 1988;

shall be made in writing in, or substantially in, accordance with Form 5 in the Schedule to these Rules and shall be served on the Tribunal together with a copy of the decision or order declaring that the applicant's complaint against the trade union was well-founded.".

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(a) 1978 c.44; paragraph 18 of Schedule 11 has been amended by the Employment Act 1980 (c.42), Schedule 1, paragraph 28, and by the Employment Act 1988 (c.19), Schedule 3, paragraph 2(5).
(b) S.I. 1980/2035, amended by S.I. 1985/29.
(c) 1975 c.71; the only relevant amendment to section 8 was made by the Employment Protection (Consolidation) Act 1978 (c.44), Schedule 16, paragraph 23(1) and (3).
(d) 1980 c.42.
(e) 1988 c.19.

**5.** In rule 9, for "rule 8" there shall be substituted "rule 8(a)".

**6.** For rule 11 there shall be substituted–

"*Appearance by respondent trade union*

**11.**—(1) Subject to paragraph (2) of this rule, a respondent trade union wishing to resist an application under rule 8 shall within 14 days of receiving the sealed copy of the application enter an appearance in, or substantially in, accordance with Form 6 in the Schedule to these Rules and setting out the grounds on which the union relies.

(2) Paragraph (1) above shall not require a respondent trade union to enter an appearance where the application is before the Appeal Tribunal by virtue of having been transferred there by an industrial tribunal and, prior to that transfer, the respondent had entered an appearance to the proceedings before the industrial tribunal.".

**7.** In rule 17(2)–

(a) for "three" there shall be substituted "five"; and

(b) after "appealed from" there shall be inserted "; and".

**8.** In rule 21, for "section 5(2) of the Employment Act 1980" there shall be substituted–

"section 5 of the Employment Act 1980 or section 5 of the Employment Act 1988".

**9.** In rule 25A–

(a) in the heading, after '*1980*' there shall be added "*or section 5 of the Employment Act 1988*";

(b) in paragraph (1), for "section 5(2) of the Employment Act 1980" there shall be substituted–

"section 5 of the Employment Act 1980 or under section 5 of the Employment Act 1988"; and

(c) for paragraph (2) there shall be substituted–

"(2) Without prejudice to rule 25, where the Appeal Tribunal makes an order in respect of an application to which this rule applies, and that order–

(a) makes an award of compensation, or

(b) is or includes an order of the kind referred to in rule 8(b)(ii),

or both, the Registrar shall as soon as may be enter a copy of the order, sealed with the seal of the Tribunal, into the Register.".

**10.** For Forms 1, 5 and 6 there shall be substituted–

"FORM 1 Rule 3

*Notice of Appeal from Decision of Industrial Tribunal*

1. The appellant is
(*name and address of appellant*).

2. Any communication relating to this appeal may be sent to the appellant at
(*appellant's address for service, including telephone number, if any*).

3. The appellant appeals from
(*here give particulars of the decision of the industrial tribunal from which the appeal is brought, including the date*).

4. The parties to the proceedings before the industrial tribunal, other than the appellant, were
(*names and addresses of other parties to the proceedings resulting in decision appealed from*).

5. A copy of the industrial tribunal's decision or order and of the full written reasons for that decision or order are attached to this notice.

6. The grounds upon which this appeal is brought are that the industrial tribunal erred in law in that
(*here set out in paragraphs the various grounds of appeal*).

Date Signed

FORM 5 Rule 8

*Application to the Employment Appeal Tribunal for Compensation for Unreasonable Exclusion or Expulsion from a Trade Union or for Compensation or an Order in respect of unjustifiable discipline*

1. My name is

My address is

2. Any communication relating to this application may be sent to me at
(*state address for service, including telephone number, if any*).

3. My complaint against (*state the name and address of the trade union*) was declared to be well-founded by:
(*state tribunal or court*)
on
(*give date of decision or order*).

4. (*Where the application relates to unreasonable exclusion or expulsion from a trade union*) I have not been admitted/re-admitted* to membership of the above-named trade union and hereby apply for compensation on the following grounds.
(*Where the application relates to unjustifiable discipline*) The determination constituting the infringement of my right under section 3 of the Employment Act 1988 has not been revoked./The trade union has failed to take all such steps as are necessary for securing the reversal of things done for the purpose of giving effect to that determination.*

(*Delete as appropriate)

Date Signed

N.B.—A copy of the decision or order declaring the complaint against the trade union to be well-founded must be enclosed with this application.

FORM 6 Rule 11

*Notice of appearance to Application to Employment Appeal Tribunal for Compensation for Unreasonable Exclusion or Expulsion from a Trade Union or for Compensation or an Order in respect of unjustifiable discipline*

1. The respondent trade union is
(*name and address of union*).

2. Any communication relating to this application may be sent to the respondent at (*respondent's address for service, including telephone number, if any*).

3. The respondent intends to resist the application of
(*here give name of the applicant*).
The grounds on which the respondent will rely are as follows:

4. (*Where the application relates to unreasonable exclusion or expulsion from the trade union, state whether or not the applicant had been admitted or re-admitted to membership on or before the date of the application.*)
(*Where the application relates to unjustifiable discipline, state whether–*

(a) *the determination constituting the infringement of the applicant's right under section 3 of the Employment Act 1988 has been revoked; and*

(b) *the trade union has taken all such steps as are necessary for securing the reversal of anything done for the purpose of giving effect to that determination.*)

Date

Signed

Position in union".

28th November 1988

*Mackay of Clashfern,* C.

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Employment Appeal Tribunal Rules 1980, as amended by the Employment Appeal Tribunal (Amendment) Rules 1985, principally to make provision for the instituting of, and the entering of appearances to, applications for awards of compensation and orders under section 5 of the Employment Act 1988 (remedies for infringement of the right not to be unjustifiably disciplined) and for the registration and proof of any such awards and orders. The Rules also increase from three to five days the time allowed for giving notice of an interlocutory appeal from a decision of the Registrar, prescribe an amended version of Form 1 (Notice of appeal from decision of Industrial Tribunal) and make two minor corrections to the 1980 Rules.

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