STATUTORY INSTRUMENTS

# 2024 No. 1044

# EMPLOYMENT TRIBUNALS

## The Employment Appeal Tribunal (Amendment) Rules 2024

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| *Made - - - -* | *16th October 2024* |
| *Laid before Parliament* | *17th October 2024* |
| *Coming into force - -* | *1st February 2025* |

The Lord Chancellor makes these Rules in exercise of the power conferred by section 30 of the Employment Tribunals Act 1996(**a**).

The Lord Chancellor has consulted the Lord President of the Court of Session in accordance with section 30(1) of that Act before making these Rules.

**Citation, commencement and extent**

**1.**—(1) These Rules may be cited as the Employment Appeal Tribunal (Amendment) Rules 2024 and come into force on 1st February 2025.

(2) These Rules extend to England and Wales and Scotland.

**Amendments to the Employment Appeal Tribunal Rules 1993**

**2.**—(1) The Employment Appeal Tribunal Rules 1993(**b**) are amended as follows.

(2) In rule 2(1) (interpretation)—

(a) for the definition of "legal representative" substitute—

> ""legal representative" means a person, including a person who is a party's employee, who—
>
> (a) for the purposes of the Legal Services Act 2007(**c**), is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act;
>
> (b) is an advocate or solicitor (as defined by section 65(1) of the Solicitors (Scotland) Act 1980(**d**) in Scotland; or

(**a**) 1996 c. 17; section 30 was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8), paragraph 5 of Schedule 8 to the Employment Relations Act 1999 (c. 26), paragraph 26 of Schedule 1, and Schedule 2, to the Employment Relations Act 2004 (c. 24), paragraph 48 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), paragraph 13 of Schedule 14 to the Crime and Courts Act 2013 (c. 22), section 12(3) of the Enterprise and Regulatory Reform Act 2013 (c. 24), and S.I. 1999/3325. Section 30 is to be substituted by section 34(3) of the Judicial Review and Courts Act 2022 (c. 35), which is not yet in force.
(**b**) S.I. 1993/2854; relevant amending instrument is S.I. 2004/2526.
(**c**) 2007 c. 29.
(**d**) 1980 c. 46.

(c) is a member of the Bar of Northern Ireland or a Solicitor of the Court of Judicature of Northern Ireland;".

(b) after the definition of "national security proceedings" insert—

""practice direction" means a direction given under section 29A of the 1996 Act(**a**);".

(3) In rule 34D(7) (litigants in person and party litigants)—

(a) for sub-paragraph (b) substitute—

"(b) a legal representative, who is acting for themselves.";

(b) omit sub-paragraph (c).

(4) In rule 35 (service of documents)—

(a) for paragraph (1) substitute—

"(1) Except where paragraph (1A) applies, any notice or other document required or authorised by these Rules or by direction to be served on, or delivered to, the Appeal Tribunal may be—

(a) sent by post or delivered by hand—

(i) in the case of a notice instituting proceedings, to the central office or any other office of the Appeal Tribunal;

(ii) in any other case, to the office of the Appeal Tribunal in which proceedings in question are being dealt with in accordance with rule 38(2) (tribunal offices and allocation of business);

(b) uploaded to the Appeal Tribunal's online secure portal, in such manner specified by any practice direction, except in an appeal from a judgment or order of the employment tribunal in relation to national security proceedings; or

(c) sent or delivered by such other method as the Appeal Tribunal may permit or direct.".

(b) At the end of rule 35(1) insert—

"(1A) If a party is represented by a legal representative and any notice or other document is required or authorised by these Rules or direction to be served on, or delivered to, the Appeal Tribunal by that party, it must be uploaded to the Appeal Tribunal's secure portal, in such manner specified by any practice direction, except in an appeal from a judgment or order of the employment tribunal in relation to national security proceedings.

(1B) In the circumstances in which paragraph (1A) applies, if a party who is represented by a legal representative provides any notice or other document to the Appeal Tribunal by any other method than that permitted by paragraph (1A)—

(a) the failure to comply with paragraph (1A) will not of itself render void the proceedings or any step taken in the proceedings; and

(b) the Appeal Tribunal may take such action as it considers just, which may include waiving the requirement, requiring the failure to be remedied, striking out the proceedings, or restricting the party's participation in the proceedings.

(1C) The online secure portal cannot be used to serve notices or documents on another party. Notices and documents that are required to be served on another party must be sent or delivered to that party by another method permitted by these Rules.

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(**a**) Employment Tribunals Act 1996; section 29A was added by paragraph 47 of schedule 8 to the Tribunals, Courts and Enforcement Act 2007; and a relevant amendment was made by Schedule 5(2) paragraph 18 of Part 2 of Schedule 5 to the Judicial Review and Courts Act 2022.

(1D) Any notice or other document required or authorised by these Rules to be served on, or delivered to, any person may be sent to them by post to their address for service or, where no address for service has been given, to their registered office, principal place of business, head or main office or last known address, as the case may be.".

*Heidi Alexander*
Minister of State
Ministry of Justice

16th October 2024

## EXPLANATORY NOTE

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

The Employment Appeal Tribunal Rules 1993 (S.I. 1993/2854) ("the 1993 Rules") are the rules governing the procedure in the Employment Appeal Tribunal (EAT).

Rule 2(2) amends rule 2(1) (interpretation) of the 1993 Rules to update the definition of legal representatives in England and Wales by reference to the Legal Services Act 2007 (c. 29) and to update the definition of legal representatives in Scotland by reference to the Solicitors (Scotland) Act 1980 (c. 46).

Rule 2(3) makes consequential changes to the definition of litigant in person in rule 34D (litigants in person and party litigants) of the 1993 Rules.

Rule 2(4)(a) amends rule 35(1) (service of documents) of the 1993 Rules which sets out the methods by which documents may be sent or delivered to the Appeal Tribunal to include electronic filing using the Appeal Tribunal's online secure portal, except where the appeal relates to national security proceedings.

Rule 2(4)(b) introduces new paragraphs (1A) to (1D) to rule 35 of the 1993 Rules. Paragraph (1A) requires legal representatives to provide any notice or document to the Appeal Tribunal electronically by the Appeal Tribunal's online secure portal unless the appeal relates to national security proceedings. Paragraph (1B) provides that a failure by a party's legal representative to comply with paragraph (1A) does not invalidate a step in proceedings and allows the Appeal Tribunal flexibility to sanction a party or provide a waiver or require a party remedy such a failure. Paragraph (1C) specifies that the online secure portal may not be used to serve documents on any other party to the claim. Paragraph (1D) sets out permitted methods of service or delivery of notices or documents on any other person.

No impact assessment has been carried out for these amendments as no, or no significant impact, on the private, voluntary, or public sectors is foreseen.

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