



# Employment Tribunals Act 1996

## 1996 CHAPTER 17

### PART II

#### THE EMPLOYMENT APPEAL TRIBUNAL

##### *Membership etc.*

#### **[<sup>F1</sup>28** Composition of Appeal Tribunal.

- (1) The Appeal Tribunal is, for the purpose of deciding any given matter, to be composed of a member or members chosen by the Senior President of Tribunals.
- (2) The Senior President of Tribunals (or any person to whom the function under subsection (1) is delegated)—
  - (a) must act in accordance with regulations under subsection (3);
  - (b) may choose themselves (if otherwise eligible to sit).
- (3) The Lord Chancellor must by regulations make provision, in relation to every matter that may fall to be decided by the Appeal Tribunal, for determining the number of members who are to compose the Tribunal.
- (4) Where regulations under subsection (3) provide for the Appeal Tribunal to be composed of a single member, the regulations must provide for that member to be a judge.
- (5) Where regulations under subsection (3) provide for the Appeal Tribunal to be composed of more than one member, the regulations—
  - (a) must provide for at least one of those members to be a judge,
  - (b) must make provision for determining how many (if any) of the other members are to be judges and how many (if any) are to be appointed members, and
  - (c) if the Tribunal is to be composed of persons who include one or more appointed members, may make provision for determining what qualifications (if any) that member or any of those members must have.

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**Changes to legislation:** *Employment Tribunals Act 1996, Section 28 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (6) A duty under subsection (3) or (5) to provide for the determination of anything may be discharged by providing for the thing to be determined by the Senior President of Tribunals or the President of the Appeal Tribunal in accordance with any provision made under that subsection.
- (7) The power under subsection (5)(c) may be exercised by giving the Senior President of Tribunals or the President of the Appeal Tribunal power to determine what qualifications are required in accordance with any provision made by the regulations.
- (8) Where the Appeal Tribunal is to be composed of more than one member, the Tribunal may proceed in the absence of one or more of the members chosen to compose it if—
  - (a) the parties to the case agree, and
  - (b) at least one of the members who is present is a judge.
- (9) Where a person (other than a judge) is chosen as one of the members composing the Appeal Tribunal but does not have a qualification required by virtue of subsection (5)(c), the Tribunal may still proceed with that person as a member if the parties to the case agree.
- (10) Before making regulations under this section, the Lord Chancellor must consult the Senior President of Tribunals.
- (11) In this section, “qualification” includes experience.]

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**Textual Amendments**

- F1** S. 28 substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), ss. **35(3)**, 51(4) (with s. 36); [S.I. 2023/1194](#), reg. 2(b) (with reg. 3)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A(2F) inserted by [2022 c. 35 Sch. 4 para. 1\(2\)](#)
- s. 7B(A1) inserted by [2022 c. 35 Sch. 5 para. 4\(2\)](#)
- s. 9(2ZA) inserted by [2022 c. 35 Sch. 5 para. 5\(5\)](#)
- s. 9(5) inserted by [2022 c. 35 Sch. 5 para. 5\(9\)](#)
- s. 10(10) inserted by [2022 c. 35 Sch. 5 para. 6\(4\)](#)
- s. 29A(11) inserted by [2022 c. 35 Sch. 4 para. 1\(3\)](#)
- s. 30A inserted by [2022 c. 35 Sch. 5 para. 19](#)
- s. 37QA and cross-heading inserted by [2022 c. 35 s. 34\(4\)](#)
- s. 37QB inserted by [2022 c. 35 Sch. 5 para. 24](#)
- Sch. A1 para. 21A inserted by [2022 c. 35 Sch. 4 para. 1\(4\)](#)
- Sch. A1 inserted by [2022 c. 35 Sch. 5 para. 1](#)