

SCHEDULE 1

FAIR EMPLOYMENT TRIBUNAL RULES OF PROCEDURE

Wasted costs orders against representatives

Personal liability of representatives for costs

- 42.—(1) A tribunal or chairman may make a wasted costs order against a party’s representative.
- (2) In a wasted costs order the tribunal or chairman may –
- (a) disallow, or order the representative of a party to meet, the whole or part of any wasted costs of any party (including an order that the representative repay to his client any costs which have already been paid); and
 - (b) order the representative to pay to the Department, in whole or in part, any allowances paid by the Department to any person for the purposes of, or in connection with, that person’s attendance at the tribunal by reason of the representative’s conduct of the proceedings.
- (3) “Wasted costs” means any costs incurred by a party –
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any representative; or
 - (b) which, in the light of any such act or omission occurring after they were incurred, the tribunal or chairman considers it unreasonable to expect that party to pay.
- (4) In this rule “representative” means a party’s legal or other representative or any employee of such representative, but it does not include a representative who is not acting in pursuit of profit with regard to those proceedings.
- (5) A wasted costs order may be made in favour of a party whether or not that party is legally represented and such an order 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 an employee of a party.
- (6) Before making a wasted costs order, the tribunal or chairman shall give the representative a reasonable opportunity to make oral or written representations as to reasons why such an order should not be made. The tribunal or chairman may also have regard to the representative’s ability to pay when considering whether to make a wasted costs order or how much that order should be.
- (7) Where a tribunal or chairman makes a wasted costs order, it or he must specify in the order the amount to be disallowed or paid.
- (8) The Secretary shall inform the representative’s client in writing –
- (a) of any proceedings under this rule; or
 - (b) of any order made under this rule against the party’s representative.
- (9) Where a tribunal or chairman makes a wasted costs order it or he shall provide written reasons for doing so if a request is made for written reasons within 14 days of the date of the wasted costs order. This 14 day time limit may not be extended under rule 9. The Secretary shall send a copy of the written reasons to all parties to the proceedings.