



# Employment Tribunals Act 1996

## 1996 CHAPTER 17

### <sup>F1</sup>PART I

#### [<sup>F1</sup>EMPLOYMENT TRIBUNALS]

##### *Membership etc.*

#### [<sup>F1</sup>3A Meaning of “Employment Judge”

A person who is a member of a panel of [<sup>F2</sup> Employment Judges ] which is appointed in accordance with regulations under section 1(1) may be referred to as an Employment Judge.]

#### Textual Amendments

- F1** S. 3A inserted (1.12.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 36](#); [S.I. 2007/2709, art. 4](#)
- F2** Words in s. 3A substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 13\(1\)](#); [S.I. 2013/2200, art. 3\(g\)](#)

#### [<sup>F3</sup>4 Composition of tribunals.

- (1) An employment tribunal is, for the purpose of deciding any given matter, to be composed of a member or members chosen by the Senior President of Tribunals.
- (2) The member, or each member, chosen must belong to a panel of members of employment tribunals appointed in accordance with regulations under section 1(1).
- (3) The Senior President of Tribunals (or any person to whom the function under subsection (1) is delegated)—
  - (a) must act in accordance with regulations under subsection (4);
  - (b) may choose themselves (if eligible in accordance with regulations under section 1(1)).

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- (4) The Lord Chancellor must by regulations make provision, in relation to every matter that may fall to be decided by an employment tribunal, for determining the number of members who are to compose the tribunal.
- (5) Where regulations under subsection (4) provide for a tribunal to be composed of a single member, the regulations must provide for that member to be an Employment Judge.
- (6) Where regulations under subsection (4) provide for a tribunal to be composed of more than one member, the regulations—
- (a) must provide for at least one of those members to be an Employment Judge,
  - (b) must make provision for determining how many (if any) of the other members are to be Employment Judges and how many (if any) are to be members who are not Employment Judges, and
  - (c) if the tribunal is to include one or more members who are not Employment Judges, may make provision for determining what qualifications (if any) that member or any of those members must have.
- (7) A duty under subsection (4) or (6) to provide for the determination of anything may be discharged by providing for the thing to be determined by the Senior President of Tribunals or the President of Employment Tribunals in accordance with any provision made under that subsection.
- (8) The power under subsection (6)(c) may be exercised by giving the Senior President of Tribunals or the President of Employment Tribunals power to determine what qualifications are required in accordance with any provision made by the regulations.
- (9) Where a tribunal is to be composed of more than one member, the tribunal may proceed in the absence of one or more of the members chosen to compose it if—
- (a) the parties to the case agree, and
  - (b) at least one of the members who is present is an Employment Judge.
- (10) Where a person (other than an Employment Judge) is chosen as one of the members composing a tribunal but does not have a qualification required by virtue of subsection (6)(c), the tribunal may still proceed with that person as a member if the parties to the case agree.
- (11) Before making regulations under this section, the Lord Chancellor must consult the Senior President of Tribunals.
- (12) In this section—
- “President of Employment Tribunals”—
- (a) in relation to employment tribunals in England and Wales, means the President of Employment Tribunals (England and Wales), and
  - (b) in relation to employment tribunals in Scotland, means the President of Employment Tribunals (Scotland);
- “qualification” includes experience.]

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#### Textual Amendments

**F3** S. 4 substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), ss. 35(2), 51(4) (with s. 36); S.I. 2023/1194, reg. 2(b) (with reg. 3)

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## 5 Remuneration, fees and allowances.

- (1) The [<sup>F4</sup>Lord Chancellor] may pay to—
- (a) the [<sup>F5</sup>President of the Employment Tribunals (England and Wales)],
  - (b) the [<sup>F5</sup>President of the Employment Tribunals (Scotland)], <sup>F6</sup> . . .
  - <sup>F7</sup>(c) any person who is an Employment Judge on a full-time basis, and
  - <sup>F8</sup>(d) any person who is a legal officer appointed in accordance with such regulations,
- such remuneration [<sup>F9</sup> and such allowances] as he may with the consent of the Treasury determine.
- (2) The [<sup>F10</sup>Lord Chancellor] may pay to—
- (a) members of [<sup>F5</sup>employment tribunals],
  - (b) any assessors appointed for the purposes of proceedings before [<sup>F5</sup>employment tribunals], and
  - (c) any persons required for the purposes of section [<sup>F11</sup> 131(2) of the Equality Act 2010] to prepare reports,
- such fees and allowances as he may with the consent of the Treasury determine.
- (3) The [<sup>F12</sup>Lord Chancellor] may pay to any other persons such allowances as he may with the consent of the Treasury determine for the purposes of, or in connection with, their attendance at [<sup>F5</sup>employment tribunals].

### Textual Amendments

- F4** Words in s. 5(1) substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\), ss. 38\(a\), 51\(4\); S.I. 2023/1194, reg. 2\(d\)](#)
- F5** Words in s. 5(1)(a)(b)(2)(a)(b)(3) substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)\(b\)\(d\)\(e\) \(with s. 16\(2\)\); S.I. 1998/1658, art. 2\(1\), Sch. 1](#)
- F6** Word in s. 5(1)(b) repealed (1.8.1998) by [1998 c. 8, s. 15, Sch. 2; S.I. 1998/1658, art. 2\(1\), Sch. 1](#)
- F7** S. 5(1)(c) substituted (1.12.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 48\(1\), 148, Sch. 8 para. 39; S.I. 2007/ 2709, {art. 4}](#)
- F8** S. 5(1)(d) and word “and” immediately preceding inserted (1.8.1998) by [1998 c. 8, s. 15, Sch. 1 para. 13; S.I. 1998/1658, art. 2\(1\), Sch. 1](#)
- F9** Words in s. 5(1) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(b\)\(ii\), Sch. 2 para. 15](#)
- F10** Words in s. 5(2) substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\), ss. 38\(a\), 51\(4\); S.I. 2023/1194, reg. 2\(d\)](#)
- F11** Words in s. 5(2)(c) substituted by [Equality Act 2010 \(c. 15\), Sch. 26 Pt. 1 para. 28 \(as inserted \(1.10.2010\) by S.I. 2010/2279, art. 1\(2\), Sch. 1 para. 5 \(see S.I. 2010/2317, art. 2\)\)](#)
- F12** Words in s. 5(3) substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\), ss. 38\(a\), 51\(4\); S.I. 2023/1194, reg. 2\(d\)](#)

### [<sup>F13</sup>5A Training etc.

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of members of panels of members of employment tribunals (in their capacities as members of such panels, whether or not panels of [<sup>F14</sup>Employment Judges ]).

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#### Textual Amendments

- F13** Ss. 5A-5D inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 40](#); S.I. 2008/2696, art. 5(c)(i) (with art. 3)
- F14** Words in s. 5A substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 13\(1\)](#); S.I. 2013/2200, art. 3(g)

### 5B Members of employment tribunals: removal from office

- (1) Any power by which the President of the Employment Tribunals (England and Wales) may be removed from that office may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.
- (2) Any power by which the President of the Employment Tribunals (Scotland) may be removed from that office may be exercised only with the concurrence of the Lord President of the Court of Session.
- (3) Any power by which a member of a panel may be removed from membership of the panel—
  - (a) may, if the person exercises functions wholly or mainly in Scotland, be exercised only with the concurrence of the Lord President of the Court of Session;
  - (b) may, if paragraph (a) does not apply, be exercised only with the concurrence of the Lord Chief Justice of England and Wales.
- (4) In subsection (3) “panel” means—
  - (a) a panel of [<sup>F15</sup> Employment Judges ], or
  - (b) any other panel of members of employment tribunals,
 which is appointed in accordance with regulations made under section 1(1).
- (5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

#### Textual Amendments

- F13** Ss. 5A-5D inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 40](#); S.I. 2008/2696, art. 5(c)(i) (with art. 3)
- F15** Words in s. 5B(4) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 13\(1\)](#); S.I. 2013/2200, art. 3(g)

### 5C Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
  - (a) who is appointed—
    - (i) as President of the Employment Tribunals (England and Wales),
    - (ii) as President of the Employment Tribunals (Scotland), or

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- (iii) as a member of a panel (as defined in section 5B(4)), and
  - (b) who has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
- (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a President or panel member appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.

#### Textual Amendments

**F13** Ss. 5A-5D inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 40](#); S.I. 2008/2696, art. 5(c)(i) (with art. 3)

## 5D Judicial assistance

- (1) Subsection (2) applies where regulations under section 1(1) make provision for a relevant tribunal judge, or a relevant judge, to be able by virtue of his office to act as a member of a panel of members of employment tribunals.
- (2) The provision has effect only if—
- (a) the persons in relation to whom the provision operates have to be persons nominated for the purposes of the provision by the Senior President of Tribunals,
  - (b) its operation in relation to a panel established for England and Wales in any particular case requires the consent of the President of Employment Tribunals (England and Wales),
  - (c) its operation in relation to a panel established for Scotland in any particular case requires the consent of the President of Employment Tribunals (Scotland),
  - (d) its operation as respects a particular relevant judge requires—
    - (i) the consent of the relevant judge, and
    - (ii) the appropriate consent (see subsection (3)) [<sup>F16</sup>except where the relevant judge is the Lord Chief Justice of England and Wales ], and

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- (e) it operates as respects a relevant tribunal judge or a relevant judge only for the purpose of enabling him to act as a member of a panel of [<sup>F17</sup> Employment Judges ] .
- (3) In subsection (2)(d)(ii) “the appropriate consent” means—
- (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
- (i) [<sup>F18</sup>the Master of the Rolls or] an ordinary judge of the Court of Appeal in England and Wales,  
[ within subsection (4)(b)(ia),]
  - <sup>F19</sup>(ia) (ii) a puisne judge of the High Court in England and Wales,
  - (iii) a circuit judge,
  - (iv) a district judge in England and Wales, <sup>F20</sup> ...
  - (v) a District Judge (Magistrates' Courts); [<sup>F21</sup>, or
  - (vi) within subsection (4)(b)(x) to (xvi);]
- (b) the consent of the Lord President of the Court of Session where the relevant judge is—
- (i) a judge of the Court of Session, or
  - (ii) a sheriff;
- (c) the consent of the Lord Chief Justice of Northern Ireland where the relevant judge is—
- (i) a Lord Justice of Appeal in Northern Ireland,
  - (ii) a puisne judge of the High Court in Northern Ireland,
  - (iii) a county court judge in Northern Ireland, or
  - (iv) a district judge in Northern Ireland.
- (4) In this section—
- (a) “relevant tribunal judge” means—
- (i) a person who is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
  - (ii) a transferred-in judge of the First-tier Tribunal,
  - (iii) a person who is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to that Act,
  - (iv) a transferred-in judge of the Upper Tribunal,
  - (v) a deputy judge of the Upper Tribunal, <sup>F22</sup> ...
  - (vi) a person who is the Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, and does not fall within any of sub-paragraphs (i) to (v); [<sup>F23</sup>, or
  - (vii) is the Senior President of Tribunals;]
- (b) “relevant judge” means a person who—
- (i) is [<sup>F24</sup>the Lord Chief Justice of England and Wales, the Master of the Rolls or] an ordinary judge of the Court of Appeal in England and Wales (including the vice-president, if any, of either division of that Court),  
[ is the President of the Queen's Bench Division or Family Division, or
  - <sup>F25</sup>(ia) the Chancellor, of the High Court in England and Wales,]
  - (ii) is a Lord Justice of Appeal in Northern Ireland,

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- (iii) is a judge of the Court of Session,
- (iv) is a puisne judge of the High Court in England and Wales or Northern Ireland,
- (v) is a circuit judge,
- (vi) is a sheriff in Scotland,
- (vii) is a county court judge in Northern Ireland,
- (viii) is a district judge in England and Wales or Northern Ireland, <sup>F26</sup> ...
- (ix) is a District Judge (Magistrates' Courts).
- [ is a deputy judge of the High Court in England and Wales, <sup>F27</sup>(x)
- (xi) is a Recorder,
- (xii) is a Deputy District Judge (Magistrates' Courts),
- (xiii) is a deputy district judge appointed under section 8 of the County Courts Act 1984 or section 102 of the Senior Courts Act 1981,
- (xiv) holds an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc),
- (xv) holds an office listed in column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc), or
- (xvi) is the Judge Advocate General or a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General).]

(5) References in subsection (4)(b)(iii) to (ix) to office-holders do not include deputies or temporary office-holders.]

#### Textual Amendments

- F13** Ss. 5A-5D inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(1), 148, [Sch. 8 para. 40](#); S.I. 2008/2696, art. 5(c)(i) (with art. 3)
- F16** Words in s. 5D(2)(d)(ii) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(2\)](#); S.I. 2013/2200, art. 3(g)
- F17** Words in s. 5D(2)(e) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 13\(1\)](#); S.I. 2013/2200, art. 3(g)
- F18** Words in s. 5D(3)(a)(i) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(3\)\(a\)](#); S.I. 2013/2200, art. 3(g)
- F19** S. 5D(3)(a)(ia) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(3\)\(b\)](#); S.I. 2013/2200, art. 3(g)
- F20** Word in s. 5D(3)(a) omitted (1.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(3\)\(c\)](#); S.I. 2013/2200, art. 3(g)
- F21** S. 5D(3)(a)(vi) and word inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(3\)\(c\)](#); S.I. 2013/2200, art. 3(g)
- F22** Word in s. 5D(4)(a)(v) omitted (1.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(4\)](#); S.I. 2013/2200, art. 3(g)
- F23** S. 5D(4)(a)(vii) and word inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(4\)](#); S.I. 2013/2200, art. 3(g)
- F24** Words in s. 5D(4)(b)(i) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(5\)](#); S.I. 2013/2200, art. 3(g)
- F25** S. 5D(4)(b)(ia) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(6\)](#); S.I. 2013/2200, art. 3(g)
- F26** Word in s. 5D(4)(b)(viii) omitted (1.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(7\)](#); S.I. 2013/2200, art. 3(g)

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**F27** S. 5D(4)(b)(x)-(xvi) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 12\(7\)](#); S.I. 2013/2200, art. 3(g)



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A(2F) inserted by [2022 c. 35 Sch. 4 para. 1\(2\)](#)
- s. 29A(11) inserted by [2022 c. 35 Sch. 4 para. 1\(3\)](#)
- s. 30A inserted by [2022 c. 35 Sch. 5 para. 19](#)
- Sch. A1 para. 21A inserted by [2022 c. 35 Sch. 4 para. 1\(4\)](#)