

SCHEDULE 1

INDUSTRIAL TRIBUNAL RULES OF PROCEDURE

How to bring a claim

Starting a claim

1.—(1) A claim shall be brought before an industrial tribunal by the claimant presenting to the Office of the Tribunals the details of the claim in writing. Those details must include all the relevant required information (subject to paragraph (5) and rule 53).

(2) Subject to paragraph (3), unless it is a claim in proceedings described in regulation 10(3), a claim which is presented on or after 1st October 2005 must be presented on a claim form which has been prescribed by the Department in accordance with regulation 10.

(3) Where a claim described in paragraph (2) has not been presented using the prescribed form but the Secretary is satisfied that –

- (a) the information provided in the claim is substantially the same as the information which would have been provided had the prescribed form been used; and
- (b) the form in which the claim is presented is not calculated to mislead,

that claim shall be taken to have been presented on a claim form prescribed by the Department in accordance with regulation 10.

(4) Subject to paragraph (5) and to rule 53, the required information in relation to the claim is –

- (a) each claimant's name;
- (b) each claimant's gender;
- (c) each claimant's date of birth;
- (d) each claimant's address;
- (e) the name of each person against whom the claim is made ("the respondent");
- (f) each respondent's address;
- (g) details of the claim;
- (h) whether or not the claimant is or was an employee of the respondent;
- (i) whether or not the claim includes a complaint that the respondent has dismissed the claimant or has contemplated doing so;
- (j) whether or not the claimant has raised the subject matter of the claim with the respondent in writing at least 28 days prior to presenting the claim to the Office of the Tribunals; and
- (k) if the claimant has not done as described in sub-paragraph (j), why he has not done so.

(5) In the following circumstances the required information identified below is not required to be provided in relation to that claim –

- (a) if the claimant is not or was not an employee of the respondent, the information in paragraph (4)(i) to (k) is not required;
- (b) if the claimant was an employee of the respondent and the claim consists only of a complaint that the respondent has dismissed the claimant or has contemplated doing so, the information in paragraph (4)(j) and (k) is not required;
- (c) if the claimant was an employee of the respondent and the claim does not relate to the claimant being dismissed or a contemplated dismissal by the respondent, and the claimant

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has raised the subject matter of the claim with the respondent as described in paragraph (4) (h), the information in paragraph (4)(k) is not required.

(6) References in this rule to being dismissed or a dismissal by the respondent do not include references to constructive dismissal.

(7) Two or more claimants may present their claims in the same document if their claims arise out of the same set of facts.

(8) When Article 19 of the Employment Order applies to the claim or part of one and a chairman considers in accordance with paragraph (6) of Article 19 that there has been a breach of paragraphs (2) to (4) of that Article, neither a chairman nor a tribunal shall consider the substance of the claim (or the relevant part of it) until such time as those paragraphs have been complied with in relation to the claim or the relevant part of it.