

## SCHEDULES

### SCHEDULE 11

#### EMPLOYMENT APPEAL TRIBUNAL

##### PART I

###### PROVISIONS AS TO MEMBERSHIP, SITTINGS, PROCEEDINGS AND POWERS

###### *Tenure of office of appointed members of Appeal Tribunal*

- 1 Subject to paragraphs 2 and 3, a member of the Appeal Tribunal appointed by Her Majesty under section 135(2)(c) (in this Schedule referred to as an "appointed member") shall hold and vacate office as such a member in accordance with the terms of his appointment.
- 2 An appointed member may at any time resign his membership by notice in writing addressed to the Lord Chancellor and the Secretary of State.
- 3 (1) If the Lord Chancellor, after consultation with the Secretary of State, is satisfied that an appointed member
- (a) has been absent from sittings of the Appeal Tribunal for a period longer than six consecutive months without the permission of the President of the Tribunal; or
  - (b) has become bankrupt or made an arrangement with his creditors; or
  - (c) is incapacitated by physical or mental illness; or
  - (d) is otherwise unable or unfit to discharge the functions of a member;
- the Lord Chancellor may declare his office as a member to be vacant and shall notify the declaration in such manner as the Lord Chancellor thinks fit; and thereupon the office shall become vacant
- (2) In the application of this paragraph to Scotland for the references in sub-paragraph (1) (b) to a member's having become bankrupt and to a member's having made an arrangement with his creditors there shall be substituted respectively references to a member's estate having been sequestrated and to a member's having made a trust deed for behoof of his creditors or a composition contract

###### *Temporary membership of Appeal Tribunal*

- 4 At any time when the office of President of the Appeal Tribunal is vacant, or the person holding that office is temporarily absent or otherwise unable to act as President of the Tribunal, the Lord Chancellor may nominate another judge nominated under section 135(2)(a) to act temporarily in his place.
- 5 At any time when a judge of the Appeal Tribunal nominated by the Lord Chancellor is temporarily absent or otherwise unable to act as a judge of that Tribunal, the Lord

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Chancellor may nominate another person who is qualified to be nominated under section 135(2)(a) to act temporarily in his place.

6 At any time when a judge of the Appeal Tribunal nominated by the Lord President of the Court of Session is temporarily absent or otherwise unable to act as a judge of the Appeal Tribunal, the Lord President may nominate another judge of the Court of Session to act temporarily in his place.

7 At any time when an appointed member is temporarily absent or otherwise unable to act as a member of the Appeal Tribunal the Lord Chancellor and the Secretary of State may jointly appoint a person appearing to them to have the qualifications for appointment as such a member to act temporarily in his place.

8 (1) At any time when it appears to the Lord Chancellor that it is expedient to do so in order to facilitate in England and Wales the disposal of business in the Appeal Tribunal, he may appoint a qualified person to be a temporary additional judge of the Tribunal during such period or on such occasions as the Lord Chancellor thinks fit.

(2) In this paragraph " qualified person " means a person qualified for appointment as a puisne judge of the High Court under section 9 of the Supreme Court of Judicature (Consolidation) Act 1925 or any person who has held office as a judge of the Court of Appeal or of the High Court.

9 A person appointed to act temporarily in place of the President or any other member of the Appeal Tribunal shall, when so acting, have all the functions of the person in whose place he acts.

10 A person appointed to be a temporary additional judge of the Appeal Tribunal shall have all the functions of a judge nominated under section 135(2)(a).

11 No judge shall be nominated under paragraph 5 or 6 except with his consent.

#### *Organisation and sittings of Appeal Tribunal*

12 The Appeal Tribunal shall be a superior court of record and shall have an official seal which shall be judicially noticed.

13 The Appeal Tribunal shall have a central office in London.

14 The Appeal Tribunal may sit at any time and in any place in Great Britain.

15 The Appeal Tribunal may sit, in accordance with directions given by the President of the Tribunal, either as a single tribunal or in two or more divisions concurrently.

16 With the consent of the parties to any proceedings before the Appeal Tribunal, the proceedings may be heard by a judge and one appointed member, but, in default of such consent, any proceedings before the Tribunal shall be heard by a judge and either two or four appointed members, so that in either case there are equal number of persons whose experience is as representatives of employers and whose experience is as representatives of workers.

#### *Rules*

17 (1) The Lord Chancellor, after consultation with the Lord President of the Court of Session, shall make rules with respect to proceedings before the Appeal Tribunal.

(2) Subject to those rules, the Tribunal shall have power to regulate its own procedure.

- 18 Without prejudice to the generality of paragraph 17 the rules may include provision—
- (a) with respect to the manner in which an appeal may be brought and the time within which it may be brought;
  - (b) for requiring persons to attend to give evidence and produce documents, and for authorising the administration of oaths to witnesses;
  - (c) enabling the Appeal Tribunal to sit in private for the purpose of hearing evidence to hear which an industrial tribunal may sit in private by virtue of paragraph 1 of Schedule 9.
- 19 (1) Without prejudice to the generality of paragraph 17 the rules may empower the Appeal Tribunal to order a party to any proceedings before the Tribunal to pay to any other party to the proceedings the whole or part of the costs or expenses incurred by that other party in connection with the proceedings, where in the opinion of the Tribunal—
- (a) the proceedings were unnecessary, improper or vexatious, or
  - (b) there has been unreasonable delay or other unreasonable conduct in bringing or conducting the proceedings.
- (2) Except as provided by sub-paragraph (1), the rules shall not enable the Appeal Tribunal to order the payment of costs or expenses by any party to proceedings before the Tribunal.
- 20 Any person may appear before the Appeal Tribunal in person or be represented by counsel or by a solicitor or by a representative of a trade union or an employers' association or by any other person whom he desires to represent him.

#### *Powers of Tribunal*

- 21 (1) For the purpose of disposing of an appeal the Appeal Tribunal may exercise any powers of the body or officer from whom the appeal was brought or may remit the case to that body or officer.
- (2) Any decision or award of the Appeal Tribunal on an appeal shall have the same effect and may be enforced in the same manner as a decision or award of a body or officer from whom the appeal was brought.
- 22 (1) The Appeal Tribunal shall, in relation to the attendance and examination of witnesses, the production and inspection of documents and all other matters incidental to its jurisdiction, have the like powers, rights, privileges and authority—
- (a) in England and Wales, as the High Court,
  - (b) in Scotland, as the Court of Session.
- (2) No person shall be punished for contempt of the Tribunal except by, or with the consent of, a judge.
- 23 (1) In relation to any fine imposed by the Appeal Tribunal for contempt of the Tribunal section 14 of the Criminal Justice Act 1948 and section 47 of the Criminal Justice Act 1967 (which relate to fines imposed and recognizances forfeited at certain courts) shall have effect as if in those provisions any reference to the Crown Court included a reference to the Tribunal.
- (2) A magistrates' court shall not remit the whole or any part of a fine imposed by the Appeal Tribunal except with the consent of a judge who is a member of the Tribunal.

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(3) This paragraph does not extend to Scotland.

*Staff*

24 The Secretary of State may appoint such officers and servants of the Appeal Tribunal as he may determine, subject to the approval of the Minister for the Civil Service as to numbers and as to terms and conditions of service.