

SCHEDULE 1

THE INDUSTRIAL TRIBUNALS AND FAIR EMPLOYMENT TRIBUNAL RULES OF PROCEDURE 2020

PART 9

PRELIMINARY HEARINGS

Scope of preliminary hearings

47.—(1) A preliminary hearing is a hearing at which the tribunal, notwithstanding any steps taken under rule 24, 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 32;
- (d) make a deposit order under rule 34;
- (e) explore alternative means of resolving the issues in dispute, including the use of conciliation.

(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

48.—(1) A preliminary hearing may be directed by the tribunal on its own initiative following early case management under rule 24, at any time thereafter or as the result of an application by a party and the parties shall be given reasonable notice of the date of the hearing.

(2) Where the hearing involves any preliminary issues, that notice shall be given at least 14 days prior to the hearing unless the parties agree to shorter notice and shall specify the preliminary issues that are to be, or may be, decided at the hearing.

Constitution of tribunal for preliminary hearings

49. Preliminary hearings shall be conducted by an employment judge alone unless—

- (a) notice has been given under rule 48(2) that any preliminary issues are to be, or may be, decided at the hearing; and
- (b) a party has requested in writing that the hearing be conducted by an employment judge acting with either one or two other members in accordance with regulation 10,

and in that case an employment judge shall decide whether it would be desirable for the hearing to proceed in accordance with the party’s request.

When preliminary hearings shall be in public

50. Preliminary hearings shall be conducted in private, except that where the hearing involves a determination under rule 47(1)(b) (preliminary issues) or (c) (striking out), any part of the hearing relating to such a determination shall be in public, subject to rule 44 (privacy and restrictions on

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disclosure) and rules 91 and 92 (national security), and the tribunal may direct that the entirety of the hearing be in public.