STATUTORY INSTRUMENTS

2013 No. 1237

EMPLOYMENT TRIBUNALS

The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

Made - - - -	*28th May 2013*
Laid before Parliament	*31st May 2013*
Coming into force	
for the purpose of regulations 1, 3 and 11	*1st July 2013*
for all other purposes	*29th July 2013*

The Secretary of State, in exercise of the powers conferred by section 24(2) of the Health and Safety at Work etc. Act 1974(**1**), sections 1(1), 4(6) and (6A), 7(1), (3), (3ZA), (3A), (3AA), (3AB), (3B), (3C) and (5), 7A(1) and (2), 7B(1) and (2), 9(1) and (2), 10(2), (5), (6) and (7), 10A(1), 11(1), 12(2), 13, 13A, 19, and 41(4) of the Employment Tribunals Act 1996(**2**), paragraph 37 of Schedule 6 to the Scotland Act 1998(**3**), and paragraph 32 of Schedule 9 to the Government of Wales Act 2006(**4**), makes the following Regulations.

(**1**) 1974 c. 37.

(**2**) 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 4(6) was amended by the Employment Rights (Dispute Resolution) Act 1998, Schedule 1, paragraph 12(4), and by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 8, paragraphs 35 and 37. Section 4(6A) was inserted by the Employment Rights (Dispute Resolution) Act 1998, section 3(6), and amended by the Tribunals, Courts and Enforcement Act 2007, Schedule 8, paragraphs 35 and 37. Section 7(3)(f)(i) was repealed by the Employment Rights (Dispute Resolution) Act 1998, Schedule 1, paragraph 14(2); section 7(3)(ia) was inserted by the Employment Act 2002 (c. 22), section 24(1); and section 7(3)(h) was amended by the Equality Act 2010 (c. 15), Schedule 26, paragraphs 27 and 29. Section 7(3ZA) was inserted by the Employment Act 2002, section 25. Section 7(3A) to (3C) was inserted by the Employment Rights (Dispute Resolution) Act 1999, section 2, and section 7(3A) was then substituted by the Employment Act 2002, section 26. Section 7(3AA) and (3AB) was inserted by the Employment Act 2008 (c. 24), section 4. Section 7A was inserted by the Employment Act 2002, section 27, and section 7A(1) was amended by the Tribunals Courts and Enforcement Act 2007, Schedule 8, paragraphs 35 and 41. Section 7B was inserted by the Tribunals, Courts and Enforcement Act 2007, Schedule 8, paragraphs 35 and 42. Sections 10 and 10A were substituted by the Employment Relations Act 1999 (c. 26), Schedule 8, paragraph 3, and section 10(6) was then substituted by the Employment Relations Act 2004 (c. 24), section 36. Section 12 was amended by the Equality Act 2010, Schedule 26, paragraphs 27 and 30. Section 13 was amended by the Employment Act 2002, section 22(1). Section 13(2) was amended by the Employment Relations Act 1999, section 44, Schedule 4, paragraph 4 of Part III, and Schedule 9. Section 13A was inserted by the Employment Act 2002, section 22(2). Section 19(1) was renumbered as such by the Employment Act 2002, section 24(4), and was amended by sections 24(3), 53 and 54 of, and Schedule 7, paragraph 23(1) and (3), and Schedule 8 to, that Act.

(**3**) 1998 c. 46.

(**4**) 2006 c. 32.

The Secretary of State has consulted with the Administrative Justice and Tribunals Council, and that Council has consulted with the Scottish Committee and the Welsh Committee, in accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**5**).

Citation and commencement

1.—(1) These Regulations may be cited as the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 and the Rules of Procedure contained in Schedules 1, 2 and 3 may be referred to, respectively, as—

(a) the Employment Tribunals Rules of Procedure 2013;

(b) the Employment Tribunals (National Security) Rules of Procedure 2013; and

(c) the Employment Tribunals (Equal Value) Rules of Procedure 2013.

(2) This regulation and regulations 3 and 11 come into force on 1st July 2013 and the remainder of these Regulations (including the Schedules) come into force on 29th July 2013.

Revocation

2. Subject to the savings in regulation 15 the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004(**6**) are revoked.

Interpretation

3. Except in the Schedules which are subject to the definitions contained in the Schedules, in these Regulations—

"2004 Regulations" means the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004;

"appointing office holder" means, in England and Wales, the Lord Chancellor, and in Scotland, the Lord President;

"Employment Tribunals Act" means the Employment Tribunals Act 1996;

"Lord President" means the Lord President of the Court of Session;

"national security proceedings" means proceedings in relation to which a direction is given, or an order is made, under rule 94 of Schedule 1;

"President" means either of the two presidents appointed from time to time in accordance with regulation 5(1);

"Regional Employment Judge" means a person appointed or nominated in accordance with regulation 6(1) or (2);

"Senior President of Tribunals" means the person appointed in accordance with section 2 of the Tribunals, Courts and Enforcement Act 2007;

"Tribunal" means an employment tribunal established in accordance with regulation 4 and, in relation to any proceedings, means the Tribunal responsible for the proceedings in question, whether performing administrative or judicial functions;

"Vice President" means a person appointed or nominated in accordance with regulation 6(3) or (4).

(**5**) 2007 c. 15.
(**6**) S.I. 2004/1861.

Establishment of employment tribunals

4. There are to be tribunals known as employment tribunals.

President of Employment Tribunals

5.—(1) There shall be a President of Employment Tribunals, responsible for Tribunals in England and Wales, and a President of Employment Tribunals, responsible for Tribunals in Scotland, appointed by the appointing office holder.

(2) A President shall be—

(a) a person who satisfies the judicial-appointment eligibility condition within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007 on a 5-year basis;

(b) an advocate or solicitor admitted in Scotland of at least five years standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least five years standing.

(3) A President may at any time resign from office by giving the appointing officer holder notice in writing to that effect.

(4) The appointing officer holder may remove a President from office on the ground of inability or misbehaviour, or if the President is adjudged to be bankrupt or makes a composition or arrangement with his creditors.

(5) Where a President is unable to carry out the functions set out in these Regulations, those functions may be discharged by a person nominated by the appointing office holder (save that any nomination in relation to England and Wales shall be made by the Lord Chief Justice following consultation with the Senior President of Tribunals, rather than by the Lord Chancellor).

(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005(**7**)) to exercise his functions under this regulation.

Regional Employment Judges and the Vice President

6.—(1) The Lord Chancellor may appoint Regional Employment Judges.

(2) The President (England and Wales) or the Regional Employment Judge for an area may nominate an Employment Judge to discharge the functions of the Regional Employment Judge for that area.

(3) The Lord President may appoint a Vice President.

(4) The President (Scotland) or the Vice President may nominate an Employment Judge to discharge the functions of the Vice President.

(5) Appointments and nominations under this regulation shall be from the full-time Employment Judges on the panel referred to in regulation 8(2)(a).

Responsibilities of the Presidents, Regional Employment Judges and Vice President

7.—(1) The President shall, in relation to the area for which the President is responsible, use the resources available to—

(a) secure, so far as practicable, the speedy and efficient disposal of proceedings;

(b) determine the allocation of proceedings between Tribunals; and

(c) determine where and when Tribunals shall sit.

(**7**) 2005 c. 4; section 109 was amended by the Tribunals, Courts and Enforcement Act 2007, Schedule 8, paragraph 63.

(2) The President (England and Wales) may direct Regional Employment Judges, and the President (Scotland) may direct the Vice President, to take action in relation to the fulfilment of the responsibilities in paragraph (1) and the Regional Employment Judges and Vice President shall follow such directions.

Panels of members for tribunals

8.—(1) There shall be three panels of members for the Employment Tribunals (England and Wales) and three panels of members for the Employment Tribunals (Scotland).

(2) The panels of members shall be—

(a) a panel of chairmen who satisfy the criteria set out in regulation 5(2) and are appointed by the appointing office holder (in these Regulations (including the Schedules) referred to as "Employment Judges");

(b) a panel of persons appointed by the Lord Chancellor after consultation with organisations or associations representative of employees; and

(c) a panel of persons appointed by the Lord Chancellor after consultation with organisations or associations representative of employers.

(3) Members of the panels shall hold and vacate office in accordance with the terms of their appointment, but may resign from office by written notice to the person who appointed them under paragraph (2), and any member who ceases to hold office shall be eligible for reappointment.

(4) The President may establish further specialist panels of members referred to in paragraph (2) and may select persons from those panels to deal with proceedings in which particular specialist knowledge would be beneficial.

Composition of tribunals

9.—(1) Where proceedings are to be determined by a Tribunal comprising an Employment Judge and two other members, the President, Vice President or a Regional Employment Judge shall select—

(a) an Employment Judge; and

(b) one member from each of the panels referred to in regulation 8(2)(b) and (c),

and for all other proceedings shall select an Employment Judge.

(2) The President, Vice President or a Regional Employment Judge may select him or herself as the Employment Judge required under paragraph (1).

(3) The President, Vice President or a Regional Employment Judge may select from the appropriate panel a substitute for a member previously selected to hear any proceedings.

(4) This regulation does not apply in relation to national security proceedings (see regulation 10(2)).

National security proceedings – panel of members and composition of tribunals

10.—(1) The President shall select—

(a) a panel of persons from the panel referred to in regulation 8(2)(a);

(b) a panel of persons from the panel referred to in regulation 8(2)(b); and

(c) a panel of persons from the panel referred to in regulation 8(2)(c),

who may act in national security proceedings.

(2) Where proceedings become national security proceedings, the President, Vice President or a Regional Employment Judge shall—

(a) select an Employment Judge from the panel referred to in paragraph (1)(a) and may select him or herself; and

(b) where the proceedings are to be determined by a Tribunal comprising an Employment Judge and two other members, select in addition one member from each of the panels referred to in sub-paragraphs (b) and (c) of paragraph (1).

Practice directions

11.—(1) The President may make, vary or revoke practice directions about the procedure of the Tribunals in the area for which the President is responsible, including—

(a) practice directions about the exercise by Tribunals of powers under these Regulations (including the Schedules); and

(b) practice directions about the provision by Employment Judges of mediation, in relation to disputed matters in a case that is the subject of proceedings, and may permit an Employment Judge to act as mediator in a case even though they have been selected to decide matters in that case.

(2) Practice directions may make different provision for different cases, different areas, or different types of proceedings.

(3) Any practice direction made, varied or revoked shall be published by the President in an appropriate manner to bring it to the attention of the persons to whom it is addressed.

Power to prescribe

12.—(1) The Secretary of State may prescribe—

(a) one or more versions of a form which shall be used by claimants to start proceedings in a Tribunal;

(b) one or more versions of a form which shall be used by respondents to respond to a claim before a Tribunal; and

(c) that the provision of certain information on the prescribed forms is mandatory.

(2) It is not necessary to use a form prescribed under paragraph (1) if the proceedings are—

(a) referred to a Tribunal by a court;

(b) proceedings in which a Tribunal will be exercising its appellate jurisdiction; or

(c) proceedings brought by an employer under section 11 of the Employment Rights Act 1996(**8**).

(3) The Secretary of State shall publish the prescribed forms in an appropriate manner to bring them to the attention of prospective claimants, respondents and their advisers.

Application of Schedules 1 to 3

13.—(1) Subject to paragraph (2), Schedule 1 applies to all proceedings before a Tribunal except where separate rules of procedure made under the provisions of any enactment are applicable.

(2) Schedules 2 and 3 apply to modify the rules in Schedule 1 in relation, respectively, to proceedings which are—

(a) national security proceedings; or

(b) proceedings which involve an equal value claim (as defined in rule 1 of Schedule 3).

(**8**) 1996 c. 18.

Register and proof of judgments

14.—(1) The Lord Chancellor shall maintain a register containing a copy of all judgments and written reasons issued by a Tribunal which are required to be entered in the register under Schedules 1 to 3.

(2) The Lord Chancellor shall delete any entry in the register six years from the date of judgment.

(3) A document purporting to be certified by a member of staff of a Tribunal to be a true copy of an entry of a judgment in the register shall, unless the contrary is proved, be sufficient evidence of the document and its contents.

Transitional provisions

15.—(1) Subject to paragraphs (2) and (3), these Regulations and the Rules of Procedure contained in Schedules 1 to 3 apply in relation to all proceedings to which they relate.

(2) Where a respondent receives from a Tribunal a copy of the claim form before 29th July 2013, rules 23 to 25 of Schedule 1 do not apply to the proceedings and rule 7 of Schedule 1 to the 2004 Regulations continues to apply.

(3) Where in accordance with Schedules 3 to 5 of the 2004 Regulations, a notice of appeal was presented to a Tribunal before 29th July 2013, Schedule 1 does not apply to the proceedings and Schedule 3, 4 or 5, as appropriate, of the 2004 Regulations continues to apply.

Jo Swinson
Parliamentary Under Secretary of State for
Employment Relations and Consumer Affairs
28th May 2013 Department for Business, Innovation and Skills

SCHEDULE 1 Regulation 13(1)

THE EMPLOYMENT TRIBUNALS RULES OF PROCEDURE

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1.—(1) In these Rules—

"ACAS" means the Advisory, Conciliation and Arbitration Service referred to in section 247 of the Trade Union and Labour Relations (Consolidation) Act 1992(**9**);

"claim" means any proceedings before an Employment Tribunal making a complaint;

"claimant" means the person bringing the claim;

"Commission for Equality and Human Rights" means the body established under section 1 of the Equality Act 2006(**10**);

"complaint" means anything that is referred to as a claim, complaint, reference, application or appeal in any enactment which confers jurisdiction on the Tribunal;

"Employment Appeal Tribunal" means the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975(**11**) and continued in existence under section 135 of the Employment Protection (Consolidation) Act 1978(**12**) and section 20(1) of the Employment Tribunals Act;

"electronic communication" has the meaning given to it by section 15(1) of the Electronic Communications Act 2000(**13**);

"employee's contract claim" means a claim brought by an employee in accordance with articles 3 and 7 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994(**14**) or articles 3 and 7 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(**15**);

"employer's contract claim" means a claim brought by an employer in accordance with articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994(**16**) or articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(**17**);

"Employment Tribunal" or "Tribunal" means an employment tribunal established in accordance with regulation 4, and in relation to any proceedings means the Tribunal responsible for the proceedings in question, whether performing administrative or judicial functions;

"Employment Tribunals Act" means the Employment Tribunals Act 1996(**18**);

"Equality Act" means the Equality Act 2010(**19**);

(**9**) 1992 c. 52.
(**10**) 2006 c. 3.
(**11**) 1975 c. 71; section 87 was repealed by the Employment Protection (Consolidation) Act 1978 (c. 44), Schedule 17.
(**12**) 1978 c. 44; section 135 was repealed by the Employment Tribunals Act 1996 (c. 17), Schedule 3, Part I.
(**13**) 2000 c. 7; section 15(1) was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 158.
(**14**) S.I. 1994/1623; 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". By virtue of the destination table to the Employment Tribunals Act 1996, the reference in article 3(a) to "section 131(2) of the 1978 Act" should be read as section 3(2) of the Employment Tribunals Act 1996. Article 7 was amended by S.I. 2011/1133.
(**15**) S.I. 1994/1624; by virtue of the destination table to the Employment Tribunals Act 1996 the reference in article 3(a) to "section 131(2) of the 1978 Act" should be read as section 3(2) of the Employment Tribunals Act 1996. Article 7 was amended by S.I. 2011/1133.
(**16**) Article 8 was amended by S.I. 2011/1133.
(**17**) Article 8 was amended by S.I. 2011/1133.
(**18**) 1996 c. 17.
(**19**) 2010 c. 15.

"full tribunal" means a Tribunal constituted in accordance with section 4(1) of the Employment Tribunals Act(**20**);

"Health and Safety Act" means the Health and Safety at Work etc. Act 1974(**21**);

"improvement notice" means a notice under section 21 of the Health and Safety Act;

"levy appeal" means an appeal against an assessment to a levy imposed under section 11 of the Industrial Training Act 1982(**22**);

"Minister" means Minister of the Crown;

"prescribed form" means any appropriate form prescribed by the Secretary of State in accordance with regulation 12;

"present" means deliver (by any means permitted under rule 85) to a tribunal office;

"President" means either of the two presidents appointed from time to time in accordance with regulation 5(1);

"prohibition notice" means a notice under section 22 of the Health and Safety Act(**23**);

"Regional Employment Judge" means a person appointed or nominated in accordance with regulation 6(1) or (2);

"Register" means the register of judgments and written reasons kept in accordance with regulation 14;

"remission application" means any application which may be made under any enactment for remission or part remission of a Tribunal fee;

"respondent" means the person or persons against whom the claim is made;

"Tribunal fee" means any fee which is payable by a party under any enactment in respect of a claim, employer's contract claim, application or judicial mediation in an Employment Tribunal;

"tribunal office" means any office which has been established for any area in either England and Wales or Scotland and which carries out administrative functions in support of the Tribunal, and in relation to particular proceedings it is the office notified to the parties as dealing with the proceedings;

"unlawful act notice" means a notice under section 21 of the Equality Act 2006(**24**);

"Vice President" means a person appointed or nominated in accordance with regulation 6(3) or (4);

"writing" includes writing delivered by means of electronic communication.

(2) Any reference in the Rules to a Tribunal applies to both a full tribunal and to an Employment Judge acting alone (in accordance with section 4(2) or (6) of the Employment Tribunals Act(**25**)).

(3) An order or other decision of the Tribunal is either—

(a) a "case management order", being an order or decision of any kind in relation to the conduct of proceedings, not including the determination of any issue which would be the subject of a judgment; or

(**20**) Section 4(1)(b) was substituted by the Employment Rights (Dispute Resolution) Act 1998, section 4, from a date to be appointed.
(**21**) 1974 c. 37.
(**22**) 1982 c. 10. Section 11 was amended by the Employment Act 1989 (c. 38), Schedule 4, paragraph 10; there are other amending instruments but none is relevant.
(**23**) Section 22 was amended by the Consumer Protection Act 1987 (c. 43), Schedule 3, paragraph 2.
(**24**) 2006 c. 3; section 21 was amended by the Equality Act 2010 (c. 15), Schedule 26, paragraph 67.
(**25**) Section 4(2) and (6) was amended by the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 8, paragraphs 35 and 37.

(b) a "judgment", being a decision, made at any stage of the proceedings (but not including a decision under rule 13 or 19), which finally determines—

(i) a claim, or part of a claim, as regards liability, remedy or costs (including preparation time and wasted costs); or

(ii) any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out or a jurisdictional issue).

Overriding objective

2. The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing;

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;

(c) avoiding unnecessary formality and seeking flexibility in the proceedings;

(d) avoiding delay, so far as compatible with proper consideration of the issues; and

(e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.

Alternative dispute resolution

3. A Tribunal shall wherever practicable and appropriate encourage the use by the parties of the services of ACAS, judicial or other mediation, or other means of resolving their disputes by agreement.

Time

4.—(1) Unless otherwise specified by the Tribunal, an act required by these Rules, a practice direction or an order of a Tribunal to be done on or by a particular day may be done at any time before midnight on that day. If there is an issue as to whether the act has been done by that time, the party claiming to have done it shall prove compliance.

(2) If the time specified by these Rules, a practice direction or an order for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day. "Working day" means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(**26**).

(3) Where any act is required to be, or may be, done within a certain number of days of or from an event, the date of that event shall not be included in the calculation. (For example, a response shall be presented within 28 days of the date on which the respondent was sent a copy of the claim: if the claim was sent on 1st October the last day for presentation of the response is 29th October.)

(4) Where any act is required to be, or may be, done not less than a certain number of days before or after an event, the date of that event shall not be included in the calculation. (For example, if a party wishes to present representations in writing for consideration by a Tribunal at a hearing, they shall be presented not less than 7 days before the hearing: if the hearing is fixed for 8th October, the representations shall be presented no later than 1st October.)

(**26**) 1971 c. 80.

(5) Where the Tribunal imposes a time limit for doing any act, the last date for compliance shall, wherever practicable, be expressed as a calendar date.

(6) Where time is specified by reference to the date when a document is sent to a person by the Tribunal, the date when the document was sent shall, unless the contrary is proved, be regarded as the date endorsed on the document as the date of sending or, if there is no such endorsement, the date shown on the letter accompanying the document.

Extending or shortening time

5. The Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired.

Irregularities and non-compliance

6. A failure to comply with any provision of these Rules (except rule 8(1), 16(1), 23 or 25) or any order of the Tribunal (except for an order under rules 38 or 39) does not of itself render void the proceedings or any step taken in the proceedings. In the case of such non-compliance, the Tribunal may take such action as it considers just, which may include all or any of the following—

(a) waiving or varying the requirement;

(b) striking out the claim or the response, in whole or in part, in accordance with rule 37;

(c) barring or restricting a party's participation in the proceedings;

(d) awarding costs in accordance with rules 74 to 84.

Presidential Guidance

7. The Presidents may publish guidance for England and Wales and for Scotland, respectively, as to matters of practice and as to how the powers conferred by these Rules may be exercised. Any such guidance shall be published by the Presidents in an appropriate manner to bring it to the attention of claimants, respondents and their advisers. Tribunals must have regard to any such guidance, but they shall not be bound by it.

STARTING A CLAIM

Presenting the claim

8.—(1) A claim shall be started by presenting a completed claim form (using a prescribed form) in accordance with any practice direction made under regulation 11 which supplements this rule.

(2) A claim may be presented in England and Wales if—

(a) the respondent, or one of the respondents, resides or carries on business in England and Wales;

(b) one or more of the acts or omissions complained of took place in England and Wales;

(c) the claim relates to a contract under which the work is or has been performed partly in England and Wales; or

(d) the Tribunal has jurisdiction to determine the claim by virtue of a connection with Great Britain and the connection in question is at least partly a connection with England and Wales.

(3) A claim may be presented in Scotland if—

(a) the respondent, or one of the respondents, resides or carries on business in Scotland;

(b) one or more of the acts or omissions complained of took place in Scotland;

(c) the claim relates to a contract under which the work is or has been performed partly in Scotland; or

(d) the Tribunal has jurisdiction to determine the claim by virtue of a connection with Great Britain and the connection in question is at least partly a connection with Scotland.

Multiple claimants

9. Two or more claimants may make their claims on the same claim form if their claims are based on the same set of facts. Where two or more claimants wrongly include claims on the same claim form, this shall be treated as an irregularity falling under rule 6.

Rejection: form not used or failure to supply minimum information

10.—(1) The Tribunal shall reject a claim if—

(a) it is not made on a prescribed form; or

(b) it does not contain all of the following information—

(i) each claimant's name;

(ii) each claimant's address;

(iii) each respondent's name;

(iv) each respondent's address.

(2) The form shall be returned to the claimant with a notice of rejection explaining why it has been rejected. The notice shall contain information about how to apply for a reconsideration of the rejection.

Rejection: absence of Tribunal fee or remission application

11.—(1) The Tribunal shall reject a claim if it is not accompanied by a Tribunal fee or a remission application.

(2) Where a claim is accompanied by a Tribunal fee but the amount paid is lower than the amount payable for the presentation of that claim, the Tribunal shall send the claimant a notice specifying a date for payment of the additional amount due and the claim, or part of it in respect of which the relevant Tribunal fee has not been paid, shall be rejected by the Tribunal if the amount due is not paid by the date specified.

(3) If a remission application is refused in part or in full, the Tribunal shall send the claimant a notice specifying a date for payment of the Tribunal fee and the claim shall be rejected by the Tribunal if the Tribunal fee is not paid by the date specified.

(4) If a claim, or part of it, is rejected, the form shall be returned to the claimant with a notice of rejection explaining why it has been rejected.

Rejection: substantive defects

12.—(1) The staff of the tribunal office shall refer a claim form to an Employment Judge if they consider that the claim, or part of it, may be—

(a) one which the Tribunal has no jurisdiction to consider; or

(b) in a form which cannot sensibly be responded to or is otherwise an abuse of the process.

(2) The claim, or part of it, shall be rejected if the Judge considers that the claim, or part of it, is of a kind described in sub-paragraphs (a) or (b) of paragraph (1).

(3) If the claim is rejected, the form shall be returned to the claimant together with a notice of rejection giving the Judge's reasons for rejecting the claim, or part of it. The notice shall contain information about how to apply for a reconsideration of the rejection.

Reconsideration of rejection

13.—(1) A claimant whose claim has been rejected (in whole or in part) under rule 10 or 12 may apply for a reconsideration on the basis that either—

(a) the decision to reject was wrong; or

(b) the notified defect can be rectified.

(2) The application shall be in writing and presented to the Tribunal within 14 days of the date that the notice of rejection was sent. It shall explain why the decision is said to have been wrong or rectify the defect and if the claimant wishes to request a hearing this shall be requested in the application.

(3) If the claimant does not request a hearing, or an Employment Judge decides, on considering the application, that the claim shall be accepted in full, the Judge shall determine the application without a hearing. Otherwise the application shall be considered at a hearing attended only by the claimant.

(4) If the Judge decides that the original rejection was correct but that the defect has been rectified, the claim shall be treated as presented on the date that the defect was rectified.

Protected disclosure claims: notification to a regulator

14. If a claim alleges that the claimant has made a protected disclosure, the Tribunal may, with the consent of the claimant, send a copy of any accepted claim to a regulator listed in Schedule 1 to the Public Interest Disclosure (Prescribed Persons) Order 1999(**27**). "Protected disclosure" has the meaning given to it by section 43A of the Employment Rights Act 1996(**28**).

THE RESPONSE TO THE CLAIM

Sending claim form to respondents

15. Unless the claim is rejected, the Tribunal shall send a copy of the claim form, together with a prescribed response form, to each respondent with a notice which includes information on—

(a) whether any part of the claim has been rejected; and

(b) how to submit a response to the claim, the time limit for doing so and what will happen if a response is not received by the Tribunal within that time limit.

Response

16.—(1) The response shall be on a prescribed form and presented to the tribunal office within 28 days of the date that the copy of the claim form was sent by the Tribunal.

(2) A response form may include the response of more than one respondent if they are responding to a single claim and either they all resist the claim on the same grounds or they do not resist the claim.

(3) A response form may include the response to more than one claim if the claims are based on the same set of facts and either the respondent resists all of the claims on the same grounds or the respondent does not resist the claims.

(**27**) S.I. 1999/1549, amended by the Energy Act 2004 (c. 20), and S.I. 2003/1993, 2004/3265, 2005/2035, 2005/2464, 2005/3172, 2008/531, 2008/2831, 2009/462, 2009/2457, 2009/2748, 2010/7, 2010/671, 2011/2581, 2012/462, 2012/725, 2012/1641, 2012/1479, 2012/2400.

(**28**) 1996 c. 18; section 43A was inserted by the Public Interest Disclosure Act 1996 (c. 23), section 1.

Rejection: form not used or failure to supply minimum information

17.—(1) The Tribunal shall reject a response if—

(a) it is not made on a prescribed form; or

(b) it does not contain all of the following information—

(i) the respondent's full name;

(ii) the respondent's address;

(iii) whether the respondent wishes to resist any part of the claim.

(2) The form shall be returned to the respondent with a notice of rejection explaining why it has been rejected. The notice shall explain what steps may be taken by the respondent, including the need (if appropriate) to apply for an extension of time, and how to apply for a reconsideration of the rejection.

Rejection: form presented late

18.—(1) A response shall be rejected by the Tribunal if it is received outside the time limit in rule 16 (or any extension of that limit granted within the original limit) unless an application for extension has already been made under rule 20 or the response includes or is accompanied by such an application (in which case the response shall not be rejected pending the outcome of the application).

(2) The response shall be returned to the respondent together with a notice of rejection explaining that the response has been presented late. The notice shall explain how the respondent can apply for an extension of time and how to apply for a reconsideration.

Reconsideration of rejection

19.—(1) A respondent whose response has been rejected under rule 17 or 18 may apply for a reconsideration on the basis that the decision to reject was wrong or, in the case of a rejection under rule 17, on the basis that the notified defect can be rectified.

(2) The application shall be in writing and presented to the Tribunal within 14 days of the date that the notice of rejection was sent. It shall explain why the decision is said to have been wrong or rectify the defect and it shall state whether the respondent requests a hearing.

(3) If the respondent does not request a hearing, or the Employment Judge decides, on considering the application, that the response shall be accepted in full, the Judge shall determine the application without a hearing. Otherwise the application shall be considered at a hearing attended only by the respondent.

(4) If the Judge decides that the original rejection was correct but that the defect has been rectified, the response shall be treated as presented on the date that the defect was rectified (but the Judge may extend time under rule 5).

Applications for extension of time for presenting response

20.—(1) An application for an extension of time for presenting a response shall be presented in writing and copied to the claimant. It shall set out the reason why the extension is sought and shall, except where the time limit has not yet expired, be accompanied by a draft of the response which the respondent wishes to present or an explanation of why that is not possible and if the respondent wishes to request a hearing this shall be requested in the application.

(2) The claimant may within 7 days of receipt of the application give reasons in writing explaining why the application is opposed.

(3) An Employment Judge may determine the application without a hearing.

(4) If the decision is to refuse an extension, any prior rejection of the response shall stand. If the decision is to allow an extension, any judgment issued under rule 21 shall be set aside.

Effect of non-presentation or rejection of response, or case not contested

21.—(1) Where on the expiry of the time limit in rule 16 no response has been presented, or any response received has been rejected and no application for a reconsideration is outstanding, or where the respondent has stated that no part of the claim is contested, paragraphs (2) and (3) shall apply.

(2) An Employment Judge shall decide whether on the available material (which may include further information which the parties are required by a Judge to provide), a determination can properly be made of the claim, or part of it. To the extent that a determination can be made, the Judge shall issue a judgment accordingly. Otherwise, a hearing shall be fixed before a Judge alone.

(3) The respondent shall be entitled to notice of any hearings and decisions of the Tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the Judge.

Notification of acceptance

22. Where the Tribunal accepts the response it shall send a copy of it to all other parties.

EMPLOYER'S CONTRACT CLAIM

Making an employer's contract claim

23. Any employer's contract claim shall be made as part of the response, presented in accordance with rule 16, to a claim which includes an employee's contract claim. An employer's contract claim may be rejected on the same basis as a claimant's claim may be rejected under rule 12, in which case rule 13 shall apply.

Notification of employer's contract claim

24. When the Tribunal sends the response to the other parties in accordance with rule 22 it shall notify the claimant that the response includes an employer's contract claim and include information on how to submit a response to the claim, the time limit for doing so, and what will happen if a response is not received by the Tribunal within that time limit.

Responding to an employer's contract claim

25. A claimant's response to an employer's contract claim shall be presented to the tribunal office within 28 days of the date that the response was sent to the claimant. If no response is presented within that time limit, rules 20 and 21 shall apply.

INITIAL CONSIDERATION OF CLAIM FORM AND RESPONSE

Initial consideration

26.—(1) As soon as possible after the acceptance of the response, the Employment Judge shall consider all of the documents held by the Tribunal in relation to the claim, to confirm whether there are arguable complaints and defences within the jurisdiction of the Tribunal (and for that purpose the Judge may order a party to provide further information).

(2) Except in a case where notice is given under rule 27 or 28, the Judge conducting the initial consideration shall make a case management order (unless made already), which may deal with

the listing of a preliminary or final hearing, and may propose judicial mediation or other forms of dispute resolution.

Dismissal of claim (or part)

27.—(1) If the Employment Judge considers either that the Tribunal has no jurisdiction to consider the claim, or part of it, or that the claim, or part of it, has no reasonable prospect of success, the Tribunal shall send a notice to the parties—

(a) setting out the Judge's view and the reasons for it; and

(b) ordering that the claim, or the part in question, shall be dismissed on such date as is specified in the notice unless before that date the claimant has presented written representations to the Tribunal explaining why the claim (or part) should not be dismissed.

(2) If no such representations are received, the claim shall be dismissed from the date specified without further order (although the Tribunal shall write to the parties to confirm what has occurred).

(3) If representations are received within the specified time they shall be considered by an Employment Judge, who shall either permit the claim (or part) to proceed or fix a hearing for the purpose of deciding whether it should be permitted to do so. The respondent may, but need not, attend and participate in the hearing.

(4) If any part of the claim is permitted to proceed the Judge shall make a case management order.

Dismissal of response (or part)

28.—(1) If the Employment Judge considers that the response to the claim, or part of it, has no reasonable prospect of success the Tribunal shall send a notice to the parties—

(a) setting out the Judge's view and the reasons for it;

(b) ordering that the response, or the part in question, shall be dismissed on such date as is specified in the notice unless before that date the respondent has presented written representations to the Tribunal explaining why the response (or part) should not be dismissed; and

(c) specifying the consequences of the dismissal of the response, in accordance with paragraph (5) below.

(2) If no such representations are received, the response shall be dismissed from the date specified without further order (although the Tribunal shall write to the parties to confirm what has occurred).

(3) If representations are received within the specified time they shall be considered by an Employment Judge, who shall either permit the response (or part) to stand or fix a hearing for the purpose of deciding whether it should be permitted to do so. The claimant may, but need not, attend and participate in the hearing.

(4) If any part of the response is permitted to stand the Judge shall make a case management order.

(5) Where a response is dismissed, the effect shall be as if no response had been presented, as set out in rule 21 above.

CASE MANAGEMENT ORDERS AND OTHER POWERS

Case management orders

29. The Tribunal may at any stage of the proceedings, on its own initiative or on application, make a case management order. The particular powers identified in the following rules do not restrict that general power. A case management order may vary, suspend or set aside an earlier case management

order where that is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.

Applications for case management orders

30.—(1) An application by a party for a particular case management order may be made either at a hearing or presented in writing to the Tribunal.

(2) Where a party applies in writing, they shall notify the other parties that any objections to the application should be sent to the Tribunal as soon as possible.

(3) The Tribunal may deal with such an application in writing or order that it be dealt with at a preliminary or final hearing.

Disclosure of documents and information

31. The Tribunal may order any person in Great Britain to disclose documents or information to a party (by providing copies or otherwise) or to allow a party to inspect such material as might be ordered by a county court or, in Scotland, by a sheriff.

Requirement to attend to give evidence

32. The Tribunal may order any person in Great Britain to attend a hearing to give evidence, produce documents, or produce information.

Evidence from other EU Member States

33. The Tribunal may use the procedures for obtaining evidence prescribed in Council Regulation (EC) No. 1026/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters(**29**).

Addition, substitution and removal of parties

34. The Tribunal may on its own initiative, or on the application of a party or any other person wishing to become a party, add any person as a party, by way of substitution or otherwise, if it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings; and may remove any party apparently wrongly included.

Other persons

35. The Tribunal may permit any person to participate in proceedings, on such terms as may be specified, in respect of any matter in which that person has a legitimate interest.

Lead cases

36.—(1) Where a Tribunal considers that two or more claims give rise to common or related issues of fact or law, the Tribunal or the President may make an order specifying one or more of those claims as a lead case and staying, or in Scotland sisting, the other claims ("the related cases").

(2) When the Tribunal makes a decision in respect of the common or related issues it shall send a copy of that decision to each party in each of the related cases and, subject to paragraph (3), that decision shall be binding on each of those parties.

(**29**) OJ L 174, 27.6.01, p1.

(3) Within 28 days after the date on which the Tribunal sent a copy of the decision to a party under paragraph (2), that party may apply in writing for an order that the decision does not apply to, and is not binding on the parties to, a particular related case.

(4) If a lead case is withdrawn before the Tribunal makes a decision in respect of the common or related issues, it shall make an order as to—

(a) whether another claim is to be specified as a lead case; and

(b) whether any order affecting the related cases should be set aside or varied.

Striking out

37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal;

(d) that it has not been actively pursued;

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect shall be as if no response had been presented, as set out in rule 21 above.

Unless orders

38.—(1) An order may specify that if it is not complied with by the date specified the claim or response, or part of it, shall be dismissed without further order. If a claim or response, or part of it, is dismissed on this basis the Tribunal shall give written notice to the parties confirming what has occurred.

(2) A party whose claim or response has been dismissed, in whole or in part, as a result of such an order may apply to the Tribunal in writing, within 14 days of the date that the notice was sent, to have the order set aside on the basis that it is in the interests of justice to do so. Unless the application includes a request for a hearing, the Tribunal may determine it on the basis of written representations.

(3) Where a response is dismissed under this rule, the effect shall be as if no response had been presented, as set out in rule 21.

Deposit orders

39.—(1) Where at a preliminary hearing (under rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little reasonable prospect of success, it may make an order requiring a party ("the paying party") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument.

(2) The Tribunal shall make reasonable enquiries into the paying party's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.

(3) The Tribunal's reasons for making the deposit order shall be provided with the order and the paying party must be notified about the potential consequences of the order.

(4) If the paying party fails to pay the deposit by the date specified the specific allegation or argument to which the deposit order relates shall be struck out. Where a response is struck out, the consequences shall be as if no response had been presented, as set out in rule 21.

(5) If the Tribunal at any stage following the making of a deposit order decides the specific allegation or argument against the paying party for substantially the reasons given in the deposit order—

(a) the paying party shall be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 76, unless the contrary is shown; and

(b) the deposit shall be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),

otherwise the deposit shall be refunded.

(6) If a deposit has been paid to a party under paragraph (5)(b) and a costs or preparation time order has been made against the paying party in favour of the party who received the deposit, the amount of the deposit shall count towards the settlement of that order.

Non-payment of fees

40.—(1) Subject to rule 11, where a party has not paid a relevant Tribunal fee or presented a remission application in respect of that fee the Tribunal will send the party a notice specifying a date for payment of the Tribunal fee or presentation of a remission application.

(2) If at the date specified in a notice sent under paragraph (1) the party has not paid the Tribunal fee and no remission application in respect of that fee has been presented—

(a) where the Tribunal fee is payable in relation to a claim, the claim shall be dismissed without further order;

(b) where the Tribunal fee is payable in relation to an employer's contract claim, the employer's contract claim shall be dismissed without further order;

(c) where the Tribunal fee is payable in relation to an application, the application shall be dismissed without further order;

(d) where the Tribunal fee is payable in relation to judicial mediation, the judicial mediation shall not take place.

(3) Where a remission application is refused in part or in full, the Tribunal shall send the claimant a notice specifying a date for payment of the Tribunal fee.

(4) If at the date specified in a notice sent under paragraph (3) the party has not paid the Tribunal fee, the consequences shall be those referred to in sub-paragraphs (a) to (d) of paragraph (2).

(5) In the event of a dismissal under paragraph (2) or (4) a party may apply for the claim or response, or part of it, which was dismissed to be reinstated and the Tribunal may order a reinstatement. A reinstatement shall be effective only if the Tribunal fee is paid, or a remission application is presented and accepted, by the date specified in the order.

RULES COMMON TO ALL KINDS OF HEARING

General

41. The Tribunal may regulate its own procedure and shall conduct the hearing in the manner it considers fair, having regard to the principles contained in the overriding objective. The following rules do not restrict that general power. The Tribunal shall seek to avoid undue formality and may itself question the parties or any witnesses so far as appropriate in order to clarify the issues or elicit

the evidence. The Tribunal is not bound by any rule of law relating to the admissibility of evidence in proceedings before the courts.

Written representations

42. The Tribunal shall consider any written representations from a party, including a party who does not propose to attend the hearing, if they are delivered to the Tribunal and to all other parties not less than 7 days before the hearing.

Witnesses

43. Where a witness is called to give oral evidence, any witness statement of that person ordered by the Tribunal shall stand as that witness's evidence in chief unless the Tribunal orders otherwise. Witnesses shall be required to give their oral evidence on oath or affirmation. The Tribunal may exclude from the hearing any person who is to appear as a witness in the proceedings until such time as that person gives evidence if it considers it in the interests of justice to do so.

Inspection of witness statements

44. Subject to rules 50 and 94, any witness statement which stands as evidence in chief shall be available for inspection during the course of the hearing by members of the public attending the hearing unless the Tribunal decides that all or any part of the statement is not to be admitted as evidence, in which case the statement or that part shall not be available for inspection.

Timetabling

45. A Tribunal may impose limits on the time that a party may take in presenting evidence, questioning witnesses or making submissions, and may prevent the party from proceeding beyond any time so allotted.

Hearings by electronic communication

46. A hearing may be conducted, in whole or in part, by use of electronic communication (including by telephone) provided that the Tribunal considers that it would be just and equitable to do so and provided that the parties and members of the public attending the hearing are able to hear what the Tribunal hears and see any witness as seen by the Tribunal.

Non-attendance

47. If a party fails to attend or to be represented at the hearing, the Tribunal may dismiss the claim or proceed with the hearing in the absence of that party. Before doing so, it shall consider any information which is available to it, after any enquiries that may be practicable, about the reasons for the party's absence.

Conversion from preliminary hearing to final hearing and vice versa

48. A Tribunal conducting a preliminary hearing may order that it be treated as a final hearing, or vice versa, if the Tribunal is properly constituted for the purpose and if it is satisfied that neither party shall be materially prejudiced by the change.

Majority decisions

49. Where a Tribunal is composed of three persons any decision may be made by a majority and if it is composed of two persons the Employment Judge has a second or casting vote.

Privacy and restrictions on disclosure

50.—(1) A Tribunal may at any stage of the proceedings, on its own initiative or on application, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person or in the circumstances identified in section 10A of the Employment Tribunals Act.

(2) In considering whether to make an order under this rule, the Tribunal shall give full weight to the principle of open justice and to the Convention right to freedom of expression.

(3) Such orders may include—

(a) an order that a hearing that would otherwise be in public be conducted, in whole or in part, in private;

(b) an order that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed to the public, by the use of anonymisation or otherwise, whether in the course of any hearing or in its listing or in any documents entered on the Register or otherwise forming part of the public record;

(c) an order for measures preventing witnesses at a public hearing being identifiable by members of the public;

(d) a restricted reporting order within the terms of section 11 or 12 of the Employment Tribunals Act.

(4) Any party, or other person with a legitimate interest, who has not had a reasonable opportunity to make representations before an order under this rule is made may apply to the Tribunal in writing for the order to be revoked or discharged, either on the basis of written representations or, if requested, at a hearing.

(5) Where an order is made under paragraph (3)(d) above—

(a) it shall specify the person whose identity is protected; and may specify particular matters of which publication is prohibited as likely to lead to that person's identification;

(b) it shall specify the duration of the order;

(c) the Tribunal shall ensure that a notice of the fact that such an order has been made in relation to those proceedings is displayed on the notice board of the Tribunal with any list of the proceedings taking place before the Tribunal, and on the door of the room in which the proceedings affected by the order are taking place; and

(d) the Tribunal may order that it applies also to any other proceedings being heard as part of the same hearing.

(6) "Convention rights" has the meaning given to it in section 1 of the Human Rights Act 1998(**30**).

WITHDRAWAL

End of claim

51. Where a claimant informs the Tribunal, either in writing or in the course of a hearing, that a claim, or part of it, is withdrawn, the claim, or part, comes to an end, subject to any application that the respondent may make for a costs, preparation time or wasted costs order.

(**30**) 1998 c. 42.

Dismissal following withdrawal

52. Where a claim, or part of it, has been withdrawn under rule 51, the Tribunal shall issue a judgment dismissing it (which means that the claimant may not commence a further claim against the respondent raising the same, or substantially the same, complaint) unless—

(a) the claimant has expressed at the time of withdrawal a wish to reserve the right to bring such a further claim and the Tribunal is satisfied that there would be legitimate reason for doing so; or

(b) the Tribunal believes that to issue such a judgment would not be in the interests of justice.

PRELIMINARY HEARINGS

Scope of preliminary hearings

53.—(1) A preliminary hearing is a hearing at which the Tribunal may do one or more of the following—

(a) conduct a preliminary consideration of the claim with the parties and make a case management order (including an order relating to the conduct of the final hearing);

(b) determine any preliminary issue;

(c) consider whether a claim or response, or any part, should be struck out under rule 37;

(d) make a deposit order under rule 39;

(e) explore the possibility of settlement or alternative dispute resolution (including judicial mediation).

(2) There may be more than one preliminary hearing in any case.

(3) "Preliminary issue" means, as regards any complaint, any substantive issue which may determine liability (for example, an issue as to jurisdiction or as to whether an employee was dismissed).

Fixing of preliminary hearings

54. A preliminary hearing may be directed by the Tribunal on its own initiative following its initial consideration (under rule 26) or at any time thereafter or as the result of an application by a party. The Tribunal shall give the parties reasonable notice of the date of the hearing and in the case of a hearing involving any preliminary issues at least 14 days notice shall be given and the notice shall specify the preliminary issues that are to be, or may be, decided at the hearing.

Constitution of tribunal for preliminary hearings

55. Preliminary hearings shall be conducted by an Employment Judge alone, except that where notice has been given that any preliminary issues are to be, or may be, decided at the hearing a party may request in writing that the hearing be conducted by a full tribunal in which case an Employment Judge shall decide whether that would be desirable.

When preliminary hearings shall be in public

56. Preliminary hearings shall be conducted in private, except that where the hearing involves a determination under rule 53(1)(b) or (c), any part of the hearing relating to such a determination shall be in public (subject to rules 50 and 94) and the Tribunal may direct that the entirety of the hearing be in public.

FINAL HEARING

Scope of final hearing

57. A final hearing is a hearing at which the Tribunal determines the claim or such parts as remain outstanding following the initial consideration (under rule 26) or any preliminary hearing. There may be different final hearings for different issues (for example, liability, remedy or costs).

Notice of final hearing

58. The Tribunal shall give the parties not less than 14 days' notice of the date of a final hearing.

When final hearing shall be in public

59. Any final hearing shall be in public, subject to rules 50 and 94.

DECISIONS AND REASONS

Decisions made without a hearing

60. Decisions made without a hearing shall be communicated in writing to the parties, identifying the Employment Judge who has made the decision.

Decisions made at or following a hearing

61.—(1) Where there is a hearing the Tribunal may either announce its decision in relation to any issue at the hearing or reserve it to be sent to the parties as soon as practicable in writing.

(2) If the decision is announced at the hearing, a written record (in the form of a judgment if appropriate) shall be provided to the parties (and, where the proceedings were referred to the Tribunal by a court, to that court) as soon as practicable. (Decisions concerned only with the conduct of a hearing need not be identified in the record of that hearing unless a party requests that a specific decision is so recorded.)

(3) The written record shall be signed by the Employment Judge.

Reasons

62.—(1) The Tribunal shall give reasons for its decision on any disputed issue, whether substantive or procedural (including any decision on an application for reconsideration or for orders for costs, preparation time or wasted costs).

(2) In the case of a decision given in writing the reasons shall also be given in writing. In the case of a decision announced at a hearing the reasons may be given orally at the hearing or reserved to be given in writing later (which may, but need not, be as part of the written record of the decision). Written reasons shall be signed by the Employment Judge.

(3) Where reasons have been given orally, the Employment Judge shall announce that written reasons will not be provided unless they are asked for by any party at the hearing itself or by a written request presented by any party within 14 days of the sending of the written record of the decision. The written record of the decision shall repeat that information. If no such request is received, the Tribunal shall provide written reasons only if requested to do so by the Employment Appeal Tribunal or a court.

(4) The reasons given for any decision shall be proportionate to the significance of the issue and for decisions other than judgments may be very short.

(5) In the case of a judgment the reasons shall: identify the issues which the Tribunal has determined, state the findings of fact made in relation to those issues, concisely identify the relevant law, and state how that law has been applied to those findings in order to decide the issues. Where the judgment includes a financial award the reasons shall identify, by means of a table or otherwise, how the amount to be paid has been calculated.

Absence of Employment Judge

63. If it is impossible or not practicable for the written record or reasons to be signed by the Employment Judge as a result of death, incapacity or absence, it shall be signed by the other member or members (in the case of a full tribunal) or by the President, Vice President or a Regional Employment Judge (in the case of a Judge sitting alone).

Consent orders and judgments

64. If the parties agree in writing or orally at a hearing upon the terms of any order or judgment a Tribunal may, if it thinks fit, make such order or judgment, in which case it shall be identified as having been made by consent.

When a judgment or order takes effect

65. A judgment or order takes effect from the day when it is given or made, or on such later date as specified by the Tribunal.

Time for compliance

66. A party shall comply with a judgment or order for the payment of an amount of money within 14 days of the date of the judgment or order, unless—

(a) the judgment, order, or any of these Rules, specifies a different date for compliance; or

(b) the Tribunal has stayed (or in Scotland sisted) the proceedings or judgment.

The Register

67. Subject to rules 50 and 94, a copy shall be entered in the Register of any judgment and of any written reasons for a judgment.

Copies of judgment for referring court

68. Where the proceedings were referred to the Tribunal by a court a copy of any judgment and of any written reasons shall be provided to that court.

Correction of clerical mistakes and accidental slips

69. An Employment Judge may at any time correct any clerical mistake or other accidental slip or omission in any order, judgment or other document produced by a Tribunal. If such a correction is made, any published version of the document shall also be corrected. If any document is corrected under this rule, a copy of the corrected version, signed by the Judge, shall be sent to all the parties.

RECONSIDERATION OF JUDGMENTS

Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again.

Application

71. Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

Process

72.—(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Reconsideration by the Tribunal on its own initiative

73. Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).

COSTS ORDERS, PREPARATION TIME ORDERS AND WASTED COSTS ORDERS

Definitions

74.—(1) "Costs" means fees, charges, disbursements or expenses incurred by or on behalf of the receiving party (including expenses that witnesses incur for the purpose of, or in connection with, attendance at a Tribunal hearing). In Scotland all references to costs (except when used in the expression "wasted costs") shall be read as references to expenses.

(2) "Legally represented" means having the assistance of a person (including where that person is the receiving party's employee) who—

(a) has a right of audience in relation to any class of proceedings in any part of the Senior Courts of England and Wales, or all proceedings in county courts or magistrates' courts;

(b) is an advocate or solicitor in Scotland; or

(c) is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.

(3) "Represented by a lay representative" means having the assistance of a person who does not satisfy any of the criteria in paragraph (2) and who charges for representation in the proceedings.

Costs orders and preparation time orders

75.—(1) A costs order is an order that a party ("the paying party") make a payment to—

(a) another party ("the receiving party") in respect of the costs that the receiving party has incurred while legally represented or while represented by a lay representative;

(b) the receiving party in respect of a Tribunal fee paid by the receiving party; or

(c) another party or a witness in respect of expenses incurred, or to be incurred, for the purpose of, or in connection with, an individual's attendance as a witness at the Tribunal.

(2) A preparation time order is an order that a party ("the paying party") make a payment to another party ("the receiving party") in respect of the receiving party's preparation time while not legally represented. "Preparation time" means time spent by the receiving party (including by any employees or advisers) in working on the case, except for time spent at any final hearing.

(3) A costs order under paragraph (1)(a) and a preparation time order may not both be made in favour of the same party in the same proceedings. A Tribunal may, if it wishes, decide in the course of the proceedings that a party is entitled to one order or the other but defer until a later stage in the proceedings deciding which kind of order to make.

When a costs order or a preparation time order may or shall be made

76.—(1) A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that—

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted; or

(b) any claim or response had no reasonable prospect of success.

(2) A Tribunal may also make such an order where a party has been in breach of any order or practice direction or where a hearing has been postponed or adjourned on the application of a party.

(3) Where in proceedings for unfair dismissal a final hearing is postponed or adjourned, the Tribunal shall order the respondent to pay the costs incurred as a result of the postponement or adjournment if—

(a) the claimant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing; and

(b) the postponement or adjournment of that hearing 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 claimant was dismissed or of comparable or suitable employment.

(4) A Tribunal may make a costs order of the kind described in rule 75(1)(b) where a party has paid a Tribunal fee in respect of a claim, employer's contract claim or application and that claim, counterclaim or application is decided in whole, or in part, in favour of that party.

(5) A Tribunal may make a costs order of the kind described in rule 75(1)(c) on the application of a party or the witness in question, or on its own initiative, where a witness has attended or has been ordered to attend to give oral evidence at a hearing.

Procedure

77. A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties. No such order may be made unless the paying party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order) in response to the application.

The amount of a costs order

78.—(1) A costs order may—

(a) order the paying party to pay the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;

(b) 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, in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998, or by an Employment Judge applying the same principles; or, in Scotland, by way of taxation carried out either by the auditor of court in accordance with the Act of Sederunt (Fees of Solicitors in the Sheriff Court)(Amendment and Further Provisions) 1993(**31**), or by an Employment Judge applying the same principles;

(c) order the paying party to pay the receiving party a specified amount as reimbursement of all or part of a Tribunal fee paid by the receiving party;

(d) order the paying party to pay another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses (of the kind described in rule 75(1)(c)); or

(e) if the paying party and the receiving party agree as to the amount payable, be made in that amount.

(2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative shall be no higher than the rate under rule 79(2).

(3) For the avoidance of doubt, the amount of a costs order under sub-paragraphs (b) to (e) of paragraph (1) may exceed £20,000.

(**31**) S.I. 1993/3080

The amount of a preparation time order

79.—(1) The Tribunal shall decide the number of hours in respect of which a preparation time order should be made, on the basis of—

(a) information provided by the receiving party on time spent falling within rule 75(2) above; and

(b) the Tribunal's own assessment of what it considers to be a reasonable and proportionate amount of time to spend on such preparatory work, with reference to such matters as the complexity of the proceedings, the number of witnesses and documentation required.

(2) The hourly rate is £33 and increases on 6 April each year by £1.

(3) The amount of a preparation time order shall be the product of the number of hours assessed under paragraph (1) and the rate under paragraph (2).

When a wasted costs order may be made

80.—(1) A Tribunal may make a wasted costs order against a representative in favour of any party ("the receiving party") where that party has incurred costs—

(a) as a result of any improper, unreasonable or negligent act or omission on the part of the representative; or

(b) which, in the light of any such act or omission occurring after they were incurred, the Tribunal considers it unreasonable to expect the receiving party to pay.

Costs so incurred are described as "wasted costs".

(2) "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 acting on a contingency or conditional fee arrangement is considered to be acting in pursuit of profit.

(3) A wasted costs order may be made in favour of a party whether or not that party is legally represented and may also be made in favour of a representative's own client. A wasted costs order may not be made against a representative where that representative is representing a party in his or her capacity as an employee of that party.

Effect of a wasted costs order

81. A wasted costs order may order the representative to pay the whole or part of any wasted costs of the receiving party, or disallow any wasted costs otherwise payable to the representative, including an order that the representative repay to its client any costs which have already been paid. The amount to be paid, disallowed or repaid must in each case be specified in the order.

Procedure

82. A wasted costs order may be made by the Tribunal on its own initiative or on the application of any party. A party may apply for a wasted costs order at any stage up to 28 days after the date on which the judgment finally determining the proceedings as against that party was sent to the parties. No such order shall be made unless the representative has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order) in response to the application or proposal. The Tribunal shall inform the representative's client in writing of any proceedings under this rule and of any order made against the representative.

Allowances

83. Where the Tribunal makes a costs, preparation time, or wasted costs order, it may also make an order that the paying party (or, where a wasted costs order is made, the representative) pay to the Secretary of State, in whole or in part, any allowances (other than allowances paid to members of the Tribunal) paid by the Secretary of State under section 5(2) or (3) of the Employment Tribunals Act(**32**) to any person for the purposes of, or in connection with, that person's attendance at the Tribunal.

Ability to pay

84. In deciding whether to make a costs, preparation time, or wasted costs order, and if so in what amount, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay.

DELIVERY OF DOCUMENTS

Delivery to the Tribunal

85.—(1) Subject to paragraph (2), documents may be delivered to the Tribunal—

(a) by post;

(b) by direct delivery to the appropriate tribunal office (including delivery by a courier or messenger service); or

(c) by electronic communication.

(2) A claim form may only be delivered in accordance with the practice direction made under regulation 11 which supplements rule 8.

(3) The Tribunal shall notify the parties following the presentation of the claim of the address of the tribunal office dealing with the case (including any fax or email or other electronic address) and all documents shall be delivered to either the postal or the electronic address so notified. The Tribunal may from time to time notify the parties of any change of address, or that a particular form of communication should or should not be used, and any documents shall be delivered in accordance with that notification.

Delivery to parties

86.—(1) Documents may be delivered to a party (whether by the Tribunal or by another party)—

(a) by post;

(b) by direct delivery to that party's address (including delivery by a courier or messenger service);

(c) by electronic communication; or

(d) by being handed personally to that party, if an individual and if no representative has been named in the claim form or response; or to any individual representative named in the claim form or response; or, on the occasion of a hearing, to any person identified by the party as representing that party at that hearing.

(2) For the purposes of sub-paragraphs (a) to (c) of paragraph (1), the document shall be delivered to the address given in the claim form or response (which shall be the address of the party's representative, if one is named) or to a different address as notified in writing by the party in question.

(**32**) Section 5(2) was amended by the Equality Act 2010 (c. 15), Schedule 26, Part I, paragraphs 27 and 28.

(3) If a party has given both a postal address and one or more electronic addresses, any of them may be used unless the party has indicated in writing that a particular address should or should not be used.

Delivery to non-parties

87. Subject to the special cases which are the subject of rule 88, documents shall be sent to non-parties at any address for service which they may have notified and otherwise at any known address or place of business in the United Kingdom or, if the party is a corporate body, at its registered or principal office in the United Kingdom or, if permitted by the President, at an address outside the United Kingdom.

Special cases

88. Addresses for serving the Secretary of State, the Law Officers, and the Counsel General to the Welsh Assembly Government, in cases where they are not parties, shall be issued by practice direction.

Substituted service

89. Where no address for service in accordance with the above rules is known or it appears that service at any such address is unlikely to come to the attention of the addressee, the President, Vice President or a Regional Employment Judge may order that there shall be substituted service in such manner as appears appropriate.

Date of delivery

90. Where a document has been delivered in accordance with rule 85 or 86, it shall, unless the contrary is proved, be taken to have been received by the addressee—

(a) if sent by post, on the day on which it would be delivered in the ordinary course of post;

(b) if sent by means of electronic communication, on the day of transmission;

(c) if delivered directly or personally, on the day of delivery.

Irregular service

91. A Tribunal may treat any document as delivered to a person, notwithstanding any non-compliance with rules 86 to 88, if satisfied that the document in question, or its substance, has in fact come to the attention of that person.

Correspondence with the Tribunal: copying to other parties

92. Where a party sends a communication to the Tribunal (except an application under rule 32) it shall send a copy to all other parties, and state that it has done so (by use of "cc" or otherwise). The Tribunal may order a departure from this rule where it considers it in the interests of justice to do so.

MISCELLANEOUS

ACAS

93.—(1) Where proceedings concern an enactment which provides for conciliation, the Tribunal shall—

(a) send a copy of the claim form and the response to an ACAS conciliation officer; and

(b) inform the parties that the services of an ACAS conciliation officer are available to them.

(2) Subject to rules 50 and 94, a representative of ACAS may attend any preliminary hearing.

National security proceedings

94.—(1) Where in relation to particular Crown employment proceedings a Minister considers that it would be expedient in the interests of national security, the Minister may direct a Tribunal to—

(a) conduct all or part of the proceedings in private;

(b) exclude a person from all or part of the proceedings;

(c) take steps to conceal the identity of a witness in the proceedings.

(2) Where the Tribunal considers it expedient in the interests of national security, it may order—

(a) in relation to particular proceedings (including Crown employment proceedings), anything which can be required to be done under paragraph (1);

(b) a person not to disclose any document (or the contents of any document), where provided for the purposes of the proceedings, to any other person (save for any specified person).

Any order made must be kept under review by the Tribunal.

(3) Where the Tribunal considers that it may be necessary to make an order under paragraph (2) in relation to particular proceedings (including Crown employment proceedings), the Tribunal may consider any material provided by a party (or where a Minister is not a party, by a Minister) without providing that material to any other person. Such material shall be used by the Tribunal solely for the purposes of deciding whether to make that order (unless that material is subsequently used as evidence in the proceedings by a party).

(4) Where a Minister considers that it would be appropriate for the Tribunal to make an order under paragraph (2), the Minister may make an application for such an order.

(5) Where a Minister has made an application under paragraph (4), the Tribunal may order—

(a) in relation to the part of the proceedings preceding the outcome of the application, anything which can be required to be done under paragraph (1);

(b) a person not to disclose any document (or the contents of any document) to any other person (save for any specified person), where provided for the purposes of the proceedings preceding the outcome of the application.

(6) Where a Minister has made an application under paragraph (4) for an order to exclude any person from all or part of the proceedings, the Tribunal shall not send a copy of the response to that person, pending the decision on the application.

(7) If before the expiry of the time limit in rule 16 a Minister makes a direction under paragraph (1) or makes an application under paragraph (4), the Minister may apply for an extension of the time limit in rule 16.

(8) A direction under paragraph (1) or an application under paragraph (4) may be made irrespective of whether or not the Minister is a party.

(9) Where the Tribunal decides not to make an order under paragraph (2), rule 6 of Schedule 2 shall apply to the reasons given by the Tribunal under rule 62 for that decision, save that the reasons will not be entered on the Register.

(10) The Tribunal must ensure that in exercising its functions, information is not disclosed contrary to the interests of national security.

Interim relief proceedings

95. When a Tribunal hears an application for interim relief (or for its variation or revocation) under section 161 or section 165 of the Trade Union and Labour Relations (Consolidation) Act 1992(**33**) or under section 128 or section 131 of the Employment Rights Act 1996(**34**), rules 53 to 56 apply to the hearing and the Tribunal shall not hear oral evidence unless it directs otherwise.

Proceedings involving the National Insurance Fund

96. The Secretary of State shall be entitled to appear and be heard at any hearing in relation to proceedings which may involve a payment out of the National Insurance Fund and shall be treated as a party for the purposes of these Rules.

Collective agreements

97. Where a claim includes a complaint under section 146(1) of the Equality Act relating to a term of a collective agreement, the following persons, whether or not identified in the claim, shall be regarded as the persons against whom a remedy is claimed and shall be treated as respondents for the purposes of these Rules—

(a) the claimant'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 terms were to be varied voluntarily, would be likely, in the opinion of an Employment Judge, to negotiate the variation.

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

Devolution issues

98.—(1) Where a devolution issue arises, the Tribunal shall as soon as practicable send notice of that fact and a copy of the claim form and response to the Advocate General for Scotland and the Lord Advocate, where it is a Scottish devolution issue, or to the Attorney General and the Counsel General to the Welsh Assembly Government, where it is a Welsh devolution issue, unless they are a party to the proceedings.

(2) A person to whom notice is sent may be treated as a party to the proceedings, so far as the proceedings relate to the devolution issue, if that person sends notice to the Tribunal within 14 days of receiving a notice under paragraph (1).

(3) Any notices sent under paragraph (1) or (2) must at the same time be sent to the parties.

(4) "Devolution issue" has the meaning given to it in paragraph 1 of Schedule 6 to the Scotland Act 1998(**35**) (for the purposes of a Scottish devolution issue), and in paragraph 1 of Schedule 9 to the Government of Wales Act 2006(**36**) (for the purposes of a Welsh devolution issue).

Transfer of proceedings between Scotland and England & Wales

99.—(1) The President (England and Wales) or a Regional Employment Judge may at any time, on their own initiative or on the application of a party, with the consent of the President (Scotland),

(**33**) 1992 c. 52. Section 161 was amended by the Employment Relations Act 2004 (c. 24), Schedule 1, paragraph 12. Section 165 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2).
(**34**) 1996 c. 17. Section 128 was amended by S.I. 2010/493. Section 131 was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2).
(**35**) 1998 c. 46.
(**36**) 2006 c. 32.

transfer to a tribunal office in Scotland any proceedings started in England and Wales which could (in accordance with rule 8(3)) have been started in Scotland and which in that person's opinion would more conveniently be determined there.

(2) The President (Scotland) or the Vice President may at any time, on their own initiative or on the application of a party, with the consent of the President (England and Wales), transfer to a tribunal office in England and Wales any proceedings started in Scotland which could (in accordance with rule 8(2)) have been started in England and Wales and in that person's opinion would more conveniently be determined there.

References to the Court of Justice of the European Union

100. Where a Tribunal decides to refer a question to the Court of Justice of the European Union for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union(**37**), a copy of that decision shall be sent to the registrar of that court.

Transfer of proceedings from a court

101. Where proceedings are referred to a Tribunal by a court, these Rules apply as if the proceedings had been presented by the claimant.

Vexatious litigants

102. The Tribunal may provide any information or documents requested by the Attorney General, the Solicitor General or the Lord Advocate for the purpose of preparing an application or considering whether to make an application under section 42 of the Senior Courts Act 1981(**38**), section 1 of the Vexatious Actions (Scotland) Act 1898(**39**) or section 33 of the Employment Tribunals Act.

Information to the Commission for Equality and Human Rights

103. The Tribunal shall send to the Commission for Equality and Human Rights copies of all judgments and written reasons relating to complaints under section 120, 127 or 146 of the Equality Act. That obligation shall not apply in any proceedings where a Minister of the Crown has given a direction, or a Tribunal has made an order, under rule 94; and either the Security Service, the Secret Intelligence Service or the Government Communications Headquarters is a party to the proceedings.

Application of this Schedule to levy appeals

104. For the purposes of a levy appeal, references in this Schedule to a claim or claimant shall be read as references to a levy appeal or to an appellant in a levy appeal respectively.

Application of this Schedule to appeals against improvement and prohibition notices

105.—(1) A person ("the appellant") may appeal an improvement notice or a prohibition notice by presenting a claim to a tribunal office—

(a) before the end of the period of 21 days beginning with the date of the service on the appellant of the notice which is the subject of the appeal; or

(b) within such further period as the Tribunal considers reasonable where it is satisfied that it was not reasonably practicable for an appeal to be presented within that time.

(**37**) OJC 83, 30.03.10 p.47.
(**38**) 1981 c. 54.
(**39**) 1898 c. 35.

(2) For the purposes of an appeal against an improvement notice or a prohibition notice, this Schedule shall be treated as modified in the following ways—

(a) references to a claim or claimant shall be read as references to an appeal or to an appellant in an appeal respectively;

(b) references to a respondent shall be read as references to the inspector appointed under section 19(1) of the Health and Safety Act who issued the notice which is the subject of the appeal.

Application of this Schedule to appeals against unlawful act notices

106. For the purposes of an appeal against an unlawful act notice, this Schedule shall be treated as modified in the following ways—

(a) references in this Schedule to a claim or claimant shall be read as references to a notice of appeal or to an appellant in an appeal against an unlawful act notice respectively;

(b) references to a respondent shall be read as references to the Commission for Equality and Human Rights.

SCHEDULE 2

Regulation 13(2)

THE EMPLOYMENT TRIBUNALS (NATIONAL SECURITY) RULES OF PROCEDURE

Application of Schedule 2

1.—(1) This Schedule applies to proceedings in relation to which a direction is given, or order is made, under rule 94 and modifies the rules in Schedule 1 in relation to such proceedings.

(2) References in this Schedule to rule numbers are to those in Schedule 1.

(3) The definitions in rule 1 apply to terms in this Schedule and in this Schedule—

"excluded person" means, in relation to any proceedings, a person who has been excluded from all or part of the proceedings by virtue of a direction under rule 94(1)(b) or an order under rule 94(2)(a) (read with rule 94(1)(b)).

Serving of documents

2. The Tribunal shall not send a copy of the response to any excluded person.

Witness orders and disclosure of documents

3.—(1) Where a person or their representative has been excluded under rule 94 from all or part of the proceedings and a Tribunal is considering whether to make an order under rule 31 or 32, a Minister (whether or not he is a party to the proceedings) may make an application to the Tribunal objecting to that order. If such an order has been made, the Minister may make an application to vary or set aside the order.

(2) The Tribunal shall hear and determine the Minister's application in private and the Minister shall be entitled to address the Tribunal.

Special advocate

4.—(1) The Tribunal shall inform the relevant Law Officer if a party becomes an excluded person. For the purposes of this rule, "relevant Law Officer" means, in relation to England and Wales, the Attorney General, and, in relation to Scotland, the Advocate General.

(2) The relevant Law Officer may appoint a special advocate to represent the interests of a person in respect of those parts of the proceedings from which—

(a) a person's representative is excluded;

(b) a person and their representative are excluded;

(c) a person is excluded and is unrepresented.

(3) A special advocate shall be a person who has a right of audience in relation to any class of proceedings in any part of the Senior Courts or all proceedings in county courts or magistrates' courts, or shall be an advocate or a solicitor admitted in Scotland.

(4) An excluded person (where that person is a party) may make a statement to the Tribunal before the commencement of the proceedings or the relevant part of the proceedings.

(5) The special advocate may communicate, directly or indirectly, with an excluded person at any time before receiving material from a Minister in relation to which the Minister states an objection to disclosure to the excluded person ("closed material").

(6) After receiving closed material, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (7) or (9) or an order of the Tribunal.

(7) The special advocate may communicate about the proceedings with—

(a) the Tribunal;

(b) the Minister, or their representative;

(c) the relevant Law Officer, or their representative;

(d) any other person, except for an excluded person or his representative, with whom it is necessary for administrative purposes to communicate about matters not connected with the substance of the proceedings.

(8) The special advocate may apply for an order from the Tribunal to authorise communication with an excluded person or with any other person and if such an application is made—

(a) the Tribunal must notify the Minister of the request; and

(b) the Minister may, within a period specified by the Tribunal, present to the Tribunal and serve on the special advocate notice of any objection to the proposed communication.

(9) After the special advocate has received closed material, an excluded person may only communicate with the special advocate in writing and the special advocate must not reply to the communication, except that the special advocate may send a written acknowledgment of receipt to the legal representative.

(10) References in these Regulations and Schedules 1 and 2 to a party shall include any special advocate appointed in particular proceedings, save that the references to "party" or "parties" in rules 3, 6(c), 22, 26, 34, 36(2), 36(3), the first reference in rule 37, 38, 39, 40, 41, 45, 47, 64, 74 to 84, 86, 96 and 98(3) shall not include the special advocate.

Hearings

5.—(1) Subject to any order under rule 50 or any direction or order under rule 94, any hearing shall take place in public, and any party may attend and participate in the hearing.

(2) A member of the Administrative Justice and Tribunals Council shall not be entitled to attend any hearing conducted in private.

Reasons in national security proceedings

6.—(1) The Tribunal shall send a copy of the written reasons given under rule 62 to the Minister and allow 42 days for the Minister to make a direction under paragraph (3) below before sending them to any party or entering them onto the Register.

(2) If the Tribunal considers it expedient in the interests of national security, it may by order take steps to keep secret all or part of the written reasons.

(3) If the Minister considers it expedient in the interests of national security, the Minister may direct that the written reasons—

(a) shall not be disclosed to specified persons and require the Tribunal to prepare a further document which sets out the reasons for the decision, but omits specified information ("the edited reasons");

(b) shall not be disclosed to specified persons and that no further document setting out the reasons for the decision should be prepared.

(4) Where the Minister has directed the Tribunal to prepare edited reasons, the Employment Judge shall initial each omission.

(5) Where a direction has been made under paragraph (3)(a), the Tribunal shall—

(a) send the edited reasons to the specified persons;

(b) send the edited reasons and the written reasons to the relevant persons listed in paragraph (7); and

(c) where the written reasons relate to a judgment, enter the edited reasons on the Register but not enter the written reasons on the Register.

(6) Where a direction has been made under paragraph (3)(b), the Tribunal shall send the written reasons to the relevant persons listed in paragraph (7), but not enter the written reasons on the Register.

(7) The relevant persons are–

(a) the respondent or the respondent's representative, provided that they were not specified in the direction made under paragraph (3);

(b) the claimant or the claimant's representative, provided that they were not specified in the direction made under paragraph (3);

(c) any special advocate appointed in the proceedings; and

(d) where the proceedings were referred to the Tribunal by a court, to that court.

(8) Where written reasons or edited reasons are corrected under rule 69, the Tribunal shall send a copy of the corrected reasons to the same persons who had been sent the reasons.

SCHEDULE 3

Regulation 13(2)

THE EMPLOYMENT TRIBUNALS (EQUAL VALUE) RULES OF PROCEDURE

Application of Schedule 3

1.—(1) This Schedule applies to proceedings involving an equal value claim and modifies the rules in Schedule 1 in relation to such proceedings.

(2) The definitions in rule 1 of Schedule 1 apply to terms in this Schedule and in this Schedule—

"comparator" means the person of the opposite sex to the claimant in relation to whom the claimant alleges that his or her work is of equal value;

"equal value claim" means a claim relating to a breach of a sex equality clause or rule within the meaning of the Equality Act in a case involving work within section 65(1)(c) of that Act;

"the facts relating to the question" has the meaning in rule 6(1)(a);

"independent expert" means a member of the panel of independent experts mentioned in section 131(8) of the Equality Act;

"the question" means whether the claimant's work is of equal value to that of the comparator; and

"report" means a report required by a Tribunal to be prepared in accordance with section 131(2) of the Equality Act.

(3) A reference in this Schedule to a rule, is a reference to a rule in this Schedule unless otherwise provided.

(4) A reference in this Schedule to "these rules" is a reference to the rules in Schedules 1 and 3 unless otherwise provided.

General power to manage proceedings

2.—(1) The Tribunal may (subject to rules 3(1) and 6(1)) order—

(a) that no new facts shall be admitted in evidence by the Tribunal unless they have been disclosed to all other parties in writing before a date specified by the Tribunal (unless it was not reasonably practicable for a party to have done so);

(b) the parties to send copies of documents or provide information to the independent expert;

(c) the respondent to grant the independent expert access to the respondent's premises during a period specified in the order to allow the independent expert to conduct interviews with persons identified as relevant by the independent expert;

(d) when more than one expert is to give evidence in the proceedings, that those experts present to the Tribunal a joint statement of matters which are agreed between them and matters on which they disagree.

(2) In managing the proceedings, the Tribunal shall have regard to the indicative timetable in the Annex to this Schedule.

Conduct of stage 1 equal value hearing

3.—(1) Where there is a dispute as to whether one person's work is of equal value to another's (equal value being construed in accordance with section 65(6) of the Equality Act), the Tribunal shall conduct a hearing, which shall be referred to as a "stage 1 equal value hearing", and at that hearing shall—

(a) strike out the claim (or the relevant part of it) if in accordance with section 131(6) of the Equality Act the Tribunal must determine that the work of the claimant and the comparator are not of equal value;

(b) determine the question or require an independent expert to prepare a report on the question;

(c) if the Tribunal has decided to require an independent expert to prepare a report on the question, fix a date for a further hearing, which shall be referred to as a "stage 2 equal value hearing"; and

(d) if the Tribunal has not decided to require an independent expert to prepare a report on the question, fix a date for the final hearing.

(2) Before a claim or part is struck out under sub-paragraph (1)(a), the Tribunal shall send notice to the claimant and allow the claimant to make representations to the Tribunal as to whether the evaluation contained in the study in question falls within paragraph (a) or (b) of section 131(6) of the Equality Act. The Tribunal shall not be required to send a notice under this paragraph if the claimant has been given an opportunity to make such representations orally to the Tribunal.

(3) The Tribunal may, on the application of a party, hear evidence and submissions on the issue contained in section 69 of the Equality Act before determining whether to require an independent expert to prepare a report under paragraph (1)(b).

(4) The Tribunal shall give the parties reasonable notice of the date of the stage 1 equal value hearing and the notice shall specify the matters that are to be, or may be, considered at the hearing and give notice of the standard orders in rule 4.

Standard orders for stage 1 equal value hearing

4.—(1) At a stage 1 equal value hearing a Tribunal shall, unless it considers it inappropriate to do so, order that—

(a) before the end of the period of 14 days the claimant shall—

(i) disclose in writing to the respondent the name of any comparator, or, if the claimant is not able to name the comparator, disclose information which enables the respondent to identify the comparator; and

(ii) identify to the respondent in writing the period in relation to which the claimant considers that the claimant's work and that of the comparator are to be compared;

(b) before the end of the period of 28 days—

(i) where the claimant has not disclosed the name of the comparator to the respondent under sub-paragraph (a) and the respondent has been provided with sufficient detail to be able to identify the comparator, the respondent shall disclose in writing the name of the comparator to the claimant;

(ii) the parties shall provide each other with written job descriptions for the claimant and any comparator;

(iii) the parties shall identify to each other in writing the facts which they consider to be relevant to the question;

(c) the respondent shall grant access to the respondent's premises during a period specified in the order to allow the claimant and his or her representative to interview any comparator;

(d) the parties shall before the end of the period of 56 days present to the Tribunal an agreed written statement specifying—

(i) job descriptions for the claimant and any comparator;

(ii) the facts which both parties consider are relevant to the question;

(iii) the facts on which the parties disagree (as to the fact or as to the relevance to the question) and a summary of their reasons for disagreeing;

(e) the parties shall, at least 56 days before the final hearing, disclose to each other, to any independent or other expert and to the Tribunal written statements of any facts on which they intend to rely in evidence at the final hearing; and

(f) the parties shall, at least 28 days before the final hearing, present to the Tribunal a statement of facts and issues on which the parties are in agreement, a statement of facts and issues on which the parties disagree and a summary of their reasons for disagreeing.

(2) The Tribunal may add to, vary or omit any of the standard orders in paragraph (1).

Involvement of independent expert in fact finding

5. Where the Tribunal has decided to require an independent expert to prepare a report on the question, it may at any stage of the proceedings, on its own initiative or on the application of a party, order the independent expert to assist the Tribunal in establishing the facts on which the independent expert may rely in preparing the report.

Conduct of stage 2 equal value hearing

6.—(1) Any stage 2 equal value hearing shall be conducted by a full tribunal and at the hearing the Tribunal shall—

(a) make a determination of facts on which the parties cannot agree which relate to the question and shall require the independent expert to prepare the report on the basis of facts which have (at any stage of the proceedings) either been agreed between the parties or determined by the Tribunal (referred to as "the facts relating to the question"); and

(b) fix a date for the final hearing.

(2) Subject to paragraph (3), the facts relating to the question shall, in relation to the question, be the only facts on which the Tribunal shall rely at the final hearing.

(3) At any stage of the proceedings the independent expert may make an application to the Tribunal for some or all of the facts relating to the question to be amended, supplemented or omitted.

(4) The Tribunal shall give the parties reasonable notice of the date of the stage 2 equal value hearing and the notice shall draw the attention of the parties to this rule and give notice of the standard orders in rule 7.

Standard orders for stage 2 equal value hearing

7.—(1) At a stage 2 equal value hearing a Tribunal shall, unless it considers it inappropriate to do so, order that—

(a) by a specified date the independent expert shall prepare his report on the question and shall (subject to rule 13) send copies of it to the parties and to the Tribunal; and

(b) the independent expert shall prepare his report on the question on the basis only of the facts relating to the question.

(2) The Tribunal may add to, vary or omit any of the standard orders in paragraph (1).

Final hearing

8.—(1) Where an independent expert has prepared a report, unless the Tribunal determines that the report is not based on the facts relating to the question, the report of the independent expert shall be admitted in evidence.

(2) If the Tribunal does not admit the report of an independent expert in accordance with paragraph (1), it may determine the question itself or require another independent expert to prepare a report on the question.

(3) The Tribunal may refuse to admit evidence of facts or hear submissions on issues which have not been disclosed to the other party as required by these rules or any order (unless it was not reasonably practicable for a party to have done so).

Duties and powers of the independent expert

9.—(1) When a Tribunal makes an order under rule 3(1)(b) or 5, it shall inform that independent expert of the duties and powers under this rule.

(2) The independent expert shall have a duty to the Tribunal to—

(a) assist it in furthering the overriding objective set out in rule 2 of Schedule 1;

(b) comply with the requirements of these rules and any orders made by the Tribunal;

(c) keep the Tribunal informed of any delay in complying with any order (with the exception of minor or insignificant delays in compliance);

(d) comply with any timetable imposed by the Tribunal in so far as this is reasonably practicable;

(e) when requested, inform the Tribunal of progress in the preparation of the report;

(f) prepare a report on the question based on the facts relating to the question and (subject to rule 13) send it to the Tribunal and the parties; and

(g) attend hearings.

(3) The independent expert may make an application for any order or for a hearing to be held as if he were a party to the proceedings.

(4) At any stage of the proceedings the Tribunal may, after giving the independent expert the opportunity to make representations, withdraw the requirement on the independent expert to prepare a report. If it does so, the Tribunal may itself determine the question, or it may require a different independent expert to prepare the report.

(5) When paragraph (4) applies the independent expert who is no longer required to prepare the report shall provide the Tribunal with all documentation and work in progress relating to the proceedings by a specified date. Such documentation and work in progress must be in a form which the Tribunal is able to use and may be used in relation to those proceedings by the Tribunal or by another independent expert.

Use of expert evidence

10.—(1) The Tribunal shall restrict expert evidence to that which it considers is reasonably required to resolve the proceedings.

(2) An expert shall have a duty to assist the Tribunal on matters within the expert's expertise. This duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

(3) No party may call an expert or put in evidence an expert's report without the permission of the Tribunal. No expert report shall be put in evidence unless it has been disclosed to all other parties and any independent expert at least 28 days before the final hearing.

(4) In proceedings in which an independent expert has been required to prepare a report on the question, the Tribunal shall not admit evidence of another expert on the question unless such evidence is based on the facts relating to the question. Unless the Tribunal considers it inappropriate to do so, any such expert report shall be disclosed to all parties and to the Tribunal on the same date on which the independent expert is required to send his report to the parties and to the tribunal.

(5) If an expert (other than an independent expert) does not comply with these rules or an order made by the Tribunal, the Tribunal may order that the evidence of that expert shall not be admitted.

(6) Where two or more parties wish to submit expert evidence on a particular issue, the Tribunal may order that the evidence on that issue is to be given by one joint expert only and if the parties wishing to instruct the joint expert cannot agree an expert, the Tribunal may select an expert.

Written questions to experts (including independent experts)

11.—(1) When an expert has prepared a report, a party or any other expert involved in the proceedings may put written questions about the report to the expert who has prepared the report.

(2) Unless the Tribunal agrees otherwise, written questions under paragraph (1)—

(a) may be put once only;

(b) must be put within 28 days of the date on which the parties were sent the report;

(c) must be for the purpose only of clarifying the factual basis of the report; and

(d) must be copied to all other parties and experts involved in the proceedings at the same time as they are sent to the expert who prepared the report.

(3) An expert shall answer written questions within 28 days of receipt and the answers shall be treated as part of the expert's report.

(4) Where a party has put a written question to an expert instructed by another party and the expert does not answer that question within 28 days, the Tribunal may order that the party instructing that expert may not rely on the evidence of that expert.

Procedural matters

12.—(1) Where an independent expert has been required to prepare a report, the Tribunal shall send that expert notice of any hearing, application, order or judgment in the proceedings as if the independent expert were a party to those proceedings and when these rules or an order requires a party to provide information to another party, such information shall also be provided to the independent expert.

(2) There may be more than one stage 1 or stage 2 equal value hearing in any case.

(3) Any power conferred on an Employment Judge by Schedule 1 may (subject to the provisions of this Schedule) in an equal value claim be carried out by a full tribunal or an Employment Judge.

National security proceedings

13. Where in an equal value claim a direction is given, or order is made, under rule 94 of Schedule 1—

(a) any independent expert appointed shall send a copy of any report and any responses to written questions to the Tribunal only; and

(b) before the Tribunal sends the parties a copy of a report or answers which have been received from an independent expert, it shall follow the procedure set out in rule 6 of Schedule 2 as if that rule referred to the independent expert's report or answers (as the case may be) instead of written reasons, except that the independent expert's report or answers shall not be entered on the Register.

ANNEX

The indicative timetable

Claims <u>not</u> involving an independent expert	*Claims involving an independent expert*
Claim	Claim
⇩	⇩
28 days	28 days
⇩	⇩
Response	Response
⇩	⇩
3 weeks	3 weeks
⇩	⇩
Stage 1 equal value hearing	Stage 1 equal value hearing
⇩	⇩
⇩	10 weeks
⇩	⇩
⇩	Stage 2 equal value hearing
⇩	⇩
⇩	8 weeks
18 weeks	⇩
⇩	Independent expert's report
⇩	⇩
⇩	4 weeks
⇩	⇩
⇩	written questions
⇩	⇩
⇩	8 weeks
⇩	⇩
⇩	⇩
⇩	⇩
Hearing	Hearing
Total 25 week	Total 37 weeks.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 ("the 2004 Regulations"). The rules of procedure in Schedules 1 to 3 replace the existing rules of procedure in the Employment Tribunals set out in Schedules 1 to 6 to the 2004 Regulations.

Regulations 4 to 6 provide for the establishment of Employment Tribunals and the appointment of the Presidents, the Vice President and Regional Employment Judges, and regulation 7 sets out the responsibilities of those office holders.

Regulations 8 and 9 detail who shall sit to determine proceedings in the Employment Tribunals and regulation 10 make special provision for the composition of Employment Tribunals when dealing with national security proceedings.

Regulation 11 gives each President power to make practice directions in relation to the area (either Scotland or England and Wales) for which the President is responsible.

Regulation 12 delegates to the Secretary of State the power to prescribe forms to be used by claimants and respondents in proceedings before an Employment Tribunal and regulation 12(2) lists the proceedings in which a prescribed form need not be used.

Regulation 13 provides that Schedule 1 to the Regulations is to apply to all proceedings before an Employment Tribunal. However, Schedule 1 is modified by Schedules 2 and 3 in relation to the proceedings to which those Schedules apply.

Regulation 14 makes provision for the maintenance of a register of judgments and written reasons issued by an Employment Tribunal.

Regulation 15 makes transitional provision in relation to the presentation of a response which contains an employer's contract claim and in relation to proceedings which were presented before 29th July 2013 and in respect of which Schedule 3, 4 or 5 of the 2004 Regulations applied. Subject to those transitional provisions, these Regulations apply to all proceedings before the Employment Tribunals.

Schedule 1 sets out the rules of procedure for claims before the Employment Tribunals. Rule 1 sets out the definitions relevant to those rules.

Rule 2 provides that the overriding objective of the rules is to enable the Employment Tribunals to deal with cases fairly and justly.

Rules 4 and 5 contain provisions on the calculation of time and extending and shortening time limits.

Rule 7 provides for the publication by the Presidents of guidance on the exercise of powers in the rules.

Rule 8 sets out the requirements for the presentation of a claim in the Employment Tribunals and rule 10 provides that a claim shall be rejected by an Employment Tribunal if a prescribed form is not used or certain information is not contained in the claim.

Rule 11 provides that, if any enactment requires a claim to be accompanied by a fee or an application for a remission from that fee and a claim is presented without such a fee or application, then that claim shall be rejected.

Rule 12 provides that an Employment Judge may reject a claim if the Employment Tribunals do not have jurisdiction to consider it, or it is in a form which cannot sensibly be responded to or is otherwise an abuse of process.

Rule 13 provides for the reconsideration of a rejection made under rule 10 or 12.

Rule 16 provides that a respondent has 28 days from the date that the copy of the claim was sent by an Employment Tribunal in which to present a response.

Rule 17 provides that a response shall be rejected if a prescribed form is not used or certain information is not contained in the response and rule 18 provides that a response shall be rejected if it is presented late.

Rule 19 provides for the reconsideration of a rejection made under rule 17 or 18.

Rule 20 allows a respondent to make an application for an extension of time for presenting the response to a claim.

Rule 21 sets out how an Employment Tribunal will determine a claim if no response is presented or the respondent does not contest a claim.

Rules 23 to 25 set out the process for presenting, and responding to, an employer's contract claim.

Rule 26 provides for an initial consideration of the claim and response. Rules 27 and 28 set out the process for the dismissal of all, or part, of the claim or response, if at this stage the Tribunal considers that the claim, response, or the part in question, has no reasonable prospect of success.

Rules 29 to 40 set out the Employment Tribunals' case management and other powers and the procedure for making applications for case management orders.

Rule 29 sets out the Employment Tribunals' general power to manage proceedings.

Rule 30 sets out the procedure for making applications for case management orders.

Rule 36 introduces a lead case mechanism, which enables an Employment Tribunal to identify claims giving rise to common or related issues of fact and law, specify one or more of those claims as a lead claim, and stay (in Scotland sist) the other claims. The related cases shall be bound by decisions in the lead case on the related issues, although a party may apply for such a decision not to apply to a related case.

Rule 37 provides the Employment Tribunals with the power to strike out all or part of a claim or response if one the specified grounds applies.

Rule 38 provides that an unless order may specify that all or part of a claim or response shall be struck out if the order is not complied with by a specified date.

Rule 39 provides that where an Employment Tribunal considers that a specific allegation or argument in a claim or response has little reasonable prospect of success it can order the relevant party to pay a deposit of up to £1,000 as a condition of continuing to advance that allegation or argument.

Rule 40 sets out the consequences which will follow if a party fails to pay any fee required under any enactment.

Rules 41 to 50 set out the rules common to all kinds of hearings, including rules on written representations (rule 42), witnesses (rule 43) and timetabling (rule 45).

Rule 50 provides that an Employment Tribunal may make an order to prevent or restrict disclosure of any aspect of proceedings so far as necessary in the interests of justice. Paragraph (3) lists examples of orders which may be made under this rule. Any person with a legitimate interest may, if he or she did not have opportunity to make representations before the order was made, apply for such an order to be revoked or discharged.

Rules 51 and 52 set out the procedure for withdrawal of a claim and provide for dismissal following withdrawal.

Rules 53 to 56 set out the scope of, and procedure for, preliminary hearings. Rules 57 to 59 set out the scope of, and procedure for, final hearings.

Rules 60 and 61 concern decisions made by an Employment Tribunal and rule 62 concerns reasons given by an Employment Tribunal.

Rule 65 sets out when a judgment or order takes effect and rule 66 sets out the time for compliance with a judgment or order which requires the payment of money.

Rules 70 to 73 set out the procedure for reconsideration by an Employment Tribunal of a judgment.

Rules 74 to 84 describe the circumstances in which a costs (in Scotland, expenses), preparation time, or wasted costs order may be made.

Rules 85 to 91 concern the requirements on delivery of documents to an Employment Tribunal, parties and non-parties.

Rule 92 introduces a new requirement on parties to copy all communications which they send to an Employment Tribunal to all other parties.

Rule 99 provides that proceedings may be transferred between Scotland and England and Wales.

Rule 104 modifies the application of the rest of Schedule 1 in relation to levy appeals under the Industrial Training Act 1982 (modifications for such proceedings appeared in Schedule 3 to the 2004 Regulations).

Rule 105 modifies the application of the rest of Schedule 1 in relation to appeals against an improvement or prohibition notice under the Health and Safety at Work etc. Act 1974 (modifications for such proceedings appeared in Schedule 4 to the 2004 Regulations).

Rule 106 modifies the application of the rest of Schedule 1 in relation to appeals against an unlawful act notice under the Equality Act 2006 (modifications for such proceedings appeared in Schedule 5 to the 2004 Regulations).

Schedule 2 modifies the application of Schedule 1 in relation to proceedings in which a direction is given, or an order is made, under rule 94 (national security proceedings) of Schedule 1.

Schedule 3 modifies the application of Schedule 1 in relation to proceedings involving an equal value claim (as defined in rule 1 of Schedule 3).