

SCHEDULE 1

INDUSTRIAL TRIBUNAL RULES OF PROCEDURE

Conciliation

Documents to be sent to conciliators

21. In proceedings brought under the provisions of any statutory provision providing for conciliation, except where the Secretary and the Agency have agreed otherwise, the Secretary shall send copies of all documents, orders, decisions, written reasons and notices to a conciliation officer of the Agency.

Fixed period for conciliation

22.—(1) This rule and rules 23 and 24 apply to all proceedings before a tribunal which are brought under any statutory provision which provides for conciliation except national security proceedings and proceedings which include a claim made under one or more of the following statutory provisions —

- (a) the Equal Pay Act, section 2(1);
- (b) the Sex Discrimination Order, Article 63(1);
- (c) the Race Relations Order, Article 52(2);
- (d) the Disability Discrimination Act, section 17A or 25(8)(3);
- (e) the Sexual Orientation Regulations, regulation 34; and
- (f) the Employment Rights Order, Articles 70B, 134A and 137(5A)(4) (protected disclosures).

(2) In all proceedings to which this rule applies there shall be a conciliation period to give a time limited opportunity for the parties to reach, in conjunction with the Agency, a conciliated settlement (the “conciliation period”). In proceedings in which there is more than one respondent there shall be a conciliation period in relation to each respondent.

(3) In any proceedings to which this rule applies a hearing under rule 26 shall not take place during a conciliation period and where the time and place of a hearing under rule 26 has been fixed to take place during a conciliation period, such hearing shall be postponed until after the end of any conciliation period. The fixing of the time and place for such hearing may take place during a conciliation period. Pre-hearing reviews and case management discussions may take place during a conciliation period.

(4) In relation to each respondent the conciliation period commences on the date on which the Secretary sends a copy of the claim to that respondent. The duration of the conciliation period shall be determined in accordance with the following paragraphs, and rule 23.

(5) In any proceedings which consist of claims under any of the following statutory provisions (but no other statutory provisions) the conciliation period is seven weeks (the “short conciliation period”) —

- (a) the Industrial Tribunals Order, Article 5(5) (breach of contract);

(1) Article 63 was modified by [S.I. 1998/3162 \(N.I. 21\)](#), Schedule 3

(2) Article 52 was modified by [S.I. 1998/3162 \(N.I. 21\)](#), Schedule 3

(3) Section 8 was renumbered 17A by [S.R. 2004 No. 55](#), regulation 9; section 25(8) was inserted by [S.R. 2004 No. 55](#), regulation 19(3)

(4) Articles 70A, 134B and 137(5A) were inserted, respectively, by [S.I. 1998/1763 \(N.I. 17\)](#), Articles 5, 8 and 9

(5) Article 5 was modified by [S.I. 1999/663](#), Schedule 1, paragraph 27(1)

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- (b) the following provisions of the Employment Rights Order –
- (i) Articles 45 to 59(6) (failure to pay wages or an unauthorised deduction from wages);
 - (ii) Article 60 (right to a guarantee payment);
 - (iii) Article 78(7) (right to time off for public duties);
 - (iv) Article 80 (right to time off to look for work or arrange training);
 - (v) Article 81 (right to remuneration for time off under Article 80);
 - (vi) Article 83 (right to time off for ante-natal care);
 - (vii) Article 84 (right to remuneration for time off under Article 83);
 - (viii) Article 92(8) (right to time off for carrying out trade union duties);
 - (ix) Article 92A(9) (time off for union learning representatives);
 - (x) Article 93(10) (right to remuneration for time off under Article 92);
 - (xi) Article 94(11) (right to time off for trade union activities);
 - (xii) Article 96(12) (failure to pay remuneration whilst suspended for medical reasons);
 - (xiii) Article 100 (right to remuneration whilst suspended on maternity grounds);
 - (xiv) Articles 198 or 199 (failure to pay a redundancy payment);
 - (xv) Article 220 (failure to pay remuneration under a protective award),
- (c) Article 35 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(13) (right not to suffer deduction of unauthorised subscriptions);
- (d) regulation 11(5) of the Transfer of Undertakings (Protection of Employment) Regulations 1981(14) (failure to pay compensation following failure to inform or consult).
- (6) In all other proceedings to which this rule applies the conciliation period is thirteen weeks (the “standard conciliation period”).
- (7) In proceedings to which the standard conciliation period applies, that period shall be extended by a period of a further two weeks if, before the expiry of the standard conciliation period, the Agency notifies the Secretary in writing that the following circumstances apply:
- (a) all parties to the proceedings agree to the extension of any relevant conciliation period;
 - (b) a proposal for settling the proceedings has been made by a party and is under consideration by the other parties to the proceedings; and
 - (c) the Agency considers it probable that the proceedings will be settled during the further extended conciliation period.
- (8) A short conciliation period in any proceedings may, if that period has not already ended, be extended into a standard conciliation period if a chairman considers on the basis of the complexity of the proceedings that a standard conciliation period would be more appropriate. Where a chairman makes an order extending the conciliation period in such circumstances, the Secretary shall inform the parties to the proceedings and the Agency in writing as soon as is reasonably practicable.

(6) Article 55 was modified by S.I. 1998/1265 (N.I. 8), Schedule 1, paragraph 9; insertions were made into Article 59(1) by S.I. 2002/2836 (N.I. 2), Schedule 2, paragraph 4(5)

(7) Article 78 was amended by S.I. 1998/1759 (N.I. 13), Schedule 5, Part II

(8) Article 92 was amended by S.R. 1999 No. 432, regulation 6

(9) Article 92A was inserted by S.I. 2003/2902 (N.I. 15), Article 31(2)

(10) Article 93 was amended by S.I. 2003/2902 (N.I. 15), Article 31(3)

(11) Article 94 was amended by S.I. 2003/2902 (N.I. 15), Article 31(4) and (5)

(12) Article 96 was modified by S.R. 2000 No. 375, Schedule 10, paragraph 2

(13) S.I. 1995/1980 (N.I. 12); Article 35 was substituted by S.I. 1999/661 (N.I. 5), Article 3

(14) S.I. 1981/1794

Early termination of conciliation period

23.—(1) Should one of the following circumstances arise during any conciliation period which relates to a particular respondent (referred to in this rule as the relevant respondent), that conciliation period shall terminate early on the relevant date specified (and if more than one circumstance or date listed below is applicable to any conciliation period, that conciliation period shall terminate on the earliest of those dates) –

- (a) where a default judgement is issued against the relevant respondent which determines both liability and remedy, the date on which the default judgement is signed;
- (b) where a default judgement is issued against the relevant respondent which determines liability only, the date which is 14 days after the date on which the default judgement is signed;
- (c) where either the claim or the response entered by the relevant respondent is struck out, the date on which the order to strike out is signed;
- (d) where the claim is withdrawn, the date of receipt by the Office of the Tribunals of the notice of withdrawal;
- (e) where the claimant or the relevant respondent has informed the Agency in writing that they do not wish to proceed with attempting to conciliate in relation to those proceedings, the date on which the Agency sends notice of such circumstances to the parties and to the Office of the Tribunals;
- (f) where the claimant and the relevant respondent have reached a settlement by way of a compromise agreement (including a compromise agreement to refer proceedings to arbitration), the date on which the Office of the Tribunals receives notice from both of those parties to that effect;
- (g) where the claimant and the relevant respondent have reached a settlement through the Agency (including a settlement to refer the proceedings to arbitration), the date of the settlement;
- (h) where no response presented by the relevant respondent has been accepted in the proceedings and no default judgement has been issued against that respondent, the date which is 14 days after the expiry of the time limit for presenting the response to the Secretary.

(2) Where a chairman or tribunal makes an order which re-establishes the relevant respondent's right to respond to the claim (for example, revoking a default judgement) and when that order is made, the conciliation period in relation to that respondent has terminated early under paragraph (1) or has otherwise expired, the chairman or tribunal may order that a further conciliation period shall apply in relation to that respondent if they consider it appropriate to do so.

(3) When an order is made under paragraph (2), the further conciliation period commences on the date of that order and the duration of that period shall be such period as the chairman may decide provided that it does not exceed a period of thirteen weeks beginning with the date of the order. This period shall be extended by a period of a further two weeks, if before the expiry of the conciliation period specified in the order, the Agency notifies the Secretary in writing that the circumstances listed in rule 22(7) apply.

Effect of staying proceedings on the conciliation period

24. Where during a conciliation period an order is made to stay the proceedings, that order has the effect of suspending any conciliation period in those proceedings. Any unexpired portion of a conciliation period takes effect from the date on which the stay comes to an end and continues for the duration of the unexpired portion of that conciliation period or two weeks (whichever is the greater).

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