
STATUTORY INSTRUMENTS

2004 No. 2526

EMPLOYMENT TRIBUNALS

The Employment Appeal Tribunal (Amendment) Rules 2004

	<i>22nd September</i>
<i>Made</i> - - - -	<i>2004</i>
<i>Laid before Parliament</i>	<i>24th September 2004</i>
<i>Coming into force</i> - -	<i>1st October 2004</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 30(1), (2)(a), (b), (d) and (f), 31(1), 32(2), 34 and 41(4) of the Employment Tribunals Act 1996 (1) and after consultation with the Lord President of the Court of Session, hereby makes the following Rules:

Citation and commencement and interpretation

1.—(1) These Rules may be cited as the Employment Appeal Tribunal (Amendment) Rules 2004 and shall come into force on 1st October 2004.

(2) In these Rules, any reference to a rule or to the Schedule is a reference to a rule in, or to the Schedule to, the Employment Appeal Tribunal Rules 1993(2).

Amendment of rules

2.—(1) In rule 2(1)—

(a) after the definition of “the 1999 Regulations”, insert—

““the 2004 Regulations” means the European and Public Limited-Liability Company Regulations 2004(3);”;

(b) after the definition of “Crown employment proceedings” insert—

““document” includes a document delivered by way of electronic communication;
“electronic communication” shall have the meaning given to it by section 15(1) of the Electronic Communications Act 2000(4);”;

(c) after the definition of “judge” insert—

(1) 1996 c. 17; by virtue of section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) industrial tribunals were renamed employment tribunals and references to “industrial tribunal” and “industrial tribunals” in any enactment were substituted with “employment tribunal” and “employment tribunals”. Section 30(2)(d) was amended by section 41 and paragraph 5 of Schedule 8 of the Employment Relations Act 1999 (c. 26). Section 34 was substituted by section 23 of the Employment Act 2002 (c. 22).

(2) SI 1993/2854 amended by SI 2001/1128, 1996/3216

(3) S.I.2004/2326.

(4) 2000 c. 7.

““legal representative” shall mean a person, including a person who is a party’s employee, who—

- (a) has a general qualification within the meaning of the Courts and Legal Services Act 1990⁽⁵⁾;
- (b) is an advocate or solicitor in Scotland; or
- (c) is a member of the Bar of Northern Ireland or a Solicitor of the Supreme Court of Northern Ireland.”.

(d) after the definition of “member” insert—

““national security proceedings” shall have the meaning given to it in regulation 2 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004⁽⁶⁾.”;

(e) after the definition of “special advocate” insert—

““writing” includes writing delivered by means of electronic communication;”.

(2) Rule 2(2) shall be deleted.

(3) In rule 2(3) for “applicant”, on each occasion on which that word occurs, substitute “claimant”.

3. After rule 2 insert—

“Overriding Objective

2A.—(1) The overriding objective of these Rules is to enable the Appeal Tribunal to deal with cases justly.

(2) Dealing with a case justly includes, so far as practicable –

- (a) ensuring that the parties are on an equal footing;
- (b) dealing with the case in ways which are proportionate to the importance and complexity of the issues;
- (c) ensuring that it is dealt with expeditiously and fairly; and
- (d) saving expense.

(3) The parties shall assist the Appeal Tribunal to further the overriding objective.”.

4.—(1) In rule 3(1)—

(a) for sub-paragraph (b) substitute—

“(b) in the case of an appeal from a judgment of an employment tribunal a copy of any claim and response in the proceedings before the employment tribunal or an explanation as to why either is not included; and”;

(b) for sub-paragraph (c) substitute—

“(c) in the case of an appeal from a judgment of an employment tribunal a copy of the written record of the judgment of the employment tribunal which is subject to appeal and the written reasons for the judgment, or an explanation as to why written reasons are not included;”;

(c) in sub-paragraph (d)—

⁽⁵⁾ 1990 c. 41.
⁽⁶⁾ SI 2004/1861

- (i) after “the 1999 Regulations” insert “or regulation 47(6) of the 2004 Regulations”;
and
- (ii) at the end for “.” substitute “;and”;
- (d) after sub-paragraph (d) insert—
 - “(e) in the case of an appeal from an order of an employment tribunal a copy of the written record of the order of the employment tribunal which is subject to appeal and (if available) the written reasons for the order;
 - (f) in the case of an appeal from a decision or order of the Certification Officer a copy of the decision or order of the Certification Officer which is subject to appeal and the written reasons for that decision or order.”.
- (2) For rule 3(2) substitute—
 - “(2) In an appeal from a judgment or order of the employment tribunal in relation to national security proceedings where the appellant was the claimant—
 - (i) the appellant shall not be required by virtue of paragraph (1)(b) to serve on the Appeal Tribunal a copy of the response if the response was not disclosed to the appellant; and
 - (ii) the appellant shall not be required by virtue of paragraph (1)(c) or (e) to serve on the Appeal Tribunal a copy of the written reasons for the judgment or order if the written reasons were not sent to the appellant but if a document containing edited reasons was sent to the appellant, he shall serve a copy of that document on the Appeal Tribunal.”.
- (3) In rule 3(3)
 - (a) for sub-paragraph (a) substitute—
 - “(a) in the case of an appeal from a judgment of the employment tribunal—
 - (i) where the written reasons for the judgment subject to appeal—
 - (aa) were requested orally at the hearing before the employment tribunal or in writing within 14 days of the date on which the written record of the judgment was sent to the parties; or
 - (bb) were reserved and given in writing by the employment tribunal 42 days from the date on which the written reasons were sent to the parties;
 - (ii) in an appeal from a judgment given in relation to national security proceedings, where there is a document containing edited reasons for the judgment subject to appeal, 42 days from the date on which that document was sent to the parties; or
 - (iii) where the written reasons for the judgment subject to appeal—
 - (aa) were not requested orally at the hearing before the employment tribunal or in writing within 14 days of the date on which the written record of the judgment was sent to the parties; and
 - (bb) were not reserved and given in writing by the employment tribunal 42 days from the date on which the written record of the judgment was sent to the parties;”;
 - (b) for sub-paragraph (b) substitute—
 - “(b) in the case of an appeal from an order of an employment tribunal, 42 days from the date of the order;”;

- (c) in sub-paragraph (d) after “the 1999 Regulations” insert “or regulation 47(6) of the 2004 Regulations”.
- (4) In rule 3(4)—
 - (a) for the words “a national security appeal” substitute “an appeal from a judgment or order of the employment tribunal in relation to national security proceedings”; and
 - (b) for the words “extended reasons for the decision or order” substitute “written reasons for the judgment”.
- (5) In rule 3(5) for the words “a national security appeal” substitute “an appeal from the employment tribunal in relation to national security proceedings”.
- (6) In rule 3(6)—
 - (a) for the words “a national security appeal” substitute “an appeal from the employment tribunal in relation to national security proceedings”
 - (b) for “applicant” substitute “claimant”; and
 - (c) in sub-paragraphs (a) and (b), for the words “paragraph (3)(b)” substitute “paragraph 3(a)(ii) or (iii) or paragraph 3(b), whichever is applicable.”.
- (7) For rule 3(7) substitute—
 - “(7) Where it appears to a judge or the Registrar that a notice of appeal or a document provided under paragraph (5) or (6)—
 - (a) discloses no reasonable grounds for bringing the appeal; or
 - (b) is an abuse of the Appeal Tribunal’s process or is otherwise likely to obstruct the just disposal of proceedings,he shall notify the Appellant or special advocate accordingly informing him of the reasons for his opinion and, subject to paragraphs (8) and (10), no further action shall be taken on the notice of appeal or document provided under paragraph (5) or (6).”.
- (8) After rule 3(7) insert—
 - “(7A) In paragraphs (7) and (10) reference to a notice of appeal or a document provided under paragraph (5) or (6) includes reference to part of a notice of appeal or document provided under paragraph (5) or (6).”.
- (9) In rule 3(8) for the words “the Registrar’s notification” substitute “the notification given under paragraph (7)”.
- (10) In rule 3(9) for the words “the Registrar” substitute “a judge or the Registrar”.
- (11) For rule 3(10) substitute—
 - “(10) Where notification has been given under paragraph (7) and within 28 days of the date the notification was sent, an appellant or special advocate expresses dissatisfaction in writing with the reasons given by the judge or Registrar for his opinion, he is entitled to have the matter heard before a judge who shall make a direction as to whether any further action should be taken on the notice of appeal or document under paragraph (5) or (6).”.
- 5. In rule 4(1)(e) after “the 1999 Regulations” insert or regulation 47(6) of the 2004 Regulations”.
- 6. In rule 5(c) after “the 1999 Regulations” insert or regulation 47(6) of the 2004 Regulations”.
- 7.—(1) In rule 6—
 - (a) in sub-paragraph (2) before “decision” insert “judgment.”;
 - (b) in sub-paragraphs (6), (7), (8) and (9), for the words “a national security appeal” substitute “an appeal from the employment tribunal in relation to national security proceedings”; and

(c) in sub-paragraphs (7), (8) and (9) for “applicant”, on each occasion on which that word occurs, substitute “claimant”.

(2) After rule 6(11) insert—

“(12) Where it appears to a judge or the Registrar that a statement of grounds of cross-appeal contained in respondent’s answer or document provided under paragraph (7) or (8)—

(a) discloses no reasonable grounds for bringing the cross-appeal; or

(b) is an abuse of the Appeal Tribunal’s process or is otherwise likely to obstruct the just disposal of proceedings,

he shall notify the appellant or special advocate accordingly informing him of the reasons for his opinion and, subject to paragraphs (14) and (16), no further action shall be taken on the statement of grounds of cross-appeal.

(13) In paragraphs (12) and (16) reference to a statement of grounds of cross-appeal includes reference to part of a statement of grounds of cross-appeal.

(14) Where notification has been given under paragraph (12), the respondent or special advocate, as the case may be, may serve a fresh statement of grounds of cross-appeal before the time appointed under paragraph (1) or within 28 days from the date on which the notification given under paragraph (12) was sent to him, whichever is the longer.

(15) Where the respondent or special advocate serves a fresh statement of grounds of cross-appeal, a judge or the Registrar shall consider such statement with regard to jurisdiction as though it was contained in the original Respondent’s answer or document provided under (7) or (8).

(16) Where notification has been given under paragraph (12) and within 28 days of the date the notification was sent, a respondent or special advocate expresses dissatisfaction in writing with the reasons given by the judge or Registrar for his opinion, he is entitled to have the matter heard before a judge who shall make a direction as to whether any further action should be taken on the statement of grounds of cross-appeal.”.

8.—(1) In rule 7(1)(e) after “the 1999 Regulations” insert or regulation 47(6) of the 2004 Regulations”.

(2) In rule 7(2) for “interlocutory” substitute “interim”.

9. After rule 16A insert—

“Applications under regulation 33(6) of the 2004 Regulations

16AA. Every application under regulation 33(6) of the 2004 Regulations shall be made by way of application in writing in, or substantially in, accordance with Form 4B in the Schedule to these Rules and shall be served on the Appeal Tribunal together with a copy of the declaration referred to in regulation 33(4) of those Regulations, or an explanation as to why none is included.”.

10. In rules 16B and 16C after “16A” insert “or 16AA”.

11. In rule 17 for “or 16A” substitute “, 16A or 16AA”.

12. In rules 17 and 19 for “interlocutory”, on each occasion on which that word occurs, substitute “interim”.

13. For rule 20 substitute—

“Disposal of interim applications

20.—(1) Every interim application made to the Appeal Tribunal shall be considered in the first place by the Registrar who shall have regard to rule 2A (the overriding objective) and, where applicable, to rule 23(5).

(2) Subject to sub-paragraphs (3) and (4), every interim application shall be disposed of by the Registrar except that any matter which he thinks should properly be decided by the President or a judge shall be referred by him to the President or judge who may dispose of it himself or refer it in whole or part to the Appeal Tribunal as required to be constituted by section 28 of the 1996 Act or refer it back to the Registrar with such directions as he thinks fit.

(3) Every interim application for a restricted reporting order shall be disposed of by the President or a judge or, if he so directs, the application shall be referred to the Appeal Tribunal as required to be constituted by section 28 of the 1996 Act who shall dispose of it.

(4) Every interim application for permission to institute or continue or to make a claim or application in any proceedings before an employment tribunal or the Appeal Tribunal, pursuant to section 33(4) of the 1996 Act, shall be disposed of by the President or a judge, or, if he so directs, the application shall be referred to the Appeal Tribunal as required to be constituted by section 28 of the 1996 Act who shall dispose of it.”.

14. In rule 22 for “interlocutory” on each occasion on which that word occurs substitute “interim”.

15. In rule 23—

(1) for sub-paragraph (5) substitute—

“(5) Subject to paragraph (5A) the Appeal Tribunal shall not make a full restricted reporting order unless it has given each party to the proceedings an opportunity to advance oral argument at a hearing, if they so wish.”.

(2) after sub-paragraph (5) insert—

“(5A) The Appeal Tribunal may make a temporary restricted reporting order without a hearing.

(5B) Where a temporary restricted reporting order has been made the Registrar shall inform the parties to the proceedings in writing as soon as possible of:

- (a) the fact that the order has been made; and
- (b) their right to apply to have the temporary restricted reporting order revoked or converted into a full restricted reporting order within 14 days of the temporary order being made.

(5C) If no such application is made under subparagraph (5B)(b) within the 14 days, the temporary restricted reporting order shall lapse and cease to have any effect on the fifteenth day after it was made. When such an application is made the temporary restricted reporting order shall continue to have effect until the Hearing at which the application is considered.”;

(3) in sub-paragraph (6) delete the word “such”.

16. In rule 30A and rule 31A for “applicant”, on each occasion on which that word occurs, substitute “claimant”.

17. In rule 26—

(1) after “1996 Act”, for “or” substitute “, ”; and

(2) after “the 1999 Regulations” insert “or regulation 33 of the 2004 Regulations”.

18. In rule 31(1)(c) after “the 1999 Regulations” insert “or regulation 33 of the 2004 Regulations”.

19. After rule 33(3) insert—

“(4) The decision to grant or refuse an application for review may be made by a judge.”.

20. For rule 34 substitute—

“General power to make costs or expenses orders

34.—(1) In the circumstances listed in rule 34A the Appeal Tribunal may make an order (“a costs order”) that a party or a special advocate, (“the paying party”) make a payment in respect of the costs incurred by another party or a special advocate (“the receiving party”).

(2) For the purposes of these Rules “costs” includes fees, charges, disbursements and expenses incurred by or on behalf of a party or special advocate in relation to the proceedings, including the reimbursement allowed to a litigant in person under rule 34D. In Scotland, all references to costs or costs orders (except in the expression “wasted costs”) shall be read as references to expenses or orders for expenses.

(3) A costs order may be made against or in favour of a respondent who has not had an answer accepted in the proceedings in relation to the conduct of any part which he has taken in the proceedings.

(4) A party or special advocate may apply to the Appeal Tribunal for a costs order to be made at any time during the proceedings. An application may also be made at the end of a hearing, or in writing to the Registrar within 14 days of the date on which the order of the Appeal Tribunal finally disposing of the proceedings was sent to the parties.

(5) No costs order shall be made unless the Registrar has sent notice to the party or special advocate against whom the order may be made giving him the opportunity to give reasons why the order should not be made. This paragraph shall not be taken to require the Registrar to send notice to the party or special advocate if the party or special advocate has been given an opportunity to give reasons orally to the Appeal Tribunal as to why the order should not be made.

(6) Where the Appeal Tribunal makes a costs order it shall provide written reasons for doing so if a request for written reasons is made within 21 days of the date of the costs order. The Registrar shall send a copy of the written reasons to all the parties to the proceedings.”

21. After rule 34 insert—

“When a costs or expenses order may be made

34A.—(1) Where it appears to the Appeal Tribunal that any proceedings brought by the paying party were unnecessary, improper, vexatious or misconceived or that there has been unreasonable delay or other unreasonable conduct in the bringing or conducting of proceedings by the paying party, the Appeal Tribunal may make a costs order against the paying party.

(2) The Appeal Tribunal may in particular make a costs order against the paying party when—

- (a) he has not complied with a direction of the Appeal Tribunal;
- (b) he has amended its notice of appeal, document provided under rule 3 sub-paragraphs (5) or (6), Respondent’s answer or statement of grounds of cross-appeal, or document provided under rule 6 sub-paragraphs (7) or (8); or
- (c) he has caused an adjournment of proceedings.

(3) Nothing in paragraph (2) shall restrict the Appeal Tribunal's discretion to award costs under paragraph (1).

The amount of a costs or expenses order

34B.—(1) Subject to sub-paragraphs (2) and (3) the amount of a costs order against the paying party can be determined in the following ways:

- (a) the Appeal Tribunal may specify the sum which the paying party must pay to the receiving party;
- (b) the parties may agree on a sum to be paid by the paying party to the receiving party and if they do so the costs order shall be for the sum agreed; or
- (c) the Appeal Tribunal may order the paying party to pay the receiving party the whole or a specified part of the costs of the receiving party with the amount to be paid being determined by way of detailed assessment in the High Court in accordance with the Civil Procedure Rules 1998 (7) or in Scotland the Appeal Tribunal may direct that it be taxed by the Auditor of the Court of Session, from whose decision an appeal shall lie to a judge.

(2) The Appeal Tribunal may have regard to the paying party's ability to pay when considering the amount of a costs order.

(3) The costs of an assisted person in England and Wales shall be determined by detailed assessment in accordance with the Civil Procedure Rules.

Personal liability of representatives for costs

34C.—(1) The Appeal Tribunal may make a wasted costs order against a party's representative.

(2) In a wasted costs order the Appeal Tribunal may disallow or order the representative of a party to meet the whole or part of any wasted costs of any party, including an order that the representative repay to his client any costs which have already been paid.

(3) "Wasted costs" means any costs incurred by a party (including the representative's own client and any party who does not have a legal representative):

- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any representative; or
- (b) which, in the light of any such act or omission occurring after they were incurred, the Appeal Tribunal considers it reasonable to expect that party to pay.

(4) In this rule "representative" means a party's legal or other representative or any employee of such representative, but it does not include a representative who is not acting in pursuit of profit with regard to the proceedings. A person is considered to be acting in pursuit of profit if he is acting on a conditional fee arrangement.

(5) Before making a wasted costs order, the Appeal Tribunal shall give the representative a reasonable opportunity to make oral or written representations as to reasons why such an order should not be made. The Appeal Tribunal may also have regard to the representative's ability to pay when considering whether it shall make a wasted costs order or how much that order should be.

(6) When the Appeal Tribunal makes a wasted costs order, it must specify in the order the amount to be disallowed or paid.

(7) The Registrar shall inform the representative's client in writing—

- (a) of any proceedings under this rule; or
- (b) of any order made under this rule against the party's representative.

(8) Where the Appeal Tribunal makes a wasted costs order it shall provide written reasons for doing so if a request is made for written reasons within 21 days of the date of the wasted costs order. The Registrar shall send a copy of the written reasons to all parties to the proceedings.

Litigants in person and party litigants

34D.—(1) This rule applies where the Appeal Tribunal makes a costs order in favour of a party who is a litigant in person.

(2) The costs allowed under this rule must not exceed, except in the case of a disbursement, two-thirds of the amount which would have been allowed if the litigant in person had been represented by a legal representative.

(3) The litigant in person shall be allowed —

(a) costs for the same categories of—

- (i) work; and
- (ii) disbursements,

which would have been allowed if the work had been done or the disbursements had been made by a legal representative on the litigant in person's behalf;

- (b) the payments reasonably made by him for legal services relating to the conduct of the proceedings;
- (c) the costs of obtaining expert assistance in assessing the costs claim; and
- (d) other expenses incurred by him in relation to the proceedings.

(4) The amount of costs to be allowed to the litigant in person for any item of work claimed shall be—

- (a) where the litigant in person can prove financial loss, the amount that he can prove he had lost for the time reasonably spent on doing the work; or
- (b) where the litigant in person cannot prove financial loss, an amount for the time which the Tribunal considers reasonably spent on doing the work at the rate of £25.00 per hour;

(5) For the year commencing 6th April 2006 the hourly rate of £25.00 shall be increased by the sum of £1.00 and for each subsequent year commencing on 6 April, the hourly rate for the previous year shall also be increased by the sum of £1.00.

(6) A litigant in person who is allowed costs for attending at court to conduct his case is not entitled to a witness allowance in respect of such attendance in addition to those costs.

(7) For the purpose of this rule, a litigant in person includes—

- (a) a company or other corporation which is acting without a legal representative; and
- (b) in England and Wales a barrister, solicitor, solicitor's employee or other authorised litigator (as defined in the Courts and Legal Services Act), who is acting for himself; and
- (c) in Scotland, an advocate or solicitor (within the meaning of the Solicitors (Scotland) Act 1980⁽⁸⁾) who is acting for himself.

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Statutory Instruments are not carried in their revised form on this site.*

(8) In the application of this rule to Scotland, references to a litigant in person shall be read as references to a party litigant.”

22. In rule 36 after “reasonable prospect of agreement being reached between the parties”, insert “or of disposal of the appeal or a part of it by consensual means”.

23. In rule 37—

(1) after sub-paragraph (1) insert—

“(1A) Where an act is required to be done on or before a particular day it shall be done by 4 pm on that day.”

(2) in sub-paragraph (3) for “interlocutory” substitute “interim”.

24. In the Schedule, in Form 1 for paragraph 5 substitute—

“5. A copy of the employment tribunal’s written reasons are attached to this notice/the reason(s) why a copy of the employment tribunal’s written reasons are not included are as follows (*here set out in paragraphs the reason(s) why no copy of the employment tribunal’s written reasons is attached*).”.

25. In the Schedule—

(1) In Form 1A after “1999” insert “or regulation 47(6) of the European Public Limited-Liability Company Regulations 2004”.

(2) After Form 4A insert—

“FORM 4B

Rule 16AA

Applications under Regulation 33 of the European Public Limited-Liability Company Regulations 2004

1. The applicant’s name is (*name and address of applicant*)

2. Any communication relating to this application may be sent to the applicant at (*applicant’s address for service, including telephone number if any*).

3. The application is made against (*state identity of respondent*)

4. The address of the respondent is

5. The Central Arbitration Committee made a declaration in my favour on [] (*insert date*) and I request the Employment Appeal Tribunal to issue a penalty notice in accordance with regulation 33 of the European Public Limited-Liability Company Regulations 2004.

Date.....”

Signed.....”

Transitional provisions

26.—(1) In any proceedings commenced in an employment tribunal prior to 1 October 2004—

(a) the originating application and the notice of appearance shall be treated as the claim and response for the purposes of rule 3(1)(b);

- (b) where an employment tribunal has issued a written decision, that decision shall be treated as the written record of the judgment or order for the purposes of rule 3(1)(c); and
 - (c) where an employment tribunal has issued extended reasons for its decision or order, those reasons shall be treated as written reasons for the judgment in rule 3(1)(c) and rule 3(3)(a).
- (2) In any proceedings commenced in the Appeal Tribunal prior to 1 October 2004 rule 34C shall not apply.

22nd September 2004

Falconer of Thoroton,
Lord Chancellor,
Department of Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Employment Appeal Tribunal Rules 1993 (SI 1993/2854) (“the 1993 Rules”). In addition to minor drafting amendments to reflect the changes in terminology for parties and documents used in proceedings before employment tribunals made pursuant to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (SI 2004/1867), these rules make the following amendments.

The Rules introduce an overriding objective to deal with cases justly (see Rule 2A).

Rule 3 of the 1993 Rules has been amended so that in appeals from judgments of the employment tribunals the parties should provide copies of the claim, response and written reasons for the judgment which is the subject of the appeal, or provide reasons why no such documents are attached. The amendments to Rule 3 also alter the time limit for bringing appeals. Where a party is appealing from a judgment of an employment tribunal, the appeal must be made within 42 days of the date on which they were sent the written reasons for the judgment. If there are no written reasons the 42 day time limit starts from the date that the written record of the judgment was sent to the parties. In the case of orders, parties must appeal within 42 days of the date when the order was made. The amendments to Rule 3 also change the provisions relating to disposal of meritless appeals. A judge or the Registrar can now decide whether any further action will be taken on a ground of appeal or cross-appeal. If the appellant or respondent (in the case of a cross-appeal) is dissatisfied with the original decision of the judge or Registrar he is entitled to have the matter heard before a judge.

The rules relating to costs and expenses have also been amended. Rule 34 has been amended and now gives examples of what kinds of costs and expenses can be awarded. A new rule 34C which allows for costs to be made against representatives in circumstances where the fault lies with them, rather than with their clients has been inserted into the 1993 Rules. The Rules contain a transitional provision at rule 24 to the effect that in proceedings commenced prior to 1 October 2004, rule 34C regarding the personal liability of representatives for costs shall not apply.

Provision is made for appeals from declarations or orders of the Central Arbitration Committee (“CAC”) under the European Public Limited-Liability Company Regulations 2004. Provision is also made for applications for a penalty notice under regulation 33(6) of the 2004 Regulations.

A full Regulatory Impact Assessment in respect of these Rules has not been prepared since there will be no impact on the costs of business arising out of these Rules.