
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Fair Employment Tribunal (Rules of Procedure) Regulations (Northern Ireland) 2004. They have been drafted in simpler language and have been re-numbered and re-ordered. In addition to minor and drafting amendments and the updating of statutory and other references, these Regulations make the following changes of substance.

Regulation 7 gives the President power to make practice directions.

Regulation 8 empowers the Department for Employment and Learning to prescribe forms which are to be used by claimants and respondents in proceedings before the Fair Employment Tribunal for Northern Ireland. The prescribed forms do not have to be used in relation to the proceedings listed in regulation 8(3).

Regulation 9 specifies the manner in which the time limits described in the Schedules to the Regulations are to be interpreted.

Regulation 10 provides that Schedule 1 to the Regulations is to apply to all proceedings before the Fair Employment Tribunal. However Schedule 1 is modified by Schedules 2 and 3 in relation to proceedings to which each of those Schedules apply respectively.

Regulation 11 provides that details of claims, appeals, applications and any decisions and their associated written reasons are to be entered on the public register.

Regulation 15 makes transitional provision in relation to proceedings which were commenced prior to 3rd April 2005. The Regulations apply to all proceedings commenced on or after that date.

Schedule 1 to the Regulations introduces some new terminology such as “claim”, “claimant”, “response”, “case management discussion” and “default judgement”.

Rules 1 to 3 of Schedule 1 provide that, from 1st October 2005, a claim should be presented using a prescribed form. The provision of certain information (“the required information”) is mandatory if the claim is to be accepted and allowed to proceed. Much of the required information is designed to establish whether the statutory disciplinary and grievance procedures under the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004 are applicable and have been followed.

Rule 4 of Schedule 1 provides that the respondent has 28 days from the date on which he was sent the claim in order to present his response. That time limit may be extended if an application to do so is made before the time limit has expired. As from 1st October 2005 a response should be presented using a prescribed form.

Rule 6 of Schedule 1 provides that the response will not be accepted if the required information in relation to it has not been provided.

Rule 7 of Schedule 1 introduces default judgments where no response has been accepted in proceedings and the time limit for entering the response has expired.

Rules 9 to 12 of Schedule 1 describe the tribunal’s case management powers and the procedure for making applications in proceedings.

Rules 13 to 18 of Schedule 1 describe the different types of hearing which may be held, how such hearings are to be conducted and the orders which may be made at different types of hearings.

Rule 21 of Schedule 1 establishes the procedure to be followed in order to withdraw a claim.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 22 of Schedule 1 describes a hearing held to determine an outstanding procedural or substantive issue or dispose of the proceedings.

Rule 24 of Schedule 1 describes when orders and decisions may be made. Rule 25 specifies the matters which are to be included in a decision. Rule 26 sets out the circumstances in which it is possible to obtain reasons for a decision.

Rules 29 to 32 of Schedule 1 establish new procedures for reviewing certain decisions made by a tribunal or chairman.

Rules 34 to 36 of Schedule 1 describe the circumstances in which a costs order may be made. Such an order may only be made if the party in favour of whom it is made has been legally represented at the relevant time. The relevant time will generally be at the hearing under rule 22. The ability of the paying party to pay the costs order may also be taken into account by the tribunal or chairman.

Rules 37 to 39 of Schedule 1 describe the circumstances in which a preparation time order may be made. A preparation time order may only be made if the party in favour of whom it is made has not been legally represented at the relevant time. The relevant time will generally be at the hearing under rule 22. The ability of the paying party to pay the preparation time order may be taken into account by the tribunal or chairman. Rule 39 sets out how the amount of a preparation time order is calculated.

Rule 40 of Schedule 1 provides that a tribunal or chairman may not make a preparation time order and a costs order in favour of the same party in the same proceedings.

Rule 42 of Schedule 1 introduces wasted costs orders which may be made against representatives. The orders may not however be made against representatives who are not acting in pursuit of profit in relation to those proceedings.

Schedule 2 modifies the application of Schedule 1 in relation to appeals against directions issued by the Equality Commission for Northern Ireland and appeals against a refusal by the Commission to cancel a notice of non-qualification for public contracts or financial assistance from a Northern Ireland department.

Schedule 3 modifies the application of Schedule 1 in relation to applications by the Equality Commission for enforcement of undertakings to promote equality of opportunity or directions issued by the Commission requiring action to be taken for this purpose. Schedule 3 also applies to proceedings before the Fair Employment Tribunal to enforce, revoke or vary an order of the Tribunal made in relation to such an application for enforcement.

A Regulatory Impact Assessment in respect of these Regulations is available and a copy can be obtained from the Department for Employment and Learning, 39-49 Adelaide Street, Belfast BT2 8FD. A copy has also been placed in the library of the Northern Ireland Assembly.