

## SCHEDULE 1

[Regulation 8(1)c]

### RULES OF PROCEDURE

#### **Originating application**

1.—(1) Where proceedings are brought by an applicant, they shall be instituted by the applicant presenting to the Secretary an originating application, which shall be in writing and shall set out—

- (a) the name and address of the applicant and, if different, an address within the United Kingdom to which he requires notices and documents relating to the proceedings to be sent;
- (b) the names and addresses of the person or persons against whom relief is sought; and
- (c) the grounds, with particulars thereof, on which relief is sought.

(2) Where the Secretary is of the opinion that the originating application does not seek or on the facts stated therein cannot entitle the applicant to a relief which a tribunal has power to give, he may give notice to that effect to the applicant stating the reasons for his opinion and informing him that the application will not be registered unless he states in writing that he wishes to proceed with it.

(3) An application in respect of which such a notice has been given shall not be treated as having been received for the purpose of rule 2 unless the applicant intimates in writing to the Secretary that he wishes to proceed with it; and upon receipt of such an intimation the Secretary shall proceed in accordance with that rule.

(4) In the case of an originating application in respect of a complaint under section 6(4A) of the 1986 Act<sup>(1)</sup> relating to a term of a collective agreement, the following persons, whether or not identified in the originating application, shall be regarded as the persons against whom relief is sought and shall be treated as respondents for the purposes of these rules, that is to say—

- (a) the applicant'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 term were to be varied voluntarily, would be likely, in the opinion of the tribunal, to negotiate the variation;

provided that such an organisation or association shall not be treated as a respondent if the tribunal, having made such enquiries of the applicant and such other enquiries as it thinks fit, is of the opinion that it is not reasonably practicable to identify the organisation or association.

(5) Where proceedings are referred to a tribunal by a court, these rules shall be applied to them, except where the rules are inappropriate, as if the proceedings had been instituted by the presentation of an originating application.

#### **Action upon receipt of originating application**

2.—(1) Upon receiving an originating application the Secretary shall—

- (a) send a copy of it to the respondent;
- (b) give every party notice in writing of the case number of the application (which shall constitute the title of the proceedings) and of the address to which notices and other communications to the Secretary shall be sent; and
- (c) send to the respondent a notice in writing which includes information, as appropriate to the case, about the means and time for entering an appearance, the consequences of failure to do so, and the right to receive a copy of the decision.

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(1) Section 6(4A) was inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19).

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(2) The Secretary shall, subject to rule 13(6), enter particulars of an originating application in the Register either within 28 days of receiving it or, if that is not practicable, as soon as reasonably practicable thereafter.

(3) The Secretary shall also, in all cases, notify the parties that in every case where an enactment provides for conciliation, the services of a conciliation officer are available to them.

### **Appearance by respondent**

**3.—**(1) A respondent shall, within 14 days of receiving the copy of the originating application, enter an appearance to the proceedings by presenting to the Secretary a written notice of appearance—

- (a) setting out his full name and address and, if different, an address within the United Kingdom to which he requires notices and documents relating to the proceedings to be sent;
- (b) stating whether or not he intends to resist the application; and
- (c) if he does intend to resist it, setting out sufficient particulars to show on what grounds.

Upon receipt of a notice of appearance the Secretary shall send a copy of it to each other party.

(2) A respondent who has not entered an appearance shall not be entitled to take any part in the proceedings except—

- (a) to apply under rule 15 for an extension of the time appointed by this rule for entering an appearance;
- (b) to make an application under rule 4(1)(a);
- (c) to make an application under rule 11(4) in respect of rule 11(1)(b);
- (d) to be called as a witness by another person;
- (e) to be sent a copy of a document or corrected entry in pursuance of rule 10(5), 10(10) or 10(11);

and in the rules which follow, the word “party” only includes such a respondent in relation to his entitlement to take such a part in the proceedings, and in relation to any such part which he takes.

(3) A notice of appearance which is presented to the Secretary after the time appointed by this rule for entering appearances shall be deemed to include an application under rule 15(1) (by the respondent who presented the notice) for an extension of the time so appointed.

(4) Without prejudice to rule 15(3), if a chairman grants an application deemed to be included in a notice of appearance by paragraph (3) (which he may do notwithstanding that the grounds of the application are not stated) the Secretary shall send a copy of the notice of appearance to each other party.

(5) A chairman shall not refuse such an application unless he has sent notice to the person wishing to enter an appearance giving that person an opportunity to show cause why an extension should be granted.

### **Power to require further particulars and attendance of witnesses and to order recovery of documents**

**4.—**(1) A tribunal may, on the application of a party made either by notice to the Secretary or at the hearing of the originating application, or of its own motion—

- (a) require a party to furnish in writing to the person specified by the tribunal further particulars of the grounds on which that party relies and of any facts and contentions relevant thereto,

- (b) require one party to grant to another such recovery or inspection (including the taking of copies) of documents as might be ordered by a sheriff,

and may appoint the time at or within which and the place at which any act required in pursuance of this rule is to be done.

(2) A tribunal may, on the application of a party made either by notice to the Secretary or at the hearing of the originating application, or of its own motion—

- (a) require the attendance of any person, including a party, as a witness, wherever such person may be within Great Britain, and
- (b) if it does so require the attendance of a person, require him to produce any document relating to the matter to be determined,

and may appoint the time and place at which the person is to attend and, where appropriate, the time at or within which and the place at which any such document is to be produced.

(3) A tribunal may, on the application of a party made by notice to the Secretary or of its own motion, require a party in writing to furnish to the tribunal a written answer to any question if it considers—

- (a) that the answer of the party to that question may help to clarify any issue likely to arise for determination in the proceedings, and
- (b) that it would be likely to assist the progress of the proceedings for that answer to be available to the tribunal before the hearing,

and may appoint the time within which the written answer is to be furnished. Upon the imposition of such a requirement, the Secretary shall send a copy of the requirement to each other party; and he shall send a copy of the answer to each other party.

(4) The tribunal shall take account of a written answer furnished pursuant to paragraph (3) in the same way as it takes account of representations in writing presented by a party pursuant to rule 8(5).

(5) Where a requirement has been imposed under paragraph (1),(2) or (3)—

- (a) on a party in his absence; or
- (b) on a person other than a party,

that party or person may make an application to the tribunal to vary or set aside the requirement by notice to the Secretary given before the time at which or, as the case may be, the expiration of the time within which the requirement is to be complied with; and the Secretary shall give notice of the application to each party or, where applicable, to each party other than the party making the application.

(6) Every document containing a requirement imposed under paragraph (1)(b) or (2) shall contain a reference to the fact that, under paragraph 1(7) of Schedule 9 to the 1978 Act, any person who without reasonable excuse fails to comply with any such requirement shall be liable on summary conviction to a fine, and the document shall state the amount of the current maximum fine.

(7) If a requirement under paragraph (1) or (3) is not complied with, a tribunal, before or at the hearing, may strike out the whole or part of the originating application, or, as the case may be, of the notice of appearance, and, where appropriate, direct that a respondent shall be debarred from defending altogether: but a tribunal shall not so strike out or direct unless it has sent notice to the party who has not complied with the requirement giving him an opportunity to show cause why the tribunal should not do so.

### **Time and place of hearing**

5.—(1) The President or a Regional Chairman shall fix the date, time and place of the hearing of the originating application and the Secretary shall send to each party a notice of hearing together with

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information and guidance as to attendance at the hearing, witnesses and the bringing of documents, representation by another person and the making of written representations.

(2) The Secretary shall send the notice of hearing to every party not less than 14 days before the date fixed for the hearing except—

- (a) where the Secretary has agreed a shorter time with the parties; or
- (b) on an application for interim relief made under section 77 of the 1978 Act or section 161 of the 1992 Act.

#### **Entitlement to bring or contest the proceedings.**

6.—(1) A tribunal may at any time before the hearing of an originating application, on the application of a party made by notice to the Secretary or of its own motion, determine any issue relating to the entitlement of any party to bring or contest the proceedings to which the originating application relates.

(2) A tribunal shall not determine such an issue unless the Secretary has sent notice to each of the parties giving them an opportunity to submit representations in writing and to advance oral argument before the tribunal.

#### **Pre-hearing review**

7.—(1) A tribunal may at any time before the hearing of an originating application, on the application of a party made by notice to the Secretary or of its own motion, conduct a pre-hearing review, consisting of a consideration of—

- (a) the contents of the originating application and notice of appearance;
- (b) any representations in writing; and
- (c) any oral argument advanced by or on behalf of a party.

(2) If a party applies for a pre-hearing review and the tribunal determines that there shall be no review, the Secretary shall send notice of the determination to that party.

(3) A pre-hearing review shall not take place unless the Secretary has sent notice to the parties giving them an opportunity to submit representations in writing and to advance oral argument at the review if they so wish.

(4) If upon a pre-hearing review the tribunal considers that the contentions put forward by any party in relation to a matter required to be determined by a tribunal have no reasonable prospect of success, the tribunal may make an order against that party requiring the party to pay a deposit of an amount not exceeding £150 as a condition of being permitted to continue to take part in the proceedings relating to that matter.

(5) No order shall be made under this rule unless the tribunal has taken reasonable steps to ascertain the ability of the party against whom it is proposed to make the order to comply with such an order, and has taken account of any information so ascertained in determining the amount of the deposit.

(6) An order made under this rule, and the tribunal's reasons for considering that the contentions in question have no reasonable prospect of success, shall be recorded in summary form in a document signed by the chairman. A copy of that document shall be sent to each of the parties and shall be accompanied by a note explaining that if the party against whom the order is made persists in participating in proceedings relating to the matter to which the order relates, he may have an award of expenses made against him and could lose his deposit.

(7) If a party against whom an order has been made does not remit the amount specified in the order to the Secretary either—

- (a) within the period of 21 days beginning with the day on which the document recording the making of the order is sent to him, or
- (b) within such further period, not exceeding 14 days, as the tribunal may allow in the light of representations made by that party within the said period of 21 days,

the tribunal shall strike out the originating application or notice of appearance of that party or, as the case may be, the part of it to which the order relates.

(8) The deposit paid by a party under an order made under this rule shall be refunded to him in full except where—

- (a) the tribunal has found against that party in a decision on the matter in respect of which the party was ordered to pay the deposit; and
- (b) an award of expenses has been made against that party (whether arising out of the proceedings relating to that matter or out of proceedings relating to any other matter considered with that matter).

(9) No member of a tribunal which has conducted a pre-hearing review shall be a member of the tribunal at the hearing of the originating application.

### **The hearing**

**8.—(1)** Any hearing of an originating application shall be heard by a tribunal composed in accordance with section 128(2A), (2B) and (2C), or section 128(6), of the 1978 Act.

(2) Any hearing of or in connection with an originating application shall take place in public except where a Minister of the Crown has directed a tribunal to sit in private on grounds of national security in accordance with paragraph 1(4A) of Schedule 9 to the 1978 Act.

(3) Notwithstanding paragraph (2), a tribunal may sit in private for the purpose of—

- (a) hearing evidence which in the opinion of the tribunal relates to matters of such a nature that it would be against the interests of national security to allow the evidence to be given in public; or
- (b) hearing evidence from any person which in the opinion of the tribunal is likely to consist of—
  - (i) information which he could not disclose without contravening a prohibition imposed by or under any enactment, or
  - (ii) any information which has been communicated to him in confidence, or which he has otherwise obtained in consequence of the confidence reposed in him by another person, or
  - (iii) information the disclosure of which would cause substantial injury to any undertaking of his or any undertaking in which he works for reasons other than its effect on negotiations with respect to any of the matters mentioned in section 244(1) of the 1992 Act.

(4) A member of the Council on Tribunals or of its Scottish Committee shall be entitled to attend any hearing taking place in private in his capacity as a member.

(5) If a party wishes to submit representations in writing for consideration by a tribunal at the hearing of the originating application he shall present his representations to the Secretary not less than 7 days before the hearing and shall at the same time send a copy to each other party.

(6) The Secretary of State if he so elects shall be entitled to appear as if he were a party and be heard at any hearing of or in connection with an originating application in proceedings which may involve a payment out of the National Insurance Fund, and in that event he shall be treated for the purposes of these rules as if he were a party.

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### **Procedure at hearing**

9.—(1) The tribunal shall, so far as it appears to it appropriate, seek to avoid formality in its proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before the courts of law. The tribunal shall make such enquiries of persons appearing before it and witnesses as it considers appropriate and shall otherwise conduct the hearing in such manner as it considers most appropriate for the clarification of the issues before it and generally to the just handling of the proceedings.

(2) Subject to paragraph (1), at the hearing of the originating application a party shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the tribunal.

(3) If a party fails to attend or to be represented at the time and place fixed for the hearing, the tribunal may, if that party is an applicant, dismiss or, in any case, dispose of the application in the absence of that party or may adjourn the hearing to a later date: provided that before dismissing or disposing of any application in the absence of a party the tribunal shall consider his originating application or notice of appearance, any representations in writing presented by him in pursuance of rule 8(5) and any written answer furnished to the tribunal pursuant to rule 4(3).

(4) A tribunal may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

### **Decision of tribunal**

10.—(1) Where a tribunal is composed of three members its decision may be taken by a majority; and if a tribunal is composed of two members only, the chairman shall have a second or casting vote.

(2) The decision of a tribunal, which may be given orally at the end of a hearing or reserved, shall be recorded in a document signed by the chairman.

(3) The tribunal shall give reasons for its decision in a document signed by the chairman. That document shall contain a statement as to whether the reasons are given in summary or extended form and where the tribunal—

- (a) makes an award of compensation, or
- (b) comes to any other determination by virtue of which one party is required to pay a sum to another (excluding an award of expenses or allowances),

the document shall also contain a statement of the amount of compensation awarded, or of the sum required to be paid, followed either by a table showing how the amount or sum has been calculated or by a description of the manner in which it has been calculated.

(4) The reasons for the decision of the tribunal shall be given in summary form except where—

- (a) the proceedings involved the determination of an issue arising under or relating to the 1970 Act, the 1975 Act, the 1986 Act or the 1976 Act;
- (b) a request that the reasons be given in extended form is made orally at the hearing by a party;
- (c) such a request is made in writing by a party after the hearing either—
  - (i) before any document recording the reasons in summary form is sent to the parties, or
  - (ii) within 21 days of the date on which that document was sent to the parties; or
- (d) the tribunal considers that reasons given in summary form would not sufficiently explain the grounds for its decision;

and in those circumstances the reasons shall be given in extended form.

(5) The clerk shall transmit the documents referred to in paragraphs (2) and (3) to the Secretary who shall enter them in the Register and shall send a copy of the entry to each of the parties and, where the proceedings were referred to the tribunal by a sheriff, to that sheriff.

(6) The document referred to in paragraph (3) shall be omitted from the Register in any case in which—

- (a) a Minister of the Crown has directed the tribunal, in accordance with paragraph 1(4A) of Schedule 9 to the 1978 Act, to sit in private on grounds of national security, or
- (b) evidence has been heard in private and the tribunal so directs.

In such a case the Secretary shall send that document to each of the parties; and where there are proceedings before an appellate court relating to the decision in question, he shall send the document to that court, together with a copy of the entry in the Register of the document referred to in paragraph (2).

(7) In any case appearing to involve allegations of a sexual offence, the document referred to in paragraph (3) shall be entered on the register with such deletions or amendments as have been made in accordance with rule 13(6).

(8) The Register shall be kept at the Office of the Tribunals and shall be open to the inspection of any person without charge at all reasonable hours.

(9) Clerical mistakes in the documents referred to in paragraphs (2) and (3), or errors arising in those documents from an accidental slip or omission, may at any time be corrected by the chairman by certificate under his hand.

(10) If a document is corrected by certificate under paragraph (9), or if a decision is—

- (a) reviewed, revoked or varied by certificate under rule 11, or
- (b) altered in any way by order of an appellate court,

the Secretary shall alter any entry in the Register which is affected to conform with the certificate or order and send a copy of any entry so altered to each of the parties and, where the proceedings were referred to the tribunal by a sheriff, to that sheriff.

(11) Where a document omitted from the Register pursuant to paragraph (6) is corrected by certificate under paragraph (9), the Secretary shall send a copy of the corrected document to each of the parties; and where there are proceedings before any appellate court relating to the decision in question, he shall send a copy to that court together with a copy of the entry in the Register of the document referred to in paragraph (2), if it has been altered under paragraph (10).

(12) Where this rule requires a document to be signed by the chairman of a tribunal composed of three or two persons, but by reason of death or incapacity the chairman is unable to sign it, the document shall be signed by the other members or member of the tribunal, who shall certify that the chairman is unable to sign.

### **Review of tribunal's decision**

**11.**—(1) Subject to the provisions of this rule, a tribunal shall have power, on the application of a party or of its own motion, to review any decision on the grounds that—

- (a) the decision was wrongly made as a result of an error on the part of the tribunal staff;
- (b) a party did not receive notice of the proceedings leading to the decision;
- (c) the decision was made in the absence of a party;
- (d) new evidence has become available since the conclusion of the hearing to which the decision relates, provided that its existence could not have been reasonably known of or foreseen at the time of the hearing; or
- (e) the interests of justice require such a review.

(2) A tribunal may not review a decision of its own motion unless it is the tribunal which issued the decision.

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(3) A tribunal may only review a decision of its own motion if, within the period beginning with the date of the hearing and ending with the fourteenth day after the date on which the decision was sent to the parties, it has sent notice to each of the parties explaining in summary form the ground upon which and reasons why it is proposed to review the decision and giving them an opportunity to show cause why there should be no review.

(4) An application for the purposes of paragraph (1) may be made at the hearing. If no application is made at the hearing, an application may be made to the Secretary at any time from the date of the hearing until 14 days after the date on which the decision was sent to the parties and must be in writing stating the grounds in full.

(5) An application for the purposes of paragraph (1) may be refused by the President or by the chairman of the tribunal which decided the case or by a Regional Chairman if in his opinion it has no reasonable prospect of success.

(6) If such an application is not refused under paragraph (5) it shall be heard by the tribunal which decided the case, or—

- (a) where it is not practicable for it to be heard by that tribunal, or
- (b) where the decision was made by a chairman acting alone under rule 13(8), by a tribunal appointed by either the President or a Regional Chairman.

(7) On reviewing its decision a tribunal may confirm the decision, or vary or revoke the decision under the chairman's hand; and if it revokes the decision, the tribunal shall order a re-hearing before either the same or a differently constituted tribunal.

## **Expenses**

**12.—**(1) Where, in the opinion of the tribunal, a party has in bringing or conducting the proceedings acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably, the tribunal may make—

- (a) an order containing an award against that party in respect of the expenses incurred by another party;
- (b) an order that that party shall pay to the Secretary of State the whole, or any part, of any allowances (other than allowances paid to members of tribunals) paid by the Secretary of State under paragraph 10 of Schedule 9 to the 1978 Act to any person for the purposes of, or in connection with, his attendance at the tribunal.

(2) Paragraph (1) applies to a respondent who has not entered an appearance in relation to the conduct of any part in the proceedings which he has taken.

(3) An order containing an award against a party (“the first party”) in respect of the expenses incurred by another party (“the second party”) shall be—

- (a) where the tribunal thinks fit, an order that the first party pay to the second party a specified sum not exceeding £500;
- (b) where those parties agree on a sum to be paid by the first party to the second party in respect of those expenses, an order that the first party pay to the second party a specified sum, being the sum so agreed; or
- (c) in any other case, an order that the first party pay to the second party the whole or a specified part of the expenses incurred by the second party as taxed (if not otherwise agreed).

(4) Where the tribunal has on the application of a party postponed the day or time fixed for or adjourned the hearing, the tribunal may make orders, of the kinds mentioned in paragraphs (1)(a) and (1)(b), against or, as the case may require, in favour of that party as respects any expenses incurred or any allowances paid as a result of the postponement or adjournment.



(5) A tribunal shall make orders against a respondent of the kinds mentioned in paragraphs (1) (a) and (1)(b) as respects any expenses or any allowances paid as a result of the postponement or adjournment of a hearing where, on a complaint of unfair dismissal—

- (a) the applicant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent at least 7 days before the hearing of the complaint, or
- (b) the proceedings arise out of the respondent's failure to permit the applicant to return to work after an absence due to pregnancy or confinement,

and the postponement or adjournment 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 applicant was dismissed, or, as the case may be, which she held before her absence, or of comparable or suitable employment.

(6) Any expenses required by an order under this rule to be taxed may be taxed according to such part of the table of fees prescribed for proceedings in the sheriff court as shall be directed by the order, and thereafter the tribunal may issue an order for payment of the amount as taxed.

(7) Where—

- (a) a party has been ordered under rule 7 to pay a deposit as a condition of being permitted to continue to participate in proceedings relating to a matter,
- (b) in respect of that matter, the tribunal has found against that party in its decision, and
- (c) there has been no award of expenses made against that party arising out of the proceedings on the matter,

the tribunal shall consider whether to award expenses against that party on the ground that he conducted the proceedings relating to the matter unreasonably in persisting in having the matter determined by a tribunal; but the tribunal shall not make an award of expenses on that ground unless it has considered the document recording the order under rule 7 and is of the opinion that the reasons which caused the tribunal to find against the party in its decision were substantially the same as the reasons recorded in that document for considering that the contentions of the party had no reasonable prospect of success.

(8) Where an award of expenses is made against a party who has had an order under rule 7 made against him (whether the award arises out of the proceedings relating to the matter in respect of which the order was made or out of proceedings relating to any other matter considered with that matter), his deposit shall be paid in part or full settlement of the award—

- (a) where an award is made in favour of one party, to that party, and
- (b) where awards are made in favour of more than one party, to all of them or any one or more of them as the tribunal thinks fit, and if to all or more than one, in such proportions as the tribunal considers appropriate,

and if the amount of the deposit exceeds the amount of the award of expenses, the balance shall be refunded to the party who paid it.

### **Miscellaneous powers**

**13.—**(1) Subject to the provisions of these rules, a tribunal may regulate its own procedure.

(2) A tribunal may—

- (a) if the applicant at any time gives notice of the withdrawal of his originating application, dismiss the proceedings;
- (b) if both or all the parties agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly;

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- (c) consider representations in writing which have been submitted by a party to the Secretary (pursuant to rule 8(5)) less than 7 days before the hearing;
- (d) subject to paragraph (3), at any stage of the proceedings, order to be struck out or amended any originating application or notice of appearance, or anything in such application or notice of appearance, on the grounds that it is scandalous, frivolous or vexatious;
- (e) subject to paragraph (3), at any stage of the proceedings, order to be struck out any originating application or notice of appearance on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or, as the case may be, respondent has been scandalous, frivolous or vexatious; and
- (f) subject to paragraph (3), on the application of the respondent, or of its own motion, order an originating application to be struck out for excessive delay in proceeding with it.

(3) Before making an order under sub-paragraph (d), (e) or (f) of paragraph (2) the tribunal shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made; but this paragraph shall not be taken to require the tribunal to send such notice to that party if the party has been given an opportunity to show cause orally why the order should not be made.

(4) Where a notice required by paragraph (3) is sent in relation to an order to strike out an originating application for excessive delay in proceeding with it, service of the notice shall be treated as having been effected if it has been sent by post or delivered in accordance with rule 20(3) and the tribunal may strike out the originating application (notwithstanding that there has been no direction for substituted service in accordance with rule 20(6)) if the party does not avail himself of the opportunity given by the notice.

(5) A tribunal may, before determining an application under rule 4 or rule 17, require the party making the application to give notice of it to every other party. The notice shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made, being an address and time specified for the purposes of the application by the tribunal.

(6) In any case appearing to involve allegations of the commission of a sexual offence, the tribunal or the Secretary shall omit from the Register, or delete from the Register or any decision, document or record of the proceedings, which is available to the public, any identifying matter which is likely to lead members of the public to identify any person affected by or making such an allegation.

(7) A chairman may postpone the day or time fixed for, or adjourn, any hearing (particularly where an enactment provides for conciliation in relation to the case, for the purpose of giving an opportunity for the case to be settled by way of conciliation and withdrawn) and vary any such postponement or adjournment.

(8) Any act required or authorised by these rules to be done by a tribunal may be done by a chairman except—

- (a) the hearing of an originating application under rule 8;
- (b) an act required or authorised to be so done by rule 9 or 10 which the rule implies is to be done by (he tribunal which is hearing or heard the originating application;
- (c) the review of a decision under rule 11(1), and the confirmation, variation or revocation of a decision, and ordering of a re-hearing, under rule 11(6).

(9) Any act required or authorised by rules 3(4) and (5), 13(7) and 15 to be done by a chairman may be done by a tribunal or on the direction of a chairman.

(10) Any function of the Secretary may be performed by an Assistant Secretary or by a person acting with the authority of the Secretary or of an Assistant Secretary.

### **Restricted reporting orders**

**14.**—(1) In any case which involves allegations of sexual misconduct the tribunal may at any time before promulgation of its decision in respect of an originating application, either on the application of a party made by notice to the Secretary or of its own motion, make a restricted reporting order.

(2) The tribunal shall not make a restricted reporting order unless it has given each party an opportunity to advance oral argument at a hearing, if they so wish.

(3) Where a tribunal makes a restricted reporting order—

- (a) it shall specify in the order the persons who may not be identified;
- (b) the order shall remain in force until the promulgation of the decision of the tribunal on the originating application to which it relates unless revoked earlier; and
- (c) the Assistant Secretary shall ensure that a notice of that fact is displayed on the notice board of the tribunal with any list of the proceedings taking place before the industrial tribunal, and on the door of the room in which the proceedings affected by the order are taking place.

(4) A tribunal may revoke a restricted reporting order at any time if it thinks fit.

(5) For the purposes of this rule “promulgation” occurs on the date recorded as being the date on which the document recording the determination of the originating application was sent to the parties.

### **Extension of time**

**15.**—(1) A chairman may, on the application of a party or of his own motion, extend the time for doing any act appointed by or under these rules (including this rule) and may do so whether or not the time so appointed has expired.

(2) An application under paragraph (1) shall be made by presenting to the Secretary a notice of application, which shall state the title of the proceedings and shall set out the grounds of the application.

(3) The Secretary shall give notice to each of the parties of any extension of time granted under this rule.

### **Directions**

**16.**—(1) A tribunal may at any time, on the application of a party or of its own motion, give directions on any matter arising in connection with the proceedings.

(2) An application under paragraph (1) shall be made by presenting to the Secretary a notice of application, which shall state the title of the proceedings and set out the grounds of the application.

### **Sisted and representative respondents**

**17.**—(1) A tribunal may at any time, on the application of any person made by notice to the Secretary or of its own motion, direct any person against whom any relief is sought to be sisted as a party, and give such consequential directions as it considers necessary.

(2) A tribunal may likewise, on such application or of its own motion, order that any respondent named in the originating application or subsequently added, who appears to the tribunal not to have been, or to have ceased to be, directly interested in the subject of the originating application, be dismissed from the proceedings.

(3) Where there are a number of persons having the same interest in an originating application, one or more of them may be cited as the person or persons against whom relief is sought, or may be authorised by the tribunal, before or at the hearing, to defend on behalf of all the persons so interested.

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

### **Combined proceedings**

**18.**—(1) Where, in relation to two or more originating applications pending before the industrial tribunals, it appears to an industrial tribunal, on the application of a party made by notice to the Secretary or of its own motion, that—

- (a) a common question of law or fact arises in some or all of those originating applications, or
- (b) the relief claimed in some or all of those originating applications is in respect of or arises out of the same set of facts, or
- (c) for any other reason it is desirable to make an order under this rule,

the tribunal may order that some (as specified in the order) or all of the originating applications in respect of which it so appears to the tribunal shall be considered together, and may give such consequential directions as may be necessary.

(2) The tribunal shall only make an order under this rule if—

- (a) each of the parties concerned has been given an opportunity at a hearing to show cause why such an order should not be made; or
- (b) it has sent notice to all the parties concerned giving them an opportunity to show such cause.

(3) The tribunal may, on the application of a party made by notice to the Secretary or of its own motion, vary or set aside an order made under this rule but shall not do so unless it has given each party an opportunity to make either oral or written representations before the order is varied or set aside.

### **Transfer of proceedings**

**19.**—(1) On the application of a party made by notice to the Secretary or of his own motion, the President or a Regional Chairman may at any time, with the consent of the President of the Industrial Tribunals (England and Wales), direct any proceedings to be transferred to the Office of the Industrial Tribunals (England and Wales) if it appears to him that the proceedings could be, and would more conveniently be, determined in an industrial tribunal (England and Wales) established in pursuance of the Industrial Tribunals (Constitution and Procedure) Regulations 1993(2); but no such direction shall be made unless notice has been sent to all parties concerned giving them an opportunity to show cause why a direction should not be made.

(2) Where proceedings have been transferred to the Office of the Industrial Tribunals (Scotland) under rule 19(1) of the Industrial Tribunals Rules of Procedure 1993 they shall be treated as if in all respects they had been commenced by an originating application pursuant to rule 1.

### **Notices, etc.**

**20.**—(1) Any notice given under these rules shall be in writing.

(2) All notices and documents required by these rules to be presented to the Secretary may be presented at the Office of the Tribunals or such other office as may be notified by the Secretary to the parties.

(3) All notices and documents required or authorised by these rules to be sent or given to any person hereinafter mentioned may be sent by post (subject to paragraph (5)) or delivered to or at—

- (a) in the case of a notice or document directed to the Secretary of State in proceedings to which he is not a party (or in respect of which he is treated as a party for the purposes of these rules by virtue of rule 8(6)), the offices of the Department of Employment

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(2) [S.I.1993/2687](#).

(Redundancy and Insolvency Branch) at Caxton House, Tothill Street, London SW1H 9NF, or such other office as may be notified by the Secretary of State;

- (b) in the case of a notice or document directed to a sheriff, the office of the sheriff clerk;
- (c) in the case of a notice or document directed to a party—
  - (i) the address specified in his originating application or notice of appearance to which notices and documents are to be sent, or in a notice under paragraph (4), or
  - (ii) if no such address has been specified, or if a notice sent to such an address has been returned, to any other known address or place of business in the United Kingdom or, if the party is a corporate body, the body's registered or principal office in the United Kingdom, or, in any case, such address or place outside the United Kingdom as the President or a Regional Chairman may allow;
- (d) in the case of a notice or document directed to any person (other than a person specified in the foregoing provisions of this paragraph), his address or place of business in the United Kingdom or, if the person is a corporate body, the body's registered or principal office in the United Kingdom;

and a notice or document sent or given to the authorised representative of a party shall be deemed to have been sent or given to that party.

(4) A party may at any time by notice to the Secretary and to the other party or parties (and, where appropriate, to the appropriate conciliation officer) change the address to which notices and documents are to be sent.

(5) The recorded delivery service shall be used instead of the ordinary post—

- (a) when a second set of notices or documents is sent to a respondent who has not entered an appearance under rule 3(1); and
- (b) for service of an order made under rule 4(2).

(6) The President or a Regional Chairman may direct that there shall be substituted service in such manner as he may deem fit in any case he considers appropriate.

(7) In proceedings brought under the provisions of any enactment providing for conciliation the Secretary shall send copies of all documents and notices to a conciliation officer who in the opinion of the Secretary is an appropriate officer to receive them.

(8) In proceedings which may involve a payment out of the National Insurance Fund, the Secretary shall, where appropriate, send copies of all documents and notices to the Secretary of State whether or not he is a party.

(9) In proceedings under the 1970 Act, the 1975 Act or the 1986 Act, or the 1976 Act, the Secretary shall send to the Equal Opportunities Commission or, as the case may be, the Commission for Racial Equality copies of every document and copy entry sent to the parties under rules 10(5) and 10(10).