STATUTORY INSTRUMENTS

2024 No. 1155

EMPLOYMENT TRIBUNALS

The Employment Tribunal Procedure Rules 2024

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SCHEDULES

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The Tribunal Procedure Committee makes the following Rules (other than the rules made by the Lord Chancellor) in exercise of the powers conferred by sections 7, 9(1), (2) and (2ZA), 11(1), 12(2), 13, 13A, 19, 37QA of, and Schedule A1 to, the Employment Tribunals Act 1996(**a**), paragraph 37 of Schedule 6 to the Scotland Act 1998(**b**), and paragraph 32 of Schedule 9 to the Government of Wales Act 2006(**c**), having consulted in accordance with paragraph 21(1) and (3) of Schedule A1 to the Employment Tribunals Act 1996 and paragraph 28(1) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007(**d**).

The Lord Chancellor makes rules 1(3)(a), 93 and Schedule 1 to these Rules in exercise of the powers conferred by sections 10(2), (5) to (7) and 41(4) of the Employment Tribunals Act 1996(**e**).

(**a**) 1996 c. 17, ("the Act"); by virtue of section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) all references to "industrial tribunal" and "industrial tribunals" in any enactment are substituted with "employment tribunal" and "employment tribunals". Section 7 is substituted by section 34(2) of the Judicial Review and Courts Act 2022 (c. 35) to provide when read with section 37QA of, and Schedule A1 to, the Act (as inserted by section 34(4) of and Schedule 5 to the Judicial Review and Courts Act 2022) the transfer of responsibility for the making of procedure rules for the employment tribunals (and the Employment Appeal Tribunal) to the Tribunal Procedure Committee. Paragraph 21 of Schedule A1 to the Act applies Part 3 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) with modifications, to provide the procedural requirements for the making of procedure rules. Section 9 was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24), section 21(2) and the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 5. Section 11 was amended by the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 8. Section 12 of the Act was amended by the Equality Act 2010 (c. 10), Schedule 26, paragraph 30 and the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 9. Section 13 was amended by the Employment Relations Act 1999 (c. 26), Schedule 4, Part 3, paragraph 4, the Employment Act 2002 (c. 22), section 22(1), the Crime and Courts Act 2013 (c. 22), Schedule 9, paragraph 52, the Small Business, Enterprise and Employment Act 2015 (c. 26), section 151(3) and the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 11. Section 13A was inserted by the Employment Act 2002, section 22(2) and amended by the Enterprise and Regulatory Reform Act 2013, section 21(3), the Small Business, Enterprise and Employment Act 2015, section 151(4) and the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 12. Section 19 was amended by the Employment Act 2002, section 24(3) and (4), Schedule 7, paragraph 23(3) and Schedule 8, the Employment Act 2008 (c. 24), section 6(2) and the Judicial Review and Courts Act 2022, Schedule 5, Part 2, paragraph 16.

(**b**) 1998 c. 46.

(**c**) 2006 c. 32.

(**d**) 2007 c. 15.

(**e**) Section 10 was substituted by the Employment Relations Act 1999 (c. 26), Schedule 8, paragraph 3 and amended by the Employment Relations Act 2004 (c. 24), section 36 and Schedule 1, paragraph 24, the Crime and Courts Act 2013 (c. 22), Schedule 14, Part 7, paragraph 13(3), the Judicial Review and Courts Act 2022 (c. 35), Schedule 5, paragraph 6 and S.I. 2010/493 and 2018/579.

The Tribunal Procedure Committee has had regard to the matters referred to in section 7B(A1) of, and paragraph 1 of Schedule A1 to, the Employment Tribunals Act 1996(**a**) and paragraph 28A(2) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007(**b**).

The Lord Chancellor has (in respect of the rules made by the Tribunal Procedure Committee) allowed these Rules in accordance with paragraph 21 of Schedule A1 to the Employment Tribunals Act 1996 and paragraph 28(3) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.

PART 1

Introduction and general provisions

Citation, commencement, application and extent

1.—(1) These Rules may be cited as the Employment Tribunal Procedure Rules 2024 and come into force immediately after the Employment Tribunals (Procedure Rules) (Consequential Amendments) Regulations 2024(**c**) come into force.

(2) Subject to paragraph (3), these Rules (excluding Schedules 1 and 2) apply to all proceedings before the Tribunal.

(3) Schedules 1 and 2 apply to modify Parts 1 to 15 of these Rules in relation, respectively, to—

(a) national security proceedings, and

(b) equal value claims.

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

Interpretation

2.—(1) In these Rules—

"2013 Regulations" means the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013(**d**);

"ACAS" means the Advisory, Conciliation and Arbitration Service referred to in section 247 of the Trade Union and Labour Relations (Consolidation) Act 1992(**e**);

"case management order" means an order or decision of any kind in relation to the conduct of proceedings, not including the determination of any issue which would be the subject of a judgment;

"claim" means any proceedings before the Tribunal making a complaint, and unless otherwise specified, includes an employer's contract claim;

"claim form" means a form prescribed by the President in accordance with rule 9(1)(a);

"claimant" means a person who brings a claim to the Tribunal (other than an employer's contract claim);

(**a**) Section 7B was inserted by the Tribunals, Courts and Enforcement Act 2007 (c. 15) Schedule 8, paragraph 42. Subsection (A1) was inserted by the Judicial Review and Courts Act 2022 (c. 35), Schedule 5, paragraph 4.

(**b**) Paragraph 28A was inserted by the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33), paragraph 45 of the Schedule and applies to the making of Procedure Rules under the Employment Tribunals Act 1996 (c. 17) by virtue of paragraph 21 of Schedule A1 to the Employment Tribunals Act 1996.

(**c**) S.I. 2024/1156.

(**d**) S.I. 2013/1237, amended by S.I. 2024/1156.

(**e**) 1992 c. 52.

"Commission for Equality and Human Rights" means the body established under section 1 of the Equality Act 2006(**a**);

"complaint" means anything that is referred to as a claim, complaint, reference, application or appeal in any enactment which confers jurisdiction on the Tribunal;

"costs" means fees, charges, disbursements or expenses incurred by or on behalf of any party (including expenses that witnesses incur for the purpose of, or in connection with, attendance at a Tribunal hearing). In Scotland all references to costs (except when used in the expression "wasted costs") must be read as references to expenses;

"costs order" has the meaning given in rule 73(1);

"early conciliation certificate" means a certificate issued by ACAS in accordance with the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014(**b**);

"early conciliation exemption" means an exemption contained in regulation 3(1) of the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014;

"early conciliation number" means the unique reference number which appears on an early conciliation certificate;

"electronic communication" has the meaning given to it by section 15(1) of the Electronic Communications Act 2000(**c**);

"employee's contract claim" means a claim brought by an employee in accordance with articles 3 and 7 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994(**d**) or articles 3 and 7 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(**e**);

"employer's contract claim" means a claim brought by an employer in accordance with articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994, or articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994;

"Employment Appeal Tribunal" means the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975(**f**) and continued in existence under section 135 of the Employment Protection (Consolidation) Act 1978(**g**) and section 20(1) of the Employment Tribunals Act(**h**);

"Employment Tribunals Act" means the Employment Tribunals Act 1996;

"equal value claim" means a claim relating to a breach of a sex equality clause or rule within the meaning of the Equality Act in a case involving work within section 65(1)(c) of that Act;

(**a**) 2006 c. 3.
(**b**) S.I. 2014/254, amended by S.I. 2024/1156; there are other amending instruments but none is relevant.
(**c**) 2000 c. 7; section 15(1) was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 158.
(**d**) S.I. 1994/1623, amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2), S.I. 2004/752, 2011/1133, 2014/431 and 2019/469. By virtue of paragraph 4 of Schedule 2 to the Employment Tribunals Act 1996 (c. 17) reference in article 3(a) to "section 131(2) of the 1978 Act" is to be read as "section 3(2) of the Employment Tribunals Act 1996".
(**e**) S.I. 1994/1624, amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2), S.I. 2004/752, 2011/1133, 2014/431 and 2019/469. By virtue of paragraph 4 of Schedule 2 to the Employment Tribunals Act 1996 (c. 17) reference in article 3(a) to "section 131(2) of the 1978 Act" is to be read as "section 3(2) of the Employment Tribunals Act 1996".
(**f**) 1975 c. 71; section 87 was repealed by the Employment Protection (Consolidation) Act 1978 (c. 44), Schedule 17.
(**g**) 1978 c. 44; section 135 was repealed by the Employment Tribunals Act 1996 (c. 17), Schedule 3, Part 1.
(**h**) Section 20 contains amendments not relevant to this instrument.

"Equality Act" means the Equality Act 2010(**a**);

"final hearing" has the meaning given in rule 55(1);

"judgment" means a decision made at any stage of the proceedings (other than a decision under rule 14 (reconsideration of rejection of claim) or 20 (reconsideration of rejection of response)), which finally determines—

(a) a claim, or part of a claim, as regards liability, remedy or costs (including preparation time and wasted costs);

(b) any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out or a jurisdictional issue);

(c) the imposition of a financial penalty under section 12A of the Employment Tribunals Act(**b**);

"lay representative" means a person who charges for representation in proceedings but is not a legal representative;

"legal representative" means a person (including an employee of a person who is entitled to be paid costs) who—

(a) has a right of audience in relation to any class of proceedings in any part of the Senior Courts of England and Wales, or all proceedings in county courts or magistrates' courts,

(b) is an advocate or solicitor in Scotland, or

(c) is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland;

"Minister" means a Minister of the Crown;

"national security proceedings" means proceedings in relation to which a direction or order under rule 93 is in force;

"preliminary hearing" has the meaning given in rule 52(1);

"preliminary issue" has the meaning given in rule 52(3);

"preparation time" has the meaning given in rule 72;

"preparation time order" has the meaning given in rule 73(2);

"President" means either of the two presidents appointed from time to time in accordance with regulation 5(1) of the 2013 Regulations(**c**);

"presiding member" means—

(a) where the Tribunal is composed of a single member, the Employment Judge(**d**) presiding in accordance with regulation 5(1) of the Employment Tribunals and Employment Appeal Tribunal (Composition of Tribunal) Regulations 2024(**e**);

(**a**) 2010 c. 15.

(**b**) Section 12A was inserted by the Enterprise and Regulatory Reform Act 2013 (c. 24), section 16(1), and amended by the Small Business, Enterprise and Employment Act 2015 (c. 26), section 150(3), the Judicial Review and Courts Act 2022 (c. 35), Schedule 5, Part 2, paragraph 10 and S.I. 2019/731.

(**c**) Regulation 5 contains amendments not relevant to this instrument.

(**d**) An Employment Judge is defined by the Employment Tribunals Act 1996 (c. 17), section 3A. Section 3A was inserted by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 8, paragraph 36 and amended by the Crime and Courts Act 2013 (c. 22), Schedule 14, paragraph 13(1).

(**e**) S.I. 2024/94.

(b) where the Tribunal is composed of two or more members, the member selected by the Senior President of Tribunals in accordance with regulation 6(4) of those Regulations;

"Regional Employment Judge" means a person appointed or nominated in accordance with regulation 6(1) or (2) of the 2013 Regulations(**a**);

"Register" means the register of judgments and written reasons kept in accordance with regulation 14(1) of the 2013 Regulations(**b**);

"relevant proceedings" means those proceedings listed in section 18(1) of the Employment Tribunals Act(**c**);

"reply" means a reply given to an employer's contract claim under rule 26;

"representative" includes a legal representative and a lay representative, and unless otherwise specified, "represented" and "representing" are to be construed accordingly;

"respondent" means the person or persons against whom the claim (other than an employer's contract claim) is made;

"response" means a response presented to the Tribunal under Part 3 of these Rules;

"response form" means a form prescribed by the President in accordance with rule 9(1)(b);

"Tribunal" means any employment tribunal established in accordance with regulation 4 of the 2013 Regulations;

"Vice President" means a person appointed or nominated in accordance with regulation 6(3) or (4) of the 2013 Regulations;

"wasted costs" has the meaning given in rule 78(5);

"writing" includes writing sent by means of electronic communication.

(2) Any order or other decision of the Tribunal is either a case management order or a judgment.

Overriding objective

3.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing,

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c) avoiding unnecessary formality and seeking flexibility in the proceedings,

(d) avoiding delay, so far as compatible with proper consideration of the issues, and

(e) saving expense.

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules, or

(b) interprets any rule or practice direction.

(**a**) Regulation 6 contains amendments not relevant to this instrument.
(**b**) Regulation 14 was amended by S.I. 2024/1156; there are other amending instruments but none is relevant.
(**c**) Section 18(1) was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 1 paragraphs 5(2) to (6), the Employment (Allocation of Tips) Act 2023 (c. 13), section 12(3)(b), and S.I. 2014/431, 2015/2054, 2016/539, 2018/58, 579, 2019/348, 724 and 2022/1181. An amendment by the Workers (Predictable Terms and Conditions) Act 2023 (c. 46), paragraph 2, Part 1 of the Schedule is not yet in force.

(4) The parties and their representatives must—

(a) assist the Tribunal to further the overriding objective, and

(b) co-operate generally with each other and with the Tribunal.

Alternative dispute resolution

4. The Tribunal must, wherever practicable and appropriate, seek to encourage the use by the parties of the services of ACAS, judicial or other mediation, or other means of resolving their disputes by agreement.

Time

5.—(1) Unless otherwise specified by the Tribunal, an act required by these Rules, a practice direction or an order of the Tribunal to be done on or by a particular day must be done at any time before midnight on that day. If there is an issue as to whether the act has been done by that time, the party claiming to have done it must prove compliance.

(2) If the time specified by these Rules, a practice direction or an order for doing any act ends on a day other than a working day, the act is done in time if it is done before midnight on the next working day.

(3) Where any act is required to be, or may be, done within a certain number of days of or from an event, the date of that event must not be included in the calculation. (For example, a response must be received within 28 days of the date on which the respondent was sent a copy of the claim: if the copy of the claim was sent on 1st October the latest date for receipt of the response by the Tribunal is 29th October).

(4) Where any act is required to be, or may be, done not less than a certain number of days before or after an event, the date of that event must not be included in the calculation. (For example, if a party wishes to send representations in writing for consideration by the Tribunal at a hearing, the representations must be received not less than 7 days before the hearing: if the hearing is fixed for 8th October, the representations must be received by the Tribunal no later than 1st October).

(5) Where the Tribunal imposes a time limit for doing any act, the last date for compliance should, wherever practicable, be expressed as a calendar date.

(6) Where time is specified by reference to the date when a document is sent to a person by the Tribunal, the date when the document was sent must, unless the contrary is proved, be regarded as the date endorsed on the document as the date of sending or, if there is no such endorsement, the date shown on the letter accompanying the document.

(7) The Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired.

(8) "Working day" means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(**a**).

Irregularities and non-compliance

6.—(1) An irregularity resulting from a failure to comply with any provision of these Rules, a practice direction, or any order of the Tribunal does not of itself render void the proceedings or any step taken in the proceedings.

(**a**) 1971 c. 80, to which there are amendments not relevant to this instrument.

(2) In the case of non-compliance with these Rules, any practice direction or any order of the Tribunal, the Tribunal may take such action as it considers just, which may include any of the following—

(a) waiving or varying the requirement;

(b) striking out the claim or the response, in whole or in part, in accordance with rule 38 (striking out);

(c) barring or restricting a party's participation in the proceedings;

(d) awarding costs in accordance with Part 13 (costs orders, preparation time orders and wasted costs orders).

(3) This rule does not apply to rules 10, 17(1), 24(1) or 26(1), or an order made under rule 28(1)(b), 29(1)(b), 39 or 40.

Delegation to staff

7.—(1) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff and services) or section 2(1) of the Courts Act 2003 (court officers, staff and services)(**a**) may, if authorised by the Senior President of Tribunals under paragraph 2(3) of Schedule A1 to the Employment Tribunals Act(**b**), carry out functions of a judicial nature permitted or required to be done by the Tribunal.

(2) Within 14 days from the date on which the Tribunal sends notice of a decision made by a member of staff under paragraph (1) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

Presidential Guidance

8.—(1) The President may issue guidance for the area for which they are responsible, as to matters of practice and as to how the powers conferred by these Rules may be exercised.

(2) Any guidance issued under paragraph (1) must be published by the President in an appropriate manner to bring it to the attention of the persons to whom it is addressed.

(3) The Tribunal must have regard to any guidance published by the President for the area in which the Tribunal is constituted, but is not bound by it.

Prescribed forms

9.—(1) The President may prescribe by practice direction, for the area for which they are responsible—

(a) one or more versions of a form which must be used by claimants to start proceedings in the Tribunal,

(b) one or more versions of a form which must be used by respondents to respond to a claim before the Tribunal, and

(c) that provision of certain information on a form prescribed under sub-paragraph (a) or (b) is mandatory.

(2) It is not necessary to use a form prescribed under paragraph (1) if the proceedings are—

(a) referred to the Tribunal by a court,

(b) proceedings in which the Tribunal will be exercising its appellate jurisdiction, or

(**a**) 2003 c. 39.
(**b**) Schedule A1 was inserted by the Judicial Review and Courts Act 2022 (c. 35), Schedule 5, paragraph 1.

(c) proceedings brought by an employer under section 11 of the Employment Rights Act 1996(**a**).

(3) The President must publish the forms prescribed under paragraph (1) in an appropriate manner to bring them to the attention of prospective claimants, respondents and their advisers.

PART 2

Starting a claim

Presenting the claim

10.—(1) A claimant must start proceedings by presenting a claim on a claim form completed in accordance with any practice direction.

(2) A claim may be presented in England and Wales if—

(a) the respondent, or one of the respondents, resides or carries on business in England and Wales,

(b) one or more of the acts or omissions complained of took place in England and Wales,

(c) the claim relates to a contract under which the work is or has been performed partly in England and Wales, or

(d) the Tribunal has jurisdiction to determine the claim by virtue of a connection with Great Britain and the connection in question is at least partly a connection with England and Wales.

(3) A claim may be presented in Scotland if—

(a) the respondent, or one of the respondents, resides or carries on business in Scotland,

(b) one or more of the acts or omissions complained of took place in Scotland,

(c) the claim relates to a contract under which the work is or has been performed partly in Scotland, or

(d) the Tribunal has jurisdiction to determine the claim by virtue of a connection with Great Britain and the connection in question is at least partly a connection with Scotland.

Multiple claimants

11.—(1) Two or more claimants may make their claims on the same claim form if their claims give rise to common or related issues of fact or law or if it is otherwise reasonable for their claims to be made on the same claim form.

(2) Where two or more claimants wrongly include claims on the same claim form, this must be treated as an irregularity falling under rule 6 (irregularities and non-compliance).

Rejection: claim form not used or failure to supply minimum information

12.—(1) The Tribunal must reject a claim if—

(a) it is not made on a claim form;

(b) it does not contain the following information—

(i) each claimant's name;

(**a**) 1996 c. 18; by virtue of section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) all references to "industrial tribunal" and "industrial tribunals" in any enactment are substituted with "employment tribunal" and "employment tribunals". Section 11 was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 2, paragraph 16, the Pensions Act 2014 (c. 19), Schedule 13, Part 2, paragraph 68 and S.I. 2014/431, 2019/469 and 731.

(ii) each claimant's address;

(iii) each respondent's name;

(iv) each respondent's address;

(c) it does not contain one of the following—

(i) an early conciliation number;

(ii) confirmation that the claim does not institute any relevant proceedings;

(iii) confirmation that an early conciliation exemption applies.

(2) If it rejects the claim under paragraph (1), the Tribunal must send a copy of the claim to each claimant with a notice of rejection explaining why it has been rejected. The notice must contain information about how a claimant may apply for a reconsideration of the rejection.

Rejection: substantive defects

13.—(1) Tribunal staff must refer a claim to the Tribunal if they consider that the claim, or part of it, may be—

(a) one which the Tribunal has no jurisdiction to consider,

(b) in a form which cannot sensibly be responded to or is otherwise an abuse of process,

(c) one which institutes relevant proceedings and is made on a claim form that does not contain either an early conciliation number or confirmation that an early conciliation exemption applies,

(d) one which institutes relevant proceedings and is made on a claim form which contains confirmation that one of the early conciliation exemptions applies, and an early conciliation exemption does not apply,

(e) one which institutes relevant proceedings and the early conciliation number on the claim form is not the same as the early conciliation number on the early conciliation certificate,

(f) one which institutes relevant proceedings and the name of the claimant on the claim form is not the same as the name of the prospective claimant on the early conciliation certificate to which the early conciliation number relates, or

(g) one which institutes relevant proceedings and the name of the respondent on the claim form is not the same as the name of the prospective respondent on the early conciliation certificate to which the early conciliation number relates.

(2) The Tribunal must reject a claim, or part of it, if it considers that the claim, or part of it, is of a kind described in sub-paragraphs (a), (b), (c) or (d) of paragraph (1).

(3) The Tribunal must reject a claim, or part of it, if it considers that the claim is of a kind described in sub-paragraph (e) of paragraph (1), unless the Tribunal considers that the claimant made an error in relation to an early conciliation number and it would not be in the interests of justice to reject the claim, or part of it.

(4) The Tribunal must reject a claim, or part of it, if it considers that the claim, or part of it, is of a kind described in sub-paragraphs (f) or (g) of paragraph (1), unless the Tribunal considers that the claimant made an error in relation to a name or address and it would not be in the interests of justice to reject the claim, or part of it.

(5) If a claim, or part of it, is rejected, the Tribunal must send a copy of the claim form to each claimant together with a notice of rejection giving the Tribunal's reasons for rejecting the claim, or part of it. The notice must contain information about how a claimant may apply for a reconsideration of the rejection.

Reconsideration of rejection of claim

14.—(1) A claimant whose claim has been rejected (in whole or in part) under rule 12 (rejection: claim form not used or failure to supply minimum information) or 13 (rejection: substantive defects) may apply for a reconsideration on the basis that either—

(a) the decision to reject was wrong, or

(b) the notified defect can be rectified.

(2) An application under paragraph (1) must be in writing and it must be received by the Tribunal within 14 days of the date that the notice of rejection was sent. It must explain why the decision to reject is wrong or rectify the defect and it must state whether the claimant requests a hearing.

(3) If the claimant does not request a hearing, or the Tribunal decides, on considering the application, that the claim is to be accepted in full, the Tribunal must determine the application without a hearing. Otherwise the application must be considered at a hearing attended only by the claimant.

(4) If the Tribunal decides that the decision to reject the claim, or part of it, was correct but that the defect has been rectified, the claim must be treated as presented on the date that the application containing the rectification was received by the Tribunal.

Protected disclosure claims

15.—(1) If a claim alleges that the claimant has made a protected disclosure, the Tribunal may, with the consent of the claimant, send a copy of the claim to a person or description of persons prescribed by an order under section 43F of the Employment Rights Act 1996(**a**).

(2) "Protected disclosure" has the meaning given by section 43A of the Employment Rights Act 1996.

PART 3

The response to the claim

Sending claim form to respondents

16.—(1) Unless the claim is rejected in full, the Tribunal must send a copy of the claim form to each respondent with a notice which includes the following information—

(a) whether any part of the claim has been rejected,

(b) how to present a response to the claim,

(c) the period by which a response must be received by the Tribunal, and

(d) what will happen if the Tribunal does not receive a response in time.

(2) Where the Tribunal accepts part of a claim on reconsideration under rule 14 (reconsideration of rejection of claim) after rejection of that part, it must—

(a) unless it has already done so under paragraph (1), send a copy of the claim form to each respondent,

(b) notify the respondent that the rejected part has now been accepted, and

(c) direct the period by which a response must be received by the Tribunal.

(**a**) Sections 43A and 43F were inserted by the Public Interest Disclosure Act 1998 (c. 23), section 1. Section 43F was also amended by the Enterprise and Regulatory Reform Act 2013 (c. 24), section 18(1)(c).

(3) If the Tribunal sends a copy of the claim form to an address for a respondent which differs from that provided on the claim form (whether or not a copy of the claim form has already been sent by the Tribunal to an address provided on the claim form), the Tribunal may also direct that the period by which a response must be received by the Tribunal under rule 17(1) (response) begins from the date that a copy of the claim form is sent to that address.

(4) The Tribunal may send a copy of the claim form to the Secretary of State in any case where it appears that rule 95 (proceedings involving the National Insurance Fund) may apply.

Response

17.—(1) A respondent must present a response form to the Tribunal in accordance with any practice direction. Subject to paragraph (2) and to any direction given under rule 16(2) or (3) (sending claim form to respondents), the Tribunal must receive the response within 28 days of the date that the copy of the claim form was sent by the Tribunal.

(2) Two or more respondents may include their responses on the same response form if the responses give rise to common or related issues of fact or law or if it is otherwise reasonable for the responses to be made on the same response form.

(3) A respondent may include the response to more than one claim on the same response form if the claims give rise to common or related issues of fact or law or if it is otherwise reasonable for the responses to be made on the same response form.

(4) Where two or more respondents wrongly include responses on the same response form, this must be treated as an irregularity falling under rule 6 (irregularities and non-compliance).

Rejection: response form not used or failure to supply minimum information

18.—(1) The Tribunal must reject a response if—

(a) it is not made on a response form;

(b) it does not contain the following information—

(i) the respondent's full name;

(ii) the respondent's address;

(iii) whether the respondent wishes to resist any part of the claim.

(2) If it rejects a response under paragraph (1), the Tribunal must send a copy of the response to the respondent (or in the case of a response provided by two or more respondents, to each respondent) with a notice of rejection explaining why it has been rejected. The notice must explain what steps may be taken by a respondent, including the need (if appropriate) to apply for an extension of time, and how to apply for a reconsideration of the rejection.

Rejection: response form presented late

19.—(1) The Tribunal must reject a response if it is received later than the time specified in rule 17(1) (response), or after the expiry of any extension of time granted under rule 21 (applications for extension of time for presenting response).

(2) The Tribunal must not reject a response under paragraph (1) where an application for extension has been made under rule 21, or the response includes or is accompanied by such an application, until that application is determined.

(3) If it rejects a response under paragraph (1), the Tribunal must send a copy of the response form to the respondent (or in the case of a response provided by two or more respondents, to each respondent) together with a notice of rejection explaining that the response has been presented

late. The notice must explain how a respondent can apply for an extension of time and how to apply for a reconsideration of the rejection.

Reconsideration of rejection of response

20.—(1) A respondent whose response has been rejected under rule 18 (rejection: response form not used or failure to supply minimum information) or 19 (rejection: response form presented late) may apply for a reconsideration on the basis that the decision to reject was wrong or, in the case of a rejection under rule 18, on the basis that the notified defect can be rectified.

(2) An application under paragraph (1) must be in writing and it must be received by the Tribunal within 14 days of the date that the notice of rejection was sent. It must explain why the decision to reject is wrong or rectify the defect, and it must state whether the respondent requests a hearing.

(3) If the respondent does not request a hearing, or the Tribunal decides, on considering the application, that the response is to be accepted in full, the Tribunal must determine the application without a hearing. Otherwise the application must be considered at a hearing attended only by the respondent.

(4) If the Tribunal decides that the decision to reject the response was correct but that the defect has been rectified, the response must be treated as presented on the date that the application containing the rectification was received by the Tribunal (but the Tribunal may extend time under rule 5(7) (time)).

Applications for extension of time for presenting response

21.—(1) A respondent may make a written application to the Tribunal for an extension of time for presenting a response.

(2) The application must—

(a) set out the reasons why the extension is sought,

(b) except where the time limit has not yet expired, be accompanied by a draft response, or an explanation as to why that is not possible, and

(c) specify if the respondent wishes to request a hearing.

(3) A claimant may within 7 days of receipt of a copy of the application give reasons in writing to the Tribunal explaining why the application is opposed.

(4) The Tribunal may determine the application without a hearing.

(5) If the Tribunal refuses to grant an extension of time, any prior rejection of the response must stand. If the Tribunal grants an extension of time, any judgment issued under rule 22(2) (effect of non-presentation or rejection of response, or case not contested) must be set aside and rule 22(3) ceases to have effect.

Effect of non-presentation or rejection of response, or case not contested

22.—(1) This rule applies where—

(a) the Tribunal has not received a response by the time specified in rule 17(1) (response), or by an extension of time granted under rule 21 (applications for extension of time for presenting response),

(b) any response received has been rejected and no application for a reconsideration is yet to be determined, or

(c) the respondent has stated that no part of the claim is contested.

(2) The Tribunal must decide whether on the available material (which may include any further information which the parties are required by the Tribunal to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Tribunal must issue a judgment accordingly, otherwise, a hearing must be fixed. Where the Tribunal has directed that a preliminary issue should be determined at a hearing, a judgment may be issued by the Tribunal under this rule after that issue has been determined without a further hearing.

(3) The Tribunal must provide the respondent with notice of any hearing or decision of the Tribunal but the respondent may only participate in any hearing on that claim to the extent permitted by the Tribunal.

Notification of acceptance

23. Subject to rule 93(6) (national security proceedings), where the Tribunal accepts the response it must send a copy of the response form to all other parties.

PART 4

Employer's contract claim

Making an employer's contract claim

24.—(1) A respondent who wishes to make an employer's contract claim must do so by including it as part of the response to a claim which includes an employee's contract claim, and the Tribunal must receive the response by the time specified in rule 17(1) (response), or by any extension of time granted under rule 21 (applications for extension of time for presenting response).

(2) The Tribunal may reject the whole or part of any employer's contract claim on the ground that—

(a) it has no jurisdiction, or

(b) it is in a form which cannot sensibly be responded to or is otherwise an abuse of process.

(3) Where the Tribunal rejects an employer's contract claim, rule 14 (reconsideration of rejection of claim) applies except that—

(a) references to a claimant or a claim must be read as a reference to a respondent or to an employer's contract claim respectively,

(b) reference to rule 12 is to be read as a reference to rule 24, and

(c) reference to rule 13 is to be ignored.

Notification of employer's contract claim

25. When the Tribunal sends a copy of the response form to the other parties in accordance with rule 23 (notification of acceptance) it must notify the claimant that the response includes an employer's contract claim and include information on how the claimant may submit a reply, the time limit for doing so, and what will happen if the Tribunal does not receive a reply in time.

Replying to an employer's contract claim

26.—(1) A claimant who wishes to reply to an employer's contract claim must send their reply so that it is received by the Tribunal within 28 days of the date that a copy of the response form was sent to the claimant.

(2) If the Tribunal does not receive a reply by the end of the period specified in paragraph (1), rules 21 (applications for extension of time for presenting response) and 22 (effect of non-presentation or rejection of response, or case not contested) apply except that—

(a) references to a respondent or a response must be read as a reference to a claimant or a reply, respectively,

(b) references to a claimant must be read as a reference to a respondent, and

(c) reference to rule 17(1) must be read as a reference to rule 26(1).

(3) Where the Tribunal accepts the reply it must send a copy of the reply to all other parties.

PART 5

Initial consideration of claim, response and reply

Initial consideration

27.—(1) As soon as possible after the acceptance of the response or reply, the Tribunal must consider all of the documents held by it in relation to the claim, to confirm whether there are arguable complaints and defences within its jurisdiction (and for that purpose may order any party to provide further information).

(2) Unless paragraph (3) applies, the Tribunal conducting initial consideration of the claim may propose judicial mediation or other forms of dispute resolution.

(3) This paragraph applies where—

(a) notice is given under rule 28 (dismissal of claim) or 29 (dismissal of response or reply), or

(b) the Tribunal has already made a case management order.

Dismissal of claim

28.—(1) If the Tribunal considers either that it has no jurisdiction to consider the claim, or part of it, or that the claim, or part of it, has no reasonable prospect of success, it must send a notice to the parties—

(a) setting out the Tribunal's view and the reasons for it, and

(b) ordering that the claim, or the part of it, is to be dismissed on such date as is specified in the notice unless before that date the Tribunal has received written representations from the party advancing the claim explaining why the claim, or part of it, should not be dismissed.

(2) If the Tribunal has not received written representations before the date specified in the notice under paragraph (1)(b), the claim is dismissed without further order and the Tribunal must write to the parties to confirm what has occurred.

(3) If the Tribunal receives written representations before the date specified under paragraph (1)(b), the written representations must be considered by the Tribunal, who must either permit the claim, or part of it, to proceed or fix a hearing for the purpose of deciding whether it should permit the claim, or part of it, to do so. The party responding or replying to that claim may, but need not, attend and participate in the hearing.

(4) If the claim or any part of it is permitted to proceed, the Tribunal must make a case management order.

Dismissal of response or reply

29.—(1) If the Tribunal considers that the response or reply, or part of it, has no reasonable prospect of success the Tribunal must send a notice to the parties—

(a) setting out the Tribunal's view and the reasons for it,

(b) ordering that the response or reply, or part of it, is dismissed on such date as is specified in the notice unless before that date the Tribunal has received written representations from the party advancing the response or reply explaining why the response or reply, or part of it, should not be dismissed, and

(c) specifying the consequences of the dismissal of the response or reply, in accordance with paragraph (5).

(2) If the Tribunal has not received written representations before the date specified in the notice under paragraph (1)(b), the response or reply is dismissed without further order, and the Tribunal must write to the parties to confirm what has occurred.

(3) If the Tribunal receives written representations before the date specified in the notice under paragraph (1)(b), the written representations must be considered by the Tribunal, who must either permit the response or reply, or part of it, to stand or fix a hearing for the purpose of deciding whether it should permit the response or reply to stand. The party advancing the claim to which the response or reply relates may, but need not, attend and participate in the hearing.

(4) If the response or reply, or any part of it, is permitted to stand, the Tribunal must make a case management order.

(5) Where a response is dismissed, the effect is as if no response had been presented and rule 22 (effect of non-presentation or rejection of response, or case not contested) applies.

(6) Where a reply is dismissed, the effect is as if no reply had been presented and rule 22 applies, as modified by rule 26(2) (replying to an employer's contract claim).

PART 6

Case management orders and other powers

Case management orders

30.—(1) Subject to rule 32(2) and (3) (postponements), the Tribunal may, on its own initiative or on the application of a party, make a case management order.

(2) The particular powers identified in these Rules do not restrict that general power.

(3) A case management order may vary, suspend or set aside an earlier case management order where that is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.

Applications for case management orders

31.—(1) A party may apply for a case management order at a hearing or by sending a written application to the Tribunal.

(2) Where a party makes a written application under paragraph (1) they must notify the other parties that any objections to the application should be sent to the Tribunal as soon as possible.

(3) The Tribunal may deal with an application made under paragraph (1) in writing or order that it be dealt with at a preliminary hearing or final hearing.

Postponements

32.—(1) An application by a party for a postponement must be received by the Tribunal as soon as possible after the need for a postponement becomes known.

(2) In the circumstances listed in paragraph (3) the Tribunal may only order a postponement where—

(a) all other parties consent, and—

(i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement, or

(ii) it is otherwise in accordance with the overriding objective,

(b) the application was necessitated by an act or omission of another party or the Tribunal, or

(c) there are exceptional circumstances.

(3) The circumstances are—

(a) a party makes an application for a postponement less than 7 days before the date on which the hearing begins, or

(b) the Tribunal has ordered two or more postponements in the same proceedings on the application of the same party and that party makes an application for a further postponement.

(4) In this rule—

(a) "postponement" means a postponement of a hearing including any adjournment which causes the hearing to be held or continued at a later date;

(b) "exceptional circumstances" may include ill health relating to an existing long term health condition or disability.

Disclosure of documents and information

33. The Tribunal may order any person in Great Britain to disclose documents or information to a party (by providing copies or otherwise) or to allow a party to inspect such material as might be ordered by the county court or, in Scotland, by a sheriff.

Requirement to attend to give evidence

34.—(1) The Tribunal may order any person in Great Britain to attend a hearing to give evidence, produce documents, or provide information.

(2) Where an order is made under this rule, the Tribunal must notify the parties in writing that the order has been made, and the name of the person required to attend the hearing.

Addition, substitution and removal of parties

35.—(1) The Tribunal may on its own initiative, or on the application of a party or any other person wishing to become a party, add any person as a party, by way of substitution or otherwise, if it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings.

(2) The Tribunal may on its own initiative, or on the application of a party, remove any party that appears to have been wrongly included.

Other persons

36. The Tribunal may permit any person to participate in proceedings, on such terms as may be specified, in respect of any matter in which the Tribunal considers that that person has a legitimate interest.

Lead cases

37.—(1) Where the Tribunal considers that two or more claims give rise to common or related issues of fact or law, the Tribunal may make an order specifying one or more of those claims as a lead case and staying, or in Scotland sisting, the other claims ("the related cases").

(2) When the Tribunal makes a decision in respect of the common or related issues it must send a copy of that decision to each party in each of the related cases and, subject to paragraph (3), that decision is binding on each of those parties.

(3) Within 28 days after the date on which the Tribunal sends a copy of the decision to a party under paragraph (2), that party may apply in writing for an order that the decision does not apply to, and is not binding on the parties to, a particular related case.

(4) If a lead case is withdrawn before the Tribunal makes a decision in respect of the common or related issues, it must make an order as to—

(a) whether another claim is to be specified as a lead case, and

(b) whether any order affecting the related cases should be set aside or varied.

Striking out

38.—(1) The Tribunal may, on its own initiative or on the application of a party, strike out all or part of a claim, response or reply on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal;

(d) that it has not been actively pursued;

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim, response or reply (or the part to be struck out).

(2) A claim, response or reply may not be struck out unless the party advancing it has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).

(4) Where a reply is struck out, the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).

Unless orders

39.—(1) An order may specify that if it is not complied with by the date specified the claim, response or reply, or part of it, must be dismissed without further order. If a claim, response or reply, or part of it, is dismissed on this basis the Tribunal must give written notice to the parties confirming what has occurred.

(2) A party whose claim, response or reply has been dismissed, in whole or in part, under this rule may apply to the Tribunal in writing, within 14 days of the date that the notice was sent under paragraph (1), to have the order set aside on the basis that it is in the interests of justice to do so.

(3) Unless an application under paragraph (2) includes a request for a hearing, the Tribunal may determine it on the basis of written representations.

(4) Where a response is dismissed under this rule, the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).

(5) Where a reply is dismissed under this rule, the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).

Deposit orders

40.—(1) Where at a preliminary hearing the Tribunal considers that any specific allegation or argument in a claim, response or reply has little reasonable prospect of success, it may make an order requiring a party ("the depositor") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument ("a deposit order").

(2) The Tribunal must make reasonable enquiries into the depositor's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.

(3) The Tribunal's reasons for making the deposit order must be provided with the order and the depositor must be notified about the potential consequences of the order.

(4) If the depositor fails to pay the deposit by the date specified by the deposit order, the Tribunal must strike out the specific allegation or argument to which the deposit order relates.

(5) Where a response is struck out under paragraph (4), the effect is as if no response had been presented, as set out in rule 22 (effect of non-presentation or rejection of response, or case not contested).

(6) Where a reply is struck out under paragraph (4), the effect is as if no reply had been presented, as set out in rule 22, as modified by rule 26(2) (replying to an employer's contract claim).

(7) If the Tribunal following the making of a deposit order decides the specific allegation or argument against the depositor for substantially the reasons given in the deposit order—

(a) the depositor must be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 74 (when a costs order or a preparation time order may or must be made), unless the contrary is shown, and

(b) the deposit must be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),

otherwise the deposit must be refunded.

(8) If a deposit has been paid to a party under paragraph (7)(b) and a costs order or preparation time order has been made against the depositor in favour of the party who received the deposit, the amount of the deposit must count towards the settlement of that order.

PART 7

Rules common to all kinds of hearings

General

41.—(1) The Tribunal may regulate its own procedure and must conduct any hearing in the manner it considers fair, having regard to the overriding objective.

(2) The Tribunal must seek to avoid undue formality and may itself question the parties or any witnesses so far as appropriate in order to clarify the issues or elicit the evidence.

(3) The Tribunal is not bound by any rule of law relating to the admissibility of evidence in proceedings before the courts.

(4) This rule is not restricted by any other rule contained in this Part.

Written representations

42. The Tribunal may consider any written representations from a party, including a party who does not propose to attend the hearing, if they are sent to the Tribunal and the other parties, and must do so if they are sent to the Tribunal and the other parties not less than 7 days before the hearing.

Witnesses

43.—(1) Where a witness is called to give oral evidence, any witness statement of that person ordered by the Tribunal must stand as that witness's evidence in chief unless the Tribunal orders otherwise.

(2) Witnesses are required to give their oral evidence on oath or affirmation.

(3) The Tribunal may exclude from the hearing any person who is to appear as a witness in the proceedings until such time as that person gives evidence, if it considers it in the interests of justice to do so.

Inspection of witness statements

44.—(1) Subject to rules 49 (privacy and restrictions on disclosure) and 93 (national security proceedings) and the following paragraphs, any witness statement which stands as evidence in chief must be available for inspection during the course of the hearing by those attending the hearing.

(2) Where a hearing is conducted by electronic communication under rule 46 (hearings by electronic communication), inspection of any witness statement may be otherwise than during the course of a hearing.

(3) This rule does not apply where the Tribunal decides that all or any part of a witness statement is not to be admitted as evidence, in which case the witness statement or that part must not be available for inspection.

Timetabling

45. The Tribunal may impose limits on the time that a party may take in presenting evidence, questioning witnesses or making submissions, and may prevent the party from proceeding beyond any time so allotted.

Hearings by electronic communication

46. A hearing may be conducted, in whole or in part, by use of electronic communication (including by telephone) provided that the Tribunal considers that it would be just and equitable to do so and provided that those attending the hearing are able to hear what the Tribunal hears and, so far as practicable, see any witness as seen by the Tribunal.

Non-attendance

47. If a party fails to attend or to be represented at a hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it must consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

Conversion from preliminary hearing to final hearing and vice versa

48. The Tribunal conducting a preliminary hearing may order that it be treated as a final hearing, or vice versa, if the Tribunal is properly constituted for the purpose and if it is satisfied that no party is materially prejudiced by the change.

Privacy and restrictions on disclosure

49.—(1) The Tribunal may, on its own initiative or on the application of a party, make an order with a view to preventing or restricting the public disclosure of any aspect of proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person.

(2) In considering whether to make an order under this rule, the Tribunal must give full weight to the principle of open justice and to the Convention right to freedom of expression.

(3) Any order made under this rule may require—

(a) that a hearing that would otherwise be held in public be conducted, in whole or in part, in private;

(b) that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed to the public, by the use of anonymisation or otherwise, whether in the course of any hearing or in its listing or in any documents entered on the Register or otherwise forming part of the public record;

(c) that measures are to be taken to prevent witnesses at a public hearing being identifiable by members of the public;

(d) that a restricted reporting order is in place within the terms of section 11 (restriction of publicity in cases involving sexual misconduct) or 12 (restriction of publicity in disability cases) of the Employment Tribunals Act;

(e) that the name, address or other information of, or relating to, any person be redacted from a claim form, response form, witness statement or any other document in the proceedings.

(4) Any party, or other person with a legitimate interest, who has not had a reasonable opportunity to make representations before an order under this rule is made may apply to the Tribunal in writing for the order to be revoked or discharged, either on the basis of written representations or, if requested, at a hearing.

(5) Where an order is of the kind mentioned in paragraph (3)(d), the order—

(a) must specify the person whose identity is protected,

(b) must specify the duration of the order,

(c) may specify particular matters of which publication is prohibited as likely to lead to that person's identification, and

(d) may specify that it also applies to any other proceedings.

(6) The Tribunal must ensure that a notice that an order has been made under this rule in respect of particular proceedings is displayed on the notice board of the Tribunal with any list of the proceedings taking place before the Tribunal, and on the door of the room in which the proceedings affected by the order are taking place.

(7) "Convention rights" has the meaning given to it in section 1 of the Human Rights Act 1998(**a**).

PART 8

Withdrawal

End of claim

50. Where a party advancing a claim informs the Tribunal, either in writing or in the course of a hearing, that their claim, or part of it, is withdrawn, the claim, or part, comes to an end, subject to any application that the party responding or replying to the claim may make for a costs order, preparation time order or wasted costs order.

Dismissal following withdrawal

51. Where a claim, or part of it, has been withdrawn under rule 50 (end of claim), the Tribunal must issue a judgment dismissing it (which means that the party advancing it may not commence a further claim against the party responding or replying to it raising the same, or substantially the same, complaint) unless—

(a) the party advancing the claim has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so, or

(b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.

PART 9

Preliminary hearings

Scope of preliminary hearings

52.—(1) A preliminary hearing is a hearing at which the Tribunal may do one or more of the following—

(a) conduct a preliminary consideration of the claim with the parties and make a case management order (including an order relating to the conduct of the final hearing);

(b) determine any preliminary issue;

(c) consider whether a claim, response or reply, or any part, should be struck out under rule 38 (striking out)

(d) make a deposit order under rule 40 (deposit orders);

(**a**) 1998 c. 42, amended by S.I. 2003/1887 and 2004/1574.

(e) explore the possibility of settlement or alternative dispute resolution (including judicial mediation).

(2) There may be more than one preliminary hearing in any case.

(3) "Preliminary issue" means any substantive issue which may determine the complaint or the Tribunal's jurisdiction (for example, an issue as to whether a complaint is brought in time).

Direction for preliminary hearing

53.—(1) The Tribunal may, on its own initiative or on the application of a party, direct a preliminary hearing.

(2) The Tribunal must give the parties reasonable notice of the date of the preliminary hearing. In the case of a hearing involving any preliminary issue, this must not be less than 14 days' notice of the date of the preliminary hearing and the notice must specify the preliminary issues that are to be, or may be, decided at the hearing.

Preliminary hearings held in public

54.—(1) Preliminary hearings must be held in private, except where paragraph (2) applies.

(2) If the preliminary hearing involves a determination under rule 52(1)(b) (preliminary issue) or (c) (strike out), any part of the hearing relating to such a determination must be held in public.

(3) Where paragraph (2) applies, the Tribunal may direct that the entirety of the hearing is to be held in public.

(4) Paragraphs (2) and (3) are subject to rules 49 (privacy and restrictions on disclosure) and 93 (national security proceedings).

PART 10
Final hearing

Scope of final hearing

55.—(1) A final hearing is a hearing at which the Tribunal determines the claim or such parts as remain outstanding, following the initial consideration (under rule 27) and any preliminary hearing.

(2) There may be different final hearings for different issues (for example, liability, remedy or costs).

Notice of final hearing

56.—(1) The Tribunal must give the parties not less than 14 days' notice of the date of a final hearing.

(2) Notice of a final hearing may be given before the date that the response is to be presented under rule 17(1) (response), or a reply is to be presented under rule 26(1) (replying to an employer's contract claim) provided the date of the hearing is no sooner than 14 days after the date on which the response or reply is to be presented to the Tribunal in accordance with each of those rules.

Final hearing held in public

57. Subject to rules 49 (privacy and restrictions on disclosure) and 93 (national security proceedings), any final hearing must be in public.

PART 11

Decisions and reasons

Decisions made without a hearing

58. Decisions made without a hearing must be communicated in writing to the parties, identifying the member or members of the Tribunal who have made the decision, or in the case of a decision made by a member of staff under rule 7(1) (delegation to staff), identifying the member of staff who has made the decision.

Decisions made at or following a hearing

59.—(1) Where there is a hearing the Tribunal may either announce its decision in relation to any issue at the hearing or reserve it to be sent to the parties as soon as practicable in writing.

(2) If the decision is announced at the hearing, a written record (in the form of a judgment if appropriate) must be provided to the parties and, where the proceedings were referred to the Tribunal by a court, to that court as soon as practicable.

(3) Decisions concerned only with the conduct of a hearing need not be identified in the record of that hearing unless a party requests that a specific decision is so recorded.

(4) The written record must be approved by the presiding member.

Reasons

60.—(1) The Tribunal must give reasons for its decision on any disputed issue, whether substantive or procedural, including any decision on an application for reconsideration or for an order for costs, preparation time or wasted costs.

(2) In the case of a decision given in writing the reasons must also be given in writing.

(3) In the case of a decision announced at a hearing, the reasons may be given orally at the hearing or reserved to be given in writing which may, but need not, be as part of the written record of the decision.

(4) Where reasons have been given orally at a hearing, the presiding member must announce that written reasons will not be provided unless requested by any party—

(a) at the hearing, or

(b) by a written request received by the Tribunal within 14 days of the sending of the written record of the decision,

and the written record of the decision must repeat that information.

(5) If the Tribunal does not receive a request for written reasons under paragraph (4), the Tribunal must provide written reasons only if requested to do so by the Employment Appeal Tribunal or a court.

(6) The reasons given for any decision must be proportionate to the significance of the issue and for decisions other than judgments may be very short.

(7) In the case of a judgment the reasons must—

(a) identify the issues which the Tribunal has determined,

(b) state the findings of fact made in relation to those issues,

(c) concisely identify the relevant law, and state how that law has been applied to those findings in order to decide the issues, and

(d) where the judgment includes a financial award, identify by means of a table or otherwise, how the amount to be paid has been calculated.

(8) Written reasons must be approved by the presiding member, other than written reasons for decisions made by a member of staff under rule 7(1) (delegation to staff).

Absence of presiding member

61.—(1) If it is impossible or not practicable for the written record or written reasons to be approved by the presiding member as a result of death, incapacity or absence, it must be approved—

(a) in the case of a Tribunal composed of more than one member, by the other member or members;

(b) in the case of a Tribunal composed of a single member, by the relevant post-holder.

(2) In this rule, the relevant post-holder is—

(a) in England and Wales, the President (England and Wales) or a Regional Employment Judge;

(b) in Scotland, the President (Scotland) or the Vice President.

Consent orders and judgments

62. If the parties agree in writing or orally at a hearing upon the terms of any order or judgment the Tribunal may, if it thinks fit, make such order or judgment, in which case it must be identified as having been made by consent.

When a judgment or order takes effect

63. A judgment or order takes effect from the day when it is given or made, or on such later date as is specified by the Tribunal.

Time for compliance

64. A party must comply with a judgment or order for the payment of an amount of money within 14 days of the date of the judgment or order, unless—

(a) the judgment, order, or any of these Rules specifies a different date for compliance, or

(b) the Tribunal has stayed (or in Scotland sisted) the proceedings or judgment.

The Register

65. Subject to rules 49 (privacy and restrictions on disclosure) and 93 (national security proceedings), and with the exception of judgments for withdrawn claims under rule 51 (dismissal following withdrawal), a copy of any judgment and any written reasons for a judgment must be entered into the Register.

Copies of judgment for referring court

66. Where the proceedings were referred to the Tribunal by a court, the Tribunal must send a copy of any judgment and any written reasons to that court.

Correction of clerical mistakes and accidental slips

67.—(1) The Tribunal may at any time correct any clerical mistake or other accidental slip or omission in any order, judgment or other document produced by the Tribunal.

(2) If a correction is made under this rule, any published version of the document must also be corrected.

(3) If any document is corrected by the Tribunal under this rule, a copy of the corrected version, approved by the presiding member of that Tribunal or in accordance with rule 61 (absence of presiding member), must be sent to all the parties.

(4) If any document is corrected by a member of staff in accordance with rule 7(1) (delegation to staff) and this rule, a copy of the corrected version, approved by that member of staff, must be sent to all the parties.

PART 12

Reconsideration of judgments

Principles

68.—(1) The Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.

(2) A judgment under reconsideration may be confirmed, varied or revoked.

(3) If the judgment under reconsideration is revoked the Tribunal may take the decision again. In doing so, the Tribunal is not required to come to the same conclusion.

Application for reconsideration

69. Except where it is made in the course of a hearing, an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of—

(a) the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or

(b) the date that the written reasons were sent, if these were sent separately.

Process for reconsideration

70.—(1) The Tribunal must consider any application made under rule 69 (application for reconsideration).

(2) If the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the Tribunal must inform the parties of the refusal.

(3) If the application has not been refused under paragraph (2), the Tribunal must send a notice to the parties specifying the period by which any written representations in respect of the application must be received by the Tribunal, and seeking the views of the parties on whether the application can be determined without a hearing. The notice may also set out the Tribunal's provisional views on the application.

(4) If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.

(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application.

Reconsideration by the Tribunal on its own initiative

71. Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).

PART 13

Costs orders, preparation time orders and wasted costs orders

Definitions

72. In this Part—

"paying party" means a party liable to pay costs;

"preparation time" means time spent by the receiving party (including by any of the receiving party's employees or advisers) in working on the case, except for time spent at any final hearing;

"receiving party" means a party entitled to be paid costs.

Costs orders and preparation time orders

73.—(1) A costs order is an order that the paying party make a payment to—

(a) the receiving party in respect of the costs that the receiving party has incurred while represented by a legal representative or a lay representative, or

(b) another party or witness in respect of expenses incurred, or to be incurred, for the purpose of, or in connection with, an individual's attendance as a witness at a hearing.

(2) A preparation time order is an order that the paying party make a payment to the receiving party in respect of the receiving party's preparation time while not represented by a legal representative.

(3) A costs order under paragraph (1)(a) and a preparation time order may not both be made in favour of the same party in the same proceedings.

(4) The Tribunal may decide in the course of the proceedings that a party is entitled to either a costs order or a preparation time order but may defer its decision on the kind of order to make until a later stage in the proceedings.

When a costs order or a preparation time order may or must be made

74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) The Tribunal must consider making a costs order or a preparation time order where it considers that—

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted,

(b) any claim, response or reply had no reasonable prospect of success, or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned.

(4) Where in proceedings for unfair dismissal a final hearing is postponed or adjourned, the Tribunal must order the respondent to pay the costs incurred as a result of the postponement or adjournment if—

(a) the claimant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing, and

(b) the postponement or adjournment of that hearing has been caused by the respondent's failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the claimant was dismissed or of comparable or suitable employment.

Procedure

75.—(1) A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order or a preparation time order against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

The amount of a costs order

76.—(1) A costs order may order the paying party to pay—

(a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;

(b) the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i) in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998(**a**), or by the Tribunal applying the same principles;

(ii) in Scotland, by way of taxation carried out either by the auditor of court in accordance with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019(**b**), or by the Tribunal applying the same principles;

(c) another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses for the purpose of, or in connection with, an individual's attendance as a witness at a hearing;

(d) an amount agreed between the paying party and the receiving party in respect of the receiving party's costs.

(2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative must not exceed the rate under rule 77(2) (the amount of a preparation time order).

(3) A costs order under sub-paragraphs (b) to (d) of paragraph (1) may exceed £20,000.

(**a**) S.I. 1998/3132.
(**b**) S.S.I. 2019/75.

The amount of a preparation time order

77.—(1) The Tribunal must decide the number of hours in respect of which a preparation time order should be made, on the basis of—

(a) information provided by the receiving party on the preparation time spent, and

(b) the Tribunal's own assessment of what it considers to be a reasonable and proportionate amount of time to spend on such preparatory work, with reference to such matters as the complexity of the proceedings, the number of witnesses and documentation required.

(2) The hourly rate is £44 and increases on 6 April each year by £1.

(3) The amount of a preparation time order must be calculated by multiplying the number of hours assessed under paragraph (1) by the rate under paragraph (2) which is applicable to the year beginning 6 April in which the preparation time was spent.

When a wasted costs order may be made

78.—(1) A wasted costs order is an order against a representative in favour of any party where that party has incurred wasted costs.

(2) The Tribunal may make a wasted costs order in favour of a party, whether or not that party is represented, and may also make such an order in favour of a representative's own client.

(3) A wasted costs order may not be made against a representative where that representative is representing a party in their capacity as an employee of that party.

(4) In this rule, and in rules 79 (effect of a wasted costs order), 80 (procedure) and 82 (ability to pay), "representative" means a party's legal representative or lay representative or any employee of such representative, but it does not include a person who is not acting in pursuit of profit with regard to the proceedings. A person acting on a contingency or conditional fee arrangement is considered to be acting in pursuit of profit.

(5) "Wasted costs" means costs incurred—

(a) as a result of any improper, unreasonable or negligent act or omission on the part of the representative, or

(b) which, in the light of any such act or omission occurring after they were incurred, the Tribunal considers it unreasonable to expect the receiving party to pay.

Effect of a wasted costs order

79. A wasted costs order may order a representative to pay the whole or part of any wasted costs of the party in whose favour the order has been made, or to disallow any wasted costs otherwise payable to the representative, including an order that the representative repay to their client any costs which have already been paid. The amount to be paid, disallowed or repaid must in each case be specified in the order.

Procedure

80.—(1) The Tribunal may make a wasted costs order on its own initiative or on the application of a party.

(2) A party may apply for a wasted costs order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(3) The Tribunal must not make a wasted costs order unless the representative has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order) in respect of the application or proposal.

(4) The Tribunal must inform the representative's client in writing of any proceedings under this rule and of any order made against the representative.

Allowances

81. Where the Tribunal makes a costs order, preparation time order, or wasted costs order, it may also order that the person against whom the order is made must also pay to the Lord Chancellor, in whole or in part, any allowances (other than allowances paid to members of the Tribunal) paid by the Lord Chancellor under section 5(2) or (3) of the Employment Tribunals Act to any person for the purposes of, or in connection with, that person's attendance at the Tribunal.

Ability to pay

82. In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay.

PART 14

Sending documents

Sending documents to the Tribunal

83.—(1) Subject to paragraph (2), documents may be sent to the Tribunal—

(a) by post;

(b) by direct delivery to the appropriate tribunal office (including delivery by a courier or messenger service);

(c) by electronic communication.

(2) A claim form, or a response form may only be sent in accordance with any practice direction.

(3) The Tribunal must notify the parties following the presentation of the claim of the address of the tribunal office dealing with the case (including any email or other electronic address) and all documents must be sent to either the postal, email or other electronic address so notified.

(4) The Tribunal may from time to time notify the parties of any change of address, or that a particular form of communication should or should not be used, and any documents must be sent to the Tribunal in accordance with that notification.

Sending documents to parties

84.—(1) Documents may be sent to a party (whether by the Tribunal or by another party)—

(a) by post;

(b) by direct delivery to that party's address (including delivery by a courier or messenger service);

(c) by electronic communication;

(d) by being handed personally—

(i) if the party is not represented, or if no representative has been named in the claim form or response form, to the party,

(ii) if the party is represented, to the party's representative, or

(iii) on the occasion of a hearing, to any person identified by the party as representing that party at that hearing.

(2) Where a document is required to be sent to a claimant or a respondent, the document must be sent—

(a) if the party is not represented, to the address given in the claim form or response form (as appropriate) or to the address notified by that party to which documents may be sent;

(b) if the party is represented, to the representative's address or to the address notified by that party to which documents may be sent.

(3) If a party has given both a postal address and one or more electronic addresses, any of them may be used unless the party has informed the Tribunal and all other parties in writing that a particular address should or should not be used.

(4) Paragraph (2)(a) does not prevent the Tribunal also sending a copy of the claim form to a respondent at an address that differs from that provided on the claim form.

Sending documents to non-parties

85.—(1) Subject to rule 86 (special cases), documents to be sent to a person who is not a party ("a non-party") must be sent to the address provided by that non-party to which documents should be sent.

(2) If no address for sending of documents is provided, documents must be sent—

(a) if the non-party is not a corporate body, to any known address or place of business in the United Kingdom, or

(b) if the non-party is a corporate body, to its registered or principal office in the United Kingdom or, if permitted by the Tribunal, to an address outside the United Kingdom.

Special cases

86. Documents to be sent to the Secretary of State, the Lord Chancellor, the Attorney General for England and Wales, the Solicitor General for England and Wales, the Advocate General for Scotland, the Lord Advocate, the Solicitor General for Scotland, or the Counsel General to the Welsh Government, in cases where they are not parties, must be sent in accordance with any practice direction.

Alternative address

87. Where no address for the sending of documents is known or it appears that a document sent in accordance with rules 83 to 86 is unlikely to come to the attention of the addressee, the Tribunal may order that documents must be sent to an alternative address in such manner as the Tribunal may direct.

Date of receipt

88. Where a document has been sent in accordance with rules 83 to 87, it must, unless the contrary is proved, be taken to have been received by the addressee—

(a) if sent by post, on the day on which it would be received in the ordinary course of post;

(b) if sent by means of electronic communication, on the day of transmission;

(c) if delivered directly or personally, on the day of delivery.

Irregular sending of documents

89. The Tribunal may treat any document as having been received by a person, notwithstanding any non-compliance with rules 83 to 87, if satisfied that the document in question, or its substance, has in fact come to the attention of that person.

Correspondence with the Tribunal: copying to other parties

90.—(1) Where a party sends a communication to the Tribunal it must send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise).

(2) Paragraph (1) does not apply to an application for an order under rule 34 (requirement to give evidence) or to the detailed grounds accompanying an application under rule 93(4) (national security proceedings).

(3) The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so.

Digital case management

91. In these Rules, where a party or the Tribunal is required to send any document or communication to the Tribunal or another party and does so through the Tribunal's digital case management system and in accordance with any practice direction, there shall be deemed compliance.

PART 15

Miscellaneous

ACAS

92.—(1) Where proceedings concern an enactment which provides for conciliation, the Tribunal—

(a) must, send a copy of the claim form, response form and any reply to an ACAS conciliation officer at the same time as they are sent to the claimant or respondent (as the case may be), and

(b) must, when it sends a copy of the claim form to the respondent or any other party inform the parties that the services of an ACAS conciliation officer are available to them.

(2) Subject to rules 49 (privacy and restrictions on disclosure) and 93 (national security proceedings), a representative of ACAS may attend any preliminary hearing.

National security proceedings

93.—(1) Where in relation to particular Crown employment proceedings a Minister considers that it would be expedient in the interests of national security, the Minister may direct the Tribunal to—

(a) conduct all or part of the proceedings in private;

(b) exclude a person from all or part of the proceedings;

(c) take steps to conceal the identity of a witness in the proceedings.

(2) Where the Tribunal considers it expedient in the interests of national security, it may order—

(a) in relation to particular proceedings (including Crown employment proceedings), anything which can be required to be done under paragraph (1);

(b) a person not to disclose any document (or the contents of any document), where provided for the purposes of the proceedings, to the public or any other person (save for any specified person).

(3) Where the Tribunal considers that it may be necessary to make an order under paragraph (2) in relation to particular proceedings (including Crown employment proceedings), the Tribunal may consider any material provided by a party (or where a Minister is not a party, by a Minister) without providing that material to any other person. Such material must be used by the Tribunal solely for the purposes of deciding whether to make that order (unless that material is subsequently used as evidence in the proceedings by a party).

(4) Where a Minister considers that it would be appropriate for the Tribunal to make an order under paragraph (2), the Minister may make an application for such an order.

(5) Where a Minister has made an application under paragraph (4), the Tribunal may order—

(a) in relation to the part of the proceedings preceding the outcome of the application, anything which can be required to be done under paragraph (1);

(b) a person not to disclose any document (or the contents of any document) to any other person (save for any specified person), where provided for the purposes of the proceedings preceding the outcome of the application.

(6) Where a Minister has made an application under paragraph (4) for an order to exclude any person from all or part of the proceedings, the Tribunal must not send a copy of the response to that person, pending the decision on the application.

(7) If before the expiry of the period specified in rule 17(1) (response) a Minister makes a direction under paragraph (1) or an application under paragraph (4), the Minister may apply for an extension of the time for presenting a response.

(8) A direction under paragraph (1) or an application under paragraph (4) may be made irrespective of whether or not the Minister is a party.

(9) Where the Tribunal decides not to make an order under paragraph (2), rule 6 of Schedule 1 (reasons in national security proceedings) applies to the written reasons given by the Tribunal under rule 60 (reasons) for that decision.

(10) The Tribunal must ensure that in exercising its functions, information is not disclosed contrary to the interests of national security.

(11) Any order made under paragraph (2) must be kept under review by the Tribunal.

(12) "Crown employment proceedings" has the same meaning as in section 10(8) of the Employment Tribunals Act.

Interim relief proceedings

94. When the Tribunal hears an application for interim relief (or for its variation or revocation) under section 161 or 165 of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**) or section 128 or 131 of the Employment Rights Act 1996(**b**), rules 52 to 54 (preliminary hearings) apply to the hearing and the Tribunal must not hear oral evidence unless it directs otherwise.

(**a**) 1992 c. 52; section 161 was amended by the Employment Relations Act 2004 (c. 24), Schedule 1, paragraph 12 and section 165 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2).

(**b**) Section 128 was amended by S.I. 2010/493 and section 131 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2).

Proceedings involving the National Insurance Fund

95. The Secretary of State is entitled to appear and be heard at any hearing in relation to proceedings which may involve a payment out of the National Insurance Fund and must be treated as a party for the purposes of these Rules.

Collective agreements

96.—(1) Where a claim includes a complaint under section 146(1) of the Equality Act relating to a term of a collective agreement(**a**), the following persons, whether or not identified in the claim, must be regarded as the persons against whom a remedy is claimed and must be treated as respondents for the purposes of these Rules—

(a) the claimant's employer (or prospective employer), and

(b) every organisation of employers and organisation of workers, and every association of or representative of such organisations, which, if the terms were to be varied voluntarily, would be likely, in the opinion of the Tribunal, to negotiate the variation.

(2) An organisation or association must not be treated as a respondent if the Tribunal, having made such enquiries of the claimant and such other enquiries as the Tribunal thinks fit, is of the opinion that it is not reasonably practicable to identify the organisation or association.

Devolution issues

97.—(1) Where a devolution issue arises, the Tribunal must as soon as practicable send notice of that fact and a copy of the claim form, response form and any reply—

(a) if it is a Scottish devolution issue, to the Advocate General for Scotland and the Lord Advocate, or

(b) if it is a Welsh devolution issue, to the Attorney General and the Counsel General to the Welsh Government,

unless they are a party to the proceedings.

(2) A person to whom notice is sent may be treated as a party to the proceedings, so far as the proceedings relate to the devolution issue, if that person sends notice to the Tribunal within 14 days of receiving a notice under paragraph (1).

(3) Any notices sent under paragraph (1) or (2) must at the same time be sent to the parties.

(4) "Devolution issue" has the meaning given to it in paragraph 1 of Schedule 6 to the Scotland Act 1998(**b**) (for the purposes of a Scottish devolution issue), and in paragraph 1 of Schedule 9 to the Government of Wales Act 2006(**c**) (for the purposes of a Welsh devolution issue).

Transfer of proceedings between Scotland and England and Wales

98.—(1) The Tribunal may on its own initiative or on the application of a party, transfer proceedings started in one jurisdiction ("the transferring jurisdiction") to the other ("the receiving jurisdiction"), if the following conditions are met—

(a) the proceedings could have been started in the receiving jurisdiction under rule 10 (presenting the claim),

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(**a**) Section 148(4) of the Equality Act 2010 (c. 15) defines "collective agreement" by reference to the meaning given in section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

(**b**) Paragraph 1 of Schedule 6 was amended by the Scotland Act 2012 (c. 11), sections 12(2)(a) and 36(4), the European Union (Withdrawal) Act 2018 (c. 16), Schedule 3, Part 3, paragraph 23 and S.I. 2022/357.

(**c**) Paragraph 1 of Schedule 9 was amended by the Senedd and Elections (Wales) Act 2020 (anaw 1), Schedule 1, paragraph 2.

(b) the relevant authority in the transferring jurisdiction considers that the proceedings would more conveniently be determined in the receiving jurisdiction, and

(c) the relevant authority in the receiving jurisdiction consents to the transfer.

(2) In this rule, the relevant authority is—

(a) in England and Wales, the President (England and Wales) or a Regional Employment Judge;

(b) in Scotland, the President (Scotland) or Vice President.

Transfer of proceedings from a court

99. Where proceedings are referred to the Tribunal by a court, these Rules apply as if the proceedings had been presented by the claimant.

Vexatious litigants

100. The Tribunal may provide any information or documents requested by the Attorney General, a Solicitor General or the Lord Advocate for the purpose of preparing an application or considering whether to make an application under section 42 of the Senior Courts Act 1981 (restriction of vexatious legal proceedings)(**a**), section 33 of the Employment Tribunals Act (restriction of vexatious proceedings)(**b**), or section 100 of the Courts Reform (Scotland) Act 2014 (vexatious litigation orders)(**c**).

Information to the Commission for Equality and Human Rights

101.—(1) The Tribunal must send to the Commission for Equality and Human Rights copies of all judgments and written reasons relating to complaints under sections 120, 127 or 146 of the Equality Act(**d**).

(2) Paragraph (1) does not apply to any proceedings where a Minister of the Crown has given a direction or the Tribunal has made an order under rule 93 (national security proceedings), and any of the Security Service, the Secret Intelligence Service or the Government Communications Headquarters is a party to the proceedings.

Levy appeals

102.—(1) For the purposes of a levy appeal, references in these Rules to a claim or claimant must be read as references to a levy appeal or to an appellant in a levy appeal respectively.

(2) "Levy appeal" means an appeal against an assessment to a levy imposed under a levy order under section 11 of the Industrial Training Act 1982(**e**).

(**a**) 1981 c. 54; section 42 was amended by the Prosecution of Offences Act 1985 (c. 23), section 24 and the Crime and Courts Act 2013 (c. 22) Schedule 10, Part 2, paragraph 60.

(**b**) Section 33 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2) and the Employment Relations Act 2004 (c. 24), section 49.

(**c**) 2014 asp 18.

(**d**) Sections 120 and 127 were amended by the Crime and Courts Act 2013 (c. 22), Schedule 9, Part 3, paragraph 52. Section 120 was also amended by the Worker Protection (Amendment of Equality Act 2010) Act 2023 (c. 51), section 2 and S.I. 2023/1425. Section 127 was also amended by the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), paragraph 14 of the Schedule.

(**e**) 1982 c. 10; section 11 was amended by the Employment Act 1989 (c. 38), Schedule 4, paragraph 10 and Schedule 7, Part 1, and the Further Education and Training Act 2007 (c. 25), sections 24 and 25(2) to (5), and Schedule 1, paragraph 3.

Appeals against improvement and prohibition notices

103.—(1) This rule applies to a person who has presented a claim to the Tribunal in accordance with regulation 14A of the 2013 Regulations(**a**).

(2) For the purposes of an appeal against an improvement notice or a prohibition notice under section 21 or 22 respectively of the Health and Safety at Work etc. Act 1974(**b**), these Rules must be treated as modified in the following ways—

(a) references to a claim or claimant must be read as references to an appeal or to an appellant in an appeal respectively;

(b) references to a respondent must be read as references to the inspector appointed under section 19(1) of the Health and Safety at Work etc. Act 1974 who issued the notice which is the subject of the appeal.

Appeals against notices given under the Energy Act 2013

104.—(1) This rule applies to a person who has presented a claim to the Tribunal in accordance with regulation 14B of the 2013 Regulations(**c**).

(2) For the purposes of an appeal against an improvement notice or a prohibition notice under paragraph 3 or 4 respectively of Schedule 8 to the Energy Act 2013(**d**), these Rules must be treated as modified in the following ways—

(a) references to a claim or claimant must be read as references to an appeal or to an appellant in an appeal respectively;

(b) references to a respondent must be read as references to the inspector appointed under paragraph 1 of Schedule 8 to the Energy Act 2013 who issued the notice which is the subject of the appeal.

Appeals against unlawful act notices

105.—(1) For the purposes of an appeal against an unlawful act notice, these Rules must be treated as modified in the following ways—

(a) references to a claim or claimant must be read as references to a notice of appeal or to an appellant in an appeal against an unlawful act notice respectively;

(b) references to a respondent must be read as references to the Commission for Equality and Human Rights.

(2) "Unlawful act notice" means a notice under section 21 of the Equality Act 2006(**e**).

(**a**) Regulation 14A was inserted by S.I. 2024/1156.
(**b**) 1974 c. 37. Section 22 was amended by the Consumer Protection Act 1987 (c. 43), Schedule 3, paragraph 2.
(**c**) Regulation 14B was inserted by S.I. 2024/1156.
(**d**) 2013 c. 32. Paragraphs 3 and 4 of Schedule 8 were amended by the Nuclear Safeguards Act 2018 (c. 15), paragraph 11(2) and (3) of the Schedule, respectively.
(**e**) 2006 c. 3. Section 21 was amended by the Equality Act 2010 (c. 15), Schedule 26, Part 1, paragraph 67, the Crime and Courts Act 2013 (c. 22), Schedule 9, Part 3, paragraph 52 and the Worker Protection (Amendment of Equality Act 2010) Act 2023 (c. 51), section 4(2).

We make these Rules (other than the Rules made by the Lord Chancellor)

Matt Jackson
David Franey
Mrs Justice Joanna Smith
M J Reed
Philip Brook Smith KC
Donald W Ferguson
Gillian Fleming
Susan Humble
Stephen Smith
Tribunal Procedure Committee

20th November 2024

I make rules 1(3)(a), 93 and Schedule 1 to these Rules
I allow those Rules made by the Tribunal Procedure Committee
Signed by authority of the Lord Chancellor

Nic Dakin
Parliamentary Under Secretary of State
Ministry of Justice

2nd December 2024

SCHEDULE 1

Rule 1(3)(a)

Procedure in national security proceedings

Application and interpretation of Schedule 1

1.—(1) This Schedule applies to national security proceedings.

(2) In this Schedule, "excluded person" means, in relation to any proceedings, a person who has been excluded from all or part of the proceedings by virtue of a direction under rule 93(1)(b) or an order under rule 93(2)(a) (read with rule 93(1)(b)).

(3) Any reference in this Schedule to a rule is a reference to a rule in Parts 1 to 15 of these Rules.

Sending of documents

2. The Tribunal must not send a copy of the response to any excluded person.

Witness orders and disclosure of documents

3.—(1) Where a person or their representative has been excluded under rule 93 (national security proceedings) from all or part of the proceedings and the Tribunal is considering whether to make an order under rule 33 (disclosure of documents and information) or 34 (requirement to attend to give evidence), a Minister (whether or not the Minister is a party to the proceedings) may make an application to the Tribunal objecting to that order.

(2) If an order under rule 33 or 34 has been made, the Minister may make an application to vary or set aside the order.

(3) The Tribunal must hear and determine the Minister's application in private and the Minister is entitled to address the Tribunal.

Special advocate

4.—(1) The Tribunal must inform the relevant Law Officer if a party becomes an excluded person.

(2) The relevant Law Officer may appoint a special advocate to represent the interests of a person in respect of those parts of the proceedings from which—

(a) the person's representative is excluded;

(b) the person and their representative are excluded;

(c) the person is excluded and is unrepresented.

(3) A special advocate must be a person who has a right of audience in relation to any class of proceedings in any part of the Senior Courts or all proceedings in county courts or magistrates' courts, or must be an advocate or a solicitor admitted in Scotland.

(4) An excluded person (where that person is a party) may make a statement to the Tribunal before the commencement of the proceedings or the relevant part of the proceedings.

(5) The special advocate may communicate, directly or indirectly, with an excluded person at any time before receiving material from a Minister in relation to which the Minister states an objection to disclosure to the excluded person ("closed material").

(6) After receiving closed material, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (7) or (9) or an order of the Tribunal.

(7) The special advocate may communicate about the proceedings with—

(a) the Tribunal;

(b) the Minister, or their representative;

(c) the relevant Law Officer, or their representative;

(d) any other person, except for an excluded person or their representative, with whom it is necessary for administrative purposes to communicate about matters not connected with the substance of the proceedings.

(8) The special advocate may apply for an order from the Tribunal to authorise communication with an excluded person or with any other person. If such an application is made—

(a) the Tribunal must notify the Minister of the request, and

(b) the Minister may, within a period specified by the Tribunal, send to the Tribunal and the special advocate notice of any objection to the proposed communication.

(9) After the special advocate has received closed material, an excluded person may only communicate with the special advocate in writing and the special advocate must not reply to the communication, except that the special advocate may send a written acknowledgment of receipt to the representative for the excluded person.

(10) In this rule, "the relevant Law Officer" means, in relation to England and Wales, the Attorney General, and, in relation to Scotland, the Advocate General for Scotland.

(11) Reference in Parts 1 to 15 of these Rules and this Schedule to a party or parties includes any special advocate appointed in particular proceedings, except for references in rules 4, 6(2)(c), 35, and 37(2) and (3), the first reference in rule 38, and references in rules 39, 40, 47, 62, 64, 72 to 82, 92 and 95.

Hearings

5. Subject to any order under rule 49 (privacy and restrictions on disclosure) or any direction or order under rule 93 (national security proceedings), any hearing must take place in public, and any party may attend and participate in the hearing.

Reasons in national security proceedings

6.—(1) The Tribunal must send a copy of the written reasons given under rule 60 (reasons) to the Minister.

(2) The Tribunal must allow 42 days from the date that a copy of the written reasons is sent under paragraph (1) for the Minister to make a direction under paragraph (4). If after this period the Minister has not made a direction, the Tribunal may send the written reasons to each party and where the written reasons relate to a judgment, enter them onto the Register.

(3) If the Tribunal considers it expedient in the interests of national security, it may by order take steps to keep secret all or part of the written reasons.

(4) If the Minister considers it expedient in the interests of national security, the Minister may direct that the written reasons—

(a) must not be disclosed to specified persons and require the Tribunal to prepare a further document which sets out the reasons for the decision, but omits specified information ("the edited reasons");

(b) must not be disclosed to specified persons and that no further document setting out the reasons for the decision should be prepared.

(5) Where the Minister has directed the Tribunal to prepare the edited reasons, the presiding member must initial each omission.

(6) Where a direction has been made under paragraph (4)(a), the Tribunal must—

(a) send the edited reasons to the specified persons,

(b) send the edited reasons and the written reasons to the relevant persons listed in paragraph (8), and

(c) where the written reasons relate to a judgment, enter the edited reasons on the Register but must not enter the written reasons on the Register.

(7) Where a direction has been made under paragraph (4)(b), the Tribunal must send the written reasons to the relevant persons listed in paragraph (8), but must not enter the written reasons on the Register.

(8) The relevant persons are—

(a) the respondent or the respondent's representative, provided that they were not specified in the direction made under paragraph (4),

(b) the claimant or the claimant's representative, provided that they were not specified in the direction made under paragraph (4),

(c) any special advocate appointed in the proceedings, and

(d) where the proceedings were referred to the Tribunal by a court, to that court.

(9) Where written reasons or edited reasons are corrected under rule 67 (correction of clerical mistakes and accidental slips), the Tribunal must send a copy of the corrected reasons to the same persons who had been sent the written reasons or edited reasons respectively.

SCHEDULE 2

Rule 1(3)(b)

Procedure in equal value claims

Application and interpretation of Schedule 2

1.—(1) This Schedule applies to equal value claims.

(2) In this Schedule—

"comparator" means the person of the opposite sex to the claimant in relation to whom the claimant alleges that his or her work is of equal value;

"the facts relating to the question" has the meaning in rule 6(1)(a);

"independent expert" means a member of the panel of independent experts mentioned in section 131(8) of the Equality Act;

"the question" means whether the claimant's work is of equal value to that of the comparator;

"report" means a report required by a Tribunal to be prepared in accordance with section 131(2) of the Equality Act;

"study" means a job evaluation study as defined in section 80(5) of the Equality Act.

(3) Any reference in this Schedule to a rule, is a reference to a rule in this Schedule unless otherwise provided.

General power to manage proceedings

2.—(1) Subject to rules 3(1) (conduct of stage 1 equal value hearing) and 6(1) (conduct of stage 2 equal value hearing) the Tribunal may order—

(a) that no new facts are to be admitted in evidence by the Tribunal unless they have been disclosed to all other parties in writing before a date specified by the Tribunal (unless it was not reasonably practicable for a party to have done so);

(b) the parties to send copies of documents or provide information to the independent expert;

(c) the respondent to grant the independent expert access to the respondent's premises during a period specified in the order to allow the independent expert to conduct interviews with persons identified as relevant by the independent expert;

(d) when more than one expert is to give evidence in the proceedings, that those experts present to the Tribunal a joint statement of matters which are agreed between them and matters on which they disagree.

Conduct of stage 1 equal value hearing

3.—(1) Where there is a dispute as to whether one person's work is of equal value to another's (equal value being construed in accordance with section 65(6) of the Equality Act), the Tribunal must conduct a hearing, which must be referred to as a "stage 1 equal value hearing", and at that hearing must—

(a) strike out the claim, or the relevant part of it, if in accordance with section 131(6) of the Equality Act the Tribunal must determine that the work of the claimant and the comparator are not of equal value,

(b) determine the question or require an independent expert to prepare a report on the question,

(c) if the Tribunal has decided to require an independent expert to prepare a report on the question, fix a date for a further hearing, which must be referred to as a "stage 2 equal value hearing", and

(d) if the Tribunal has not decided to require an independent expert to prepare a report on the question, fix a date for the final hearing.

(2) Before a claim or a part of it is struck out under sub-paragraph (1)(a), the Tribunal must send notice to the claimant and allow the claimant to make representations to the Tribunal as to whether the evaluation contained in the study in question falls within sub-paragraph (a) or (b) of section 131(6) of the Equality Act. The Tribunal is not required to send a notice under this paragraph if the claimant has been given an opportunity to make such representations orally to the Tribunal.

(3) The Tribunal may, on the application of a party, hear evidence and submissions on the issue of defence of material factor contained in section 69 of the Equality Act before determining whether to require an independent expert to prepare a report under paragraph (1)(b).

(4) The Tribunal must give the parties reasonable notice of the date of the stage 1 equal value hearing. The notice must specify the matters that are to be, or may be, considered at the hearing and give notice of the standard orders in rule 4.

Standard orders for stage 1 equal value hearing

4.—(1) At a stage 1 equal value hearing a Tribunal must, unless it considers it inappropriate to do so, order that—

(a) before the end of the period of 14 days from the date of the stage 1 equal value hearing the claimant must—

(i) disclose in writing to the respondent the name of any comparator, or, if the claimant is not able to name the comparator, disclose information which enables the respondent to identify the comparator, and

(ii) identify to the respondent in writing the period in relation to which the claimant considers that the claimant's work and that of the comparator are to be compared,

(b) before the end of the period of 28 days from the date of the stage 1 equal value hearing—

(i) where the claimant has not disclosed the name of the comparator to the respondent under sub-paragraph (a)(i) but the respondent has been provided with sufficient detail to be able to identify the comparator, the respondent must disclose in writing the name of the comparator to the claimant,

(ii) the parties must provide each other with written job descriptions for the claimant and any comparator, and

(iii) the parties must identify to each other in writing the facts which they consider relevant to the question,

(c) the respondent must grant access to the respondent's premises during a period specified in the order to allow the claimant and the claimant's representative to interview any comparator,

(d) the parties must before the end of the period of 56 days from the date of the stage 1 equal value hearing send to the Tribunal an agreed written statement specifying—

(i) job descriptions for the claimant and any comparator,

(ii) the facts which both parties consider are relevant to the question, and

(iii) the facts on which the parties disagree (as to the fact or as to the relevance to the question) and a summary of their reasons for disagreeing,

(e) the parties must, at least 56 days before the final hearing, disclose to each other, to any independent expert or other expert and to the Tribunal written statements of any facts on which they intend to rely in evidence at the final hearing, and

(f) the parties must, at least 28 days before the final hearing, send to the Tribunal a statement of facts and issues on which the parties agree, a statement of facts and issues on which the parties disagree and a summary of their reasons for disagreeing.

(2) The Tribunal may add to, vary or omit any of the standard orders in paragraph (1).

Involvement of independent expert in fact finding

5. Where the Tribunal has decided to require an independent expert to prepare a report on the question, it may, on its own initiative or on the application of a party, order the independent expert to assist the Tribunal in establishing the facts on which the independent expert may rely in preparing the report.

Conduct of stage 2 equal value hearing

6.—(1) At a stage 2 equal value hearing the Tribunal must—

(a) make a determination of facts on which the parties cannot agree which relate to the question and must require the independent expert to prepare the report on the basis of facts which have (at any stage of the proceedings) either been agreed between the parties or determined by the Tribunal (referred to as "the facts relating to the question"), and

(b) fix a date for the final hearing.

(2) Subject to paragraph (3), the facts relating to the question are the only facts on which the Tribunal must rely in relation to the question at the final hearing.

(3) At any stage of the proceedings the independent expert may make an application to the Tribunal for some or all of the facts relating to the question to be amended, supplemented or omitted.

(4) The Tribunal must give the parties reasonable notice of the date of the stage 2 equal value hearing. The notice must draw the attention of the parties to this rule and give notice of the standard orders in rule 7.

Standard orders for stage 2 equal value hearing

7.—(1) At a stage 2 equal value hearing the Tribunal must, unless it considers it inappropriate to do so, order that—

(a) by a specified date the independent expert must prepare their report on the question and must (subject to rule 13 (national security proceedings)) send copies of it to the parties and to the Tribunal, and

(b) the independent expert must prepare their report on the question on the basis only of the facts relating to the question.

(2) The Tribunal may add to, vary or omit any of the standard orders in paragraph (1).

Final hearing

8.—(1) Where an independent expert has prepared a report, unless the Tribunal determines that the report is not based on the facts relating to the question, the report must be admitted in evidence.

(2) If the Tribunal does not admit the report of an independent expert in accordance with paragraph (1), it may determine the question itself or require another independent expert to prepare a report on the question.

(3) The Tribunal may refuse to admit evidence of facts or hear submissions on issues which have not been disclosed to the other party as required by these Rules or any order (unless it was not reasonably practicable for a party to have done so).

Duties and powers of the independent expert

9.—(1) When the Tribunal makes an order under rule 3(1)(b) (conduct of stage 1 equal value hearing) or 5 (involvement of independent expert in fact finding), it must inform the independent expert of the duties and powers under this rule.

(2) The independent expert has a duty to the Tribunal to—

(a) assist it in furthering the overriding objective,

(b) comply with the requirements of these Rules and any orders made by the Tribunal,

(c) keep the Tribunal informed of any delay in complying with any order (with the exception of minor or insignificant delays in compliance),

(d) comply with any timetable imposed by the Tribunal in so far as this is reasonably practicable,

(e) when requested, inform the Tribunal of progress in the preparation of the report,

(f) prepare a report on the question based on the facts relating to the question and (subject to rule 13 (national security proceedings)) send it to the Tribunal and the parties, and

(g) attend hearings.

(3) The independent expert may make an application for any order or for a hearing to be held as if the independent expert were a party to the proceedings.

(4) At any stage of the proceedings the Tribunal may, after giving the independent expert the opportunity to make representations, withdraw the requirement on the independent expert to prepare a report. If it does so, the Tribunal may itself determine the question, or it may require a different independent expert to prepare a report.

(5) When paragraph (4) applies, the independent expert who is no longer required to prepare a report must provide the Tribunal with all documentation and work in progress relating to the proceedings by a date specified by the Tribunal. Such documentation and work in progress must be in a form which the Tribunal is able to use and may be used in relation to those proceedings by the Tribunal or by another independent expert.

Use of expert evidence

10.—(1) The Tribunal must restrict expert evidence to that which it considers is reasonably required to resolve the proceedings.

(2) An expert has a duty to assist the Tribunal on matters within the expert's expertise. This duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

(3) No party may call an expert or put in evidence an expert's report without the permission of the Tribunal.

(4) No expert report shall be put in evidence unless it has been disclosed to all other parties and any independent expert at least 28 days before the final hearing.

(5) In proceedings in which an independent expert has been required to prepare a report on the question, the Tribunal must not admit evidence of another expert on the question unless such evidence is based on the facts relating to the question. Unless the Tribunal considers it inappropriate to do so, any such expert report must be disclosed to all parties and to the Tribunal on the same date on which the independent expert is required to send their report to the parties and to the Tribunal.

(6) If an expert (other than an independent expert) does not comply with these Rules or an order made by the Tribunal, the Tribunal may order that the evidence of that expert must not be admitted.

(7) Where two or more parties wish to submit expert evidence on a particular issue, the Tribunal may order that the evidence on that issue is to be given by one joint expert only. If the parties wishing to instruct the joint expert cannot agree an expert, the Tribunal may select an expert.

Written questions to experts (including independent experts)

11.—(1) When an expert has prepared a report, a party or any other expert involved in the proceedings may put written questions about the report to the expert who has prepared the report.

(2) Unless the Tribunal agrees otherwise, written questions under paragraph (1)—

(a) may be put once only,

(b) must be put within 28 days of the date on which the parties were sent the report,

(c) must be for the purpose only of clarifying the factual basis of the report, and

(d) must be copied to all other parties and experts involved in the proceedings at the same time as they are sent to the expert who prepared the report.

(3) An expert must answer written questions within 28 days of receipt and the answers must be treated as part of the expert's report.

(4) Where a party has put a written question to an expert instructed by another party and the expert does not answer that question within 28 days, the Tribunal may order that the party instructing that expert may not rely on the evidence of that expert.

(5) In this rule, reference to an expert includes reference to an independent expert.

Procedural matters

12.—(1) Where an independent expert has been required to prepare a report, the Tribunal must send that expert notice of any hearing, application, order or judgment in the proceedings as if the independent expert were a party to those proceedings and when these Rules or an order requires a party to provide information to another party, such information must also be provided to the independent expert.

(2) There may be more than one stage 1 or stage 2 equal value hearing in any case.

National security proceedings

13. Where in an equal value claim a direction is given, or order is made, under rule 93 of Part 15 to these Rules (national security proceedings)—

(a) any independent expert appointed must send a copy of any report and any responses to written questions to the Tribunal only, and

(b) rule 6 of Schedule 1 to these Rules (reasons in national security proceedings) applies with the following modifications—

(i) references to the written reasons must be read as references to the independent expert's report and any answers to that report;

(ii) references to the edited reasons must be read as references to the edited report;

(iii) references to the reasons for the decision must be read as references to the independent expert's report and any answers to that report;

(iv) in paragraph (1), omit "given under rule 60 (reasons)";

(v) in paragraph (2)—

(aa) after the words "under paragraph (1)" insert the words ", or if later, from the date that any answers to that report are sent,";

(bb) omit "and where the written reasons relate to a judgment, enter them onto the Register";

(vi) paragraph (6)(c) does not apply;

(vii) in paragraph (7), omit ", but must not enter the written reasons on the Register";

(viii) omit paragraph (9).

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules apply to proceedings before the employment tribunals ("the Tribunal").

Part 1 contains provisions on the application of the Rules to proceedings before the Tribunal, including provisions for interpreting the Rules, and sets out the overriding objective of the Rules, the power to extend time, the power for the Tribunal to delegate certain functions to Tribunal staff and the power for the Presidents of the Employment Tribunals to issue guidance as to practice and procedure and to prescribe forms by practice directions.

Part 2 contains provisions relating to starting proceedings in the Tribunal and provides that proceedings are to be rejected if they are not started correctly, including where a prescribed form is not used, or certain information is not provided, or if the claim is presented late.

Part 3 contains provisions on how a response to a claim must be presented to the Tribunal and provides that a response is to be rejected if the prescribed form is not used or certain information is not provided, or if it is presented late, and the consequences of such a rejection.

Part 4 contains provisions on the process for making and replying to an employer's contract claim.

Part 5 contains provisions for the initial consideration of the claim, response or reply by the Tribunal and provides the Tribunal the power to dismiss the claim, response or reply, or part of it, if the Tribunal considers it has no jurisdiction, or there is no reasonable prospect of success.

Parts 6 and 7 set out the general powers of the Tribunal. This includes the Tribunal's power to make case management orders, to postpone hearings, to add, substitute or remove a party, to specify a claim as a lead case, to strike out a party's case, to dismiss a claim, response or reply, or part of it, if an order of the Tribunal is not complied with, and the power to make a deposit order. It also makes rules for the giving of evidence, submissions and witnesses, including the power for the Tribunal to make an order to prevent or restrict the public disclosure of any aspect of proceedings.

Part 8 makes provision for when a claim is withdrawn.

Parts 9 and 10 make provision for preliminary hearings and final hearings, respectively.

Part 11 contains provision in relation to decisions of the Tribunal, including decisions made by the Tribunal without a hearing, the requirement for the Tribunal to give reasons for its decisions and to publish judgments and written reasons. It also sets out when a judgment or order of the Tribunal takes effect and the time for compliance, and deals with correcting a decision or information produced by the Tribunal.

Part 12 contains provision for the process by which a judgment of the Tribunal may be reconsidered.

Part 13 contains provision relating to the Tribunal's power to award costs (in Scotland, expenses).

Part 14 contains provisions relating to the sending of documents to the Tribunal, the parties to proceedings and to other persons.

Part 15 contains miscellaneous rules. Rule 92 contains provision for proceedings concerning an enactment which provides for conciliation. Rule 93 contains provision for proceedings to be dealt

with in private, for persons to be excluded, or for the identity of witnesses to be concealed, either on the direction of a Minister or by order of the Tribunal, where it is expedient in the interests of national security. Rule 94 contains provision for interim relief in specified proceedings. Rule 95 requires the Secretary of State to be treated as a party in proceedings involving the National Insurance Fund. Rule 96 specifies when a person is to be treated as a respondent in claims that include a complaint under section 146(1) of the Equality Act 2010 (c. 15) relating to term of a collective agreement. Rule 97 makes provision for when a devolution issue arises in proceedings. Rule 98 provides that proceedings may be transferred between Scotland and England and Wales. Rule 99 applies the Rules to proceedings that have been transferred to the Tribunal by a court. Rule 100 allows the Tribunal to share information with the Attorney General, a Solicitor General or the Lord Advocate for the purposes of seeking to restrict the participation of a vexatious litigant. Rule 101 requires the Tribunal to send a copy of its judgments and written reasons in specified proceedings to the Commission for Equality and Human Rights. Rules 102 to 105 modify the application of the Rules in relation to levy appeals and appeals against certain notices under the Health and Safety at Work etc. Act 1974 (c. 37), the Energy Act 2013 (c. 32) and the Equality Act 2006 (c. 3).

Schedule 1 modifies the application of Parts 1 to 15 of the Rules in relation to national security proceedings.

Schedule 2 modifies the application of Parts 1 to 15 of the Rules in relation to proceedings involving an equal value claim.

An impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

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