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SCHEDULES

SCHEDULE 11

EMPLOYMENT APPEAL TRIBUNAL

PART I

PROVISIONS AS TO MEMBERSHIP, SITTINGS, PROCEEDINGS AND POWERS

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;
- [^{F1}(aa) with respect to the manner in which an application to the Appeal Tribunal under section 5 of the Employment Act 1980 [^{F2}or section 5 of the Employment Act 1988] may be made;]
- (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.
- [^{F3}(d) for the registration and proof of any award made on an application to the Appeal Tribunal under section 5 of the Employment Act 1980 [^{F2}or section 5 of the Employment Act 1988].]
- [^{F4}(e) for interlocutory proceedings to be dealt with otherwise than in accordance with paragraph 16.]

Textual Amendments

F1 Para. 18(aa) inserted by Employment Act 1980 (c. 42, SIF 43:5), Sch. 1 para. 28

F2 Words inserted by Employment Act 1988 (c. 19, SIF 43:5), s. 33(1), Sch. 3 Pt. I para. 2(5)

F3 Para. 18(d) inserted by Employment Act 1980 (c. 42, SIF 43:5), Sch. 1 para. 28

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F4 Para. 18(e) inserted by Employment Act 1982 (c. 46, SIF 43:5), **Sch. 3 para. 8**

VALID FROM 30/08/1993

- [^{F5}18A(1) Without prejudice to the generality of paragraph 17 the rules may, as respects proceedings to which this paragraph applies, include provision—
- (a) for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation; and
 - (b) for cases involving allegations of sexual misconduct, enabling the Appeal Tribunal, on the application of any party to the proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the Appeal Tribunal.
- (2) This paragraph applies to—
- (a) proceedings on an appeal against a decision of an industrial tribunal to make, or not to make, a restricted reporting order; and
 - (b) proceedings on an appeal against any interlocutory decision of an industrial tribunal in proceedings in which the industrial tribunal has made a restricted reporting order which it has not revoked.
- (3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
 - (b) in the case of publication in any other form, the person publishing the matter; and
 - (c) in the case of matter included in a relevant programme—
 - (i) any body corporate engaged in providing the service in which the programme is included; and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (4) Where a person is charged with an offence under sub-paragraph (3) it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the matter in question.
- (5) Where an offence under sub-paragraph (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,

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he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(6) In relation to a body corporate whose affairs are managed by its members “director”, in sub-paragraph (5), means a member of the body corporate.

(7) In this paragraph—

“identifying matter”, in relation to a person, means any matter likely to lead members of the public to identify him as a person affected by, or as the person making, the allegation;

“restricted reporting order” means an order prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain;

“sexual misconduct” means the commission of a sexual offence, sexual harassment or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed;

“sexual offence” means any offence to which section 141A(2) of the ^{M1}Criminal Procedure (Scotland) Act 1975, section 4 of the ^{M2}Sexual Offences (Amendment) Act 1976 or the ^{M3}Sexual Offences (Amendment) Act 1992 applies (offences under the ^{M4}Sexual Offences Act 1956, the ^{M5}Sexual Offences (Scotland) Act 1976 and certain other enactments);

and “written publication” and “relevant programme” have the same meaning as in that Act of 1992.]

Textual Amendments

F5 Sch. 11 para. 18A inserted (30.8.1993) by 1993 c. 19, s. 41(1); S.I. 1993/1908, art. 2(1), Sch.1

Marginal Citations

M1 1975 c. 21.

M2 1976 c. 82.

M3 1992 c. 34.

M4 1956 c. 69.

M5 1976 c. 67.

- 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.

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- (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.

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