STATUTORY RULES OF NORTHERN IRELAND

2024 No. 197

EMPLOYMENT

INDUSTRIAL TRIBUNALS

FAIR EMPLOYMENT

The Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2024

Made - - - -	*21st November 2024*
Coming into operation -	*12th December 2024*

The Department for the Economy(**a**), in exercise of the powers conferred by Articles 6(6), 6(6A), 9(1), (3), (3ZA), (3A) and (3AA), 9(A), 11(4), 15(1), 15(A) and 25(5) of the Industrial Tribunals (Northern Ireland) Order 1996(**b**) and Articles 84(1), (2), (2A) and (2B), 84A, 84B(5), 85B and 104(3) of the Fair Employment and Treatment (Northern Ireland) Order 1998(**c**), and now vested in it(**d**), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2024 and come into operation on 12th December 2024.

Amendments to Schedule 1 to the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020

2.—(1) Schedule 1 to the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020(**e**) is amended as follows.

(2) In rule 9 (presenting the claim), for paragraph (1), substitute—

> "(1) A claim shall be started by presenting to the tribunal office a completed claim form (using a prescribed form) in accordance with any practice direction made under regulation 14 which supplements this rule.".

(3) For rule 10 (multiple claimants), substitute—

(**a**) 2016 c.5 (N.I.)
(**b**) S.I. 1996/1921 (N.I. 18); relevant amendments were made by S.I. 1998/1265 (N.I. 8), S.I. 2003/2902 (N.I. 25), 2011 c.13 (N.I.) and 2016 c.15 (N.I.).
(**c**) S.I. 1998/3162 (N.I. 21); relevant amendments were made by S.I. 2003/2902 (N.I. 25) and 2016 c.15 (N.I.).
(**d**) Functions relevant to these regulations were transferred from the Department for Employment and Learning by S.R. 2016 No. 76, Article 6(1)(c).
(**e**) S.R. 2020 No. 3

"**10.** 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, in the opinion of the employment judge, for their claims to be made on the same claim form. Where two or more claimants wrongly include claims on the same claim form, this shall be treated as an irregularity falling under rule 7."

(4) In rule 11(rejection) —

(a) in paragraph (1)—

(i) at the end of sub-paragraph (iii)(aa) omit "or";

(ii) at the end of sub-paragraph (iii)(bb) for "." substitute "; or";

(iii) after sub-paragraph (iii)(bb) insert—

"(cc) where the early conciliation number on the claim form is not the same as the early conciliation number on the early conciliation certificate."

(b) in paragraph (2)—

(i) at the end of sub-paragraph (b) for ".", substitute "; or";

(ii) after sub-paragraph (b), insert—

"(c) if paragraph (1)(c)(iii)(cc) applies and the employment judge 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.".

(5) In rule 12 (reconsideration of rejection)—

(a) for paragraph (4), substitute—

"(4) Subject to paragraph (5), if the employment judge decides that the original rejection was correct but the defect has been rectified, the claim shall be treated as presented on the date that the defect was rectified."

(b) for paragraph (5), substitute—

"(5) The claim (or part) shall be accepted from the date on which it is presented if the employment judge decides that either —

(a) the original rejection was wrong; or

(b) paragraph (4) applies but it would not be in the interests of justice to treat the claim (or part) as presented on the date that the defect was rectified."

(6) In rule 15 (presenting the response)—

(a) in paragraph (2), for "they are responding to" substitute "the responses give rise to common or related issues of fact or law or it is reasonable, in the opinion of the employment judge, for the responses to be made on".

(b) in paragraph (3), for "are based on the same set of facts" substitute "give rise to common or related issues of facts or law or if it is otherwise reasonable, in the opinion of the employment judge, for the claims to made on a single claim form".

(7) In rule 19 (effect of non-presentation or rejection of response or case not being contested)—

(a) in paragraph (1), for "the claim shall proceed to early case management under rule 24" substitute, "paragraphs (2) and (3) shall apply";

(b) for paragraph (2), substitute—

"(2) An employment judge shall decide whether on the available material (which may include further information which the parties are required by the employment judge 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 employment judge shall issue a judgement. Otherwise, a hearing shall be fixed before the employment judge.".

(c) after paragraph (2), insert—

"(3) Where paragraph (2) applies, the respondent shall be entitled to notice of any hearings and decisions of the tribunal but, unless and until an extension of time is granted,

shall only be entitled to participate in any hearing to the extent permitted by the employment judge".

(8) In rule 23 (responding to an employer's contract claim), omit the words ", and the claim shall proceed to early case management".

(9) In rule 24 (early case management), omit the words "or the application of rule 19(1), whichever is earlier".

(10) In rule 48 (fixing of preliminary hearings), in paragraph (1), omit the words "following early case management under rule 24" and "thereafter".

(11) In rule 52 (notice of final hearing), after "final hearing" insert "unless the parties consent to a shorter notice".

(12) In rule 53 (constitution of tribunal for final hearings), for paragraph (1), substitute—

"(1) Subject to Article 6(2) and (3) of the Industrial Tribunals Order and to paragraph (2), final hearings shall be conducted by a tribunal comprising an employment judge sitting alone or an employment judge and either one or two other members, in accordance with regulation 10.".

(13) For rule 61 (entry of judgments and reasons in the register), substitute—

"**61.** Subject to rule 44 (privacy and restrictions on disclosure), rules 91 and 92 (national security), and with the exception of judgments for withdrawn claims under rule 46, a copy shall be entered in the register of any judgment and of any written reasons for a judgment.".

(14) In rule 73 (when a costs order or a preparation time order may or shall be made)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (a) omit "or";

(ii) at the end of sub-paragraph (b) for ".", substitute "; or";

(iii) after sub-paragraph (b) insert—

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

Sealed with the Official Seal of the Department for the Economy on 21st November 2024.

L.S.

Conor Murphy
Minister of the
Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 3) (the 2020 Regulations).

The amendments make changes to tribunal practice, including providing, in certain circumstances, for two or more claimants to make their claims on a single claim form, to allow an employment judge to sit alone in certain circumstances, allowing the issue of default judgments and the recording of judgments on the Register.

Schedule 1 of the 2020 Regulations is amended as follows.

Regulation 2(2) makes changes to Rule 9(1) further setting out the requirements for the presentation of a claim.

Regulation 2(3) amends Rule 10 to provide for two or more claimants to 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 a single claim form.

Regulation 2(4) amends Rule 11 to allow for discretion where there is a discrepancy between the early conciliation number on the claim form and the early conciliation number on the early conciliation certificate.

Regulation 2(5) amends Rule 12 to allow an employment judge to accept a claim form with an error which gave rise to a rejection where the error has been rectified or where it would not be in the interests of justice to reject the claim.

Regulation 2(6) amends Rule 15 to allow a response form to include the response of more than one respondent or the response to more than one claim if the responses or 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 a single response form.

Regulation 2(7), (8) and (9) amend Rules 19, 23 and 24 to provide for the entry of a default judgment.

Regulation 2(10) amends Rule 48 to provide for Tribunals to give reasonable notice to the parties of the date of the hearing.

Regulation 2(11) amends Rule 52 to provide for the listing of cases for final hearing with less than 14 days notice upon consent of the parties.

Regulation 2(12) amends Rule 53 to allow an employment judge to sit alone in certain circumstances.

Regulation 2(13) amends Rule 61 to provide that judgments for withdrawn claims are exempted from the requirement to record on the Register.

Regulation 2(14) amends Rule 73 in relation to the making of costs orders. The effect of this amendment is that a Tribunal may consider whether to make a costs order where there has been a postponement or adjournment following a late application by one of the parties.

An impact assessment has not been produced for these Regulations as no significant impact on the private, voluntary or public sector is foreseen.

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