

*Changes to legislation:* There are currently no known outstanding effects for the  
Judicial Review and Courts Act 2022, Schedule 3. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

Section 19

#### PRACTICE DIRECTIONS FOR ONLINE PROCEEDINGS

#### PART 1

#### CIVIL PROCEEDINGS AND FAMILY PROCEEDINGS IN ENGLAND AND WALES

##### *Power to give practice directions*

- 1 Practice directions may be given in relation to—
- (a) civil proceedings in England and Wales that are governed by Online Procedure Rules;
  - (b) family proceedings in England and Wales that are governed by Online Procedure Rules.

##### **Commencement Information**

- I1** Sch. 3 para. 1 not in force at Royal Assent, see [s. 51\(4\)](#)  
**I2** [Sch. 3 para. 1](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

##### *Contents of practice directions*

- 2 (1) Practice directions under paragraph [1\(a\)](#) may provide for any matter which may be provided for in Online Procedure Rules for civil proceedings in England and Wales.
- (2) Practice directions under paragraph [1\(b\)](#) may provide for any matter which may be provided for in Online Procedure Rules for family proceedings in England and Wales.

##### **Commencement Information**

- I3** Sch. 3 para. 2 not in force at Royal Assent, see [s. 51\(4\)](#)  
**I4** [Sch. 3 para. 2](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

##### *Giving practice directions*

- 3 (1) Practice directions under paragraph [1](#) may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005.
- (2) Practice directions under paragraph [1](#) may be given otherwise than in accordance with that Part of that Schedule; but, in this case, the directions may not be given without the approval of—
- (a) the Lord Chancellor, and

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- (b) the Lord Chief Justice.
- (3) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
  - (a) the application or interpretation of the law;
  - (b) the making of judicial decisions.
- (4) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Lord Chief Justice required by sub-paragraph (2)(b)).

#### Commencement Information

- I5** Sch. 3 para. 3 not in force at Royal Assent, see [s. 51\(4\)](#)
- I6** [Sch. 3 para. 3](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

#### *Particular provision in practice directions*

- 4 The power under paragraph 1 to give practice directions includes power—
  - (a) to vary or revoke directions given under paragraph 1 by any person;
  - (b) to give directions containing different provision for different cases (including different areas);
  - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.

#### Commencement Information

- I7** Sch. 3 para. 4 not in force at Royal Assent, see [s. 51\(4\)](#)
- I8** [Sch. 3 para. 4](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

## PART 2

### PROCEEDINGS IN THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

#### *Power to give practice directions*

- 5 Practice directions may be given in relation to—
  - (a) proceedings in the First-tier Tribunal that are governed by Online Procedure Rules;
  - (b) proceedings in the Upper Tribunal that are governed by Online Procedure Rules.

#### Commencement Information

- I9** Sch. 3 para. 5 not in force at Royal Assent, see [s. 51\(4\)](#)
- I10** [Sch. 3 para. 5](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

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### *Contents of practice directions*

- 6 (1) Practice directions under paragraph 5(a) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the First-tier Tribunal.
- (2) Practice directions under paragraph 5(b) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the Upper Tribunal.

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#### **Commencement Information**

- I11** Sch. 3 para. 6 not in force at Royal Assent, see [s. 51\(4\)](#)
- I12** [Sch. 3 para. 6](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

### *Giving practice directions*

- 7 (1) The Senior President of Tribunals may give practice directions under paragraph 5 in relation to any proceedings.
- (2) The Senior President may not give practice directions without the approval of the Lord Chancellor.
- (3) A Chamber President may give practice directions under paragraph 5 in relation to proceedings in the Chamber of the First-tier Tribunal or Upper Tribunal over which the President presides.
- (4) A Chamber President may not give practice directions without the approval of—
- (a) the Lord Chancellor, and
  - (b) the Senior President of Tribunals.
- (5) Neither sub-paragraph (2) nor sub-paragraph (4)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
- (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the First-tier Tribunal or Upper Tribunal.
- (6) Neither sub-paragraph (2) nor sub-paragraph (4)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the First-tier Tribunal or Upper Tribunal may be chosen to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals if required by sub-paragraph (4)(b)).

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#### **Commencement Information**

- I13** Sch. 3 para. 7 not in force at Royal Assent, see [s. 51\(4\)](#)
- I14** [Sch. 3 para. 7](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

### *Particular provision in practice directions*

- 8 The power under paragraph 5 to give practice directions includes power—
- (a) to vary or revoke directions made in exercise of the power;
  - (b) to make different provision for different purposes (including different provision for different areas).

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#### **Commencement Information**

- I15** Sch. 3 para. 8 not in force at Royal Assent, see [s. 51\(4\)](#)  
**I16** [Sch. 3 para. 8](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

### **PART 3**

#### **PROCEEDINGS IN EMPLOYMENT TRIBUNALS AND THE EMPLOYMENT APPEAL TRIBUNAL**

##### *Power to give practice directions*

- 9 Practice directions may be given in relation to—
- (a) proceedings in employment tribunals that are governed by Online Procedure Rules;
  - (b) proceedings in the Employment Appeal Tribunal that are governed by Online Procedure Rules.

#### **Commencement Information**

- I17** Sch. 3 para. 9 not in force at Royal Assent, see [s. 51\(4\)](#)  
**I18** [Sch. 3 para. 9](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

##### *Contents of practice directions*

- 10 (1) Practice directions under paragraph [9\(a\)](#) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in employment tribunals.
- (2) Practice directions under paragraph [9\(b\)](#) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the Employment Appeal Tribunal.

#### **Commencement Information**

- I19** Sch. 3 para. 10 not in force at Royal Assent, see [s. 51\(4\)](#)  
**I20** [Sch. 3 para. 10](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

##### *Giving practice directions*

- 11 (1) The Senior President of Tribunals may give practice directions under paragraph [9](#) in relation to any proceedings.
- (2) The Senior President may not give practice directions without the approval of the Lord Chancellor.
- (3) The President of the Employment Appeal Tribunal may give practice directions under paragraph [9](#) in relation to proceedings in that Tribunal.
- (4) A territorial president may give practice directions under paragraph [9](#) in relation to proceedings in the employment tribunals for which the president is responsible.

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- (5) The President of the Employment Appeal Tribunal or a territorial president may not give practice directions without the approval of—
  - (a) the Lord Chancellor, and
  - (b) the Senior President of Tribunals.
- (6) Neither sub-paragraph (2) nor sub-paragraph (5)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the employment tribunals or of the Employment Appeal Tribunal.
- (7) Neither sub-paragraph (2) nor sub-paragraph (5)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the employment tribunals or the Employment Appeal Tribunal may be chosen to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals if required by sub-paragraph (5)(b)).
- (8) In this paragraph “territorial president” means a person appointed in accordance with regulations under section 1(1) of the Employment Tribunals Act 1996 as—
  - (a) President of Employment Tribunals (England and Wales), or
  - (b) President of Employment Tribunals (Scotland).

**Commencement Information**

- I21** Sch. 3 para. 11 not in force at Royal Assent, see [s. 51\(4\)](#)
- I22** [Sch. 3 para. 11](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

*Particular provision in practice directions*

- 12 The power under paragraph 9 to give practice directions includes power—
  - (a) to vary or revoke directions made in exercise of the power;
  - (b) to make different provision for different purposes (including different provision for different areas).

**Commencement Information**

- I23** Sch. 3 para. 12 not in force at Royal Assent, see [s. 51\(4\)](#)
- I24** [Sch. 3 para. 12](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

*Practice directions relating to mediation*

- 13 (1) A person exercising the power under paragraph 9 must, when making provision in relation to mediation, have regard to the following principles—
  - (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;
  - (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.

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- (2) Practice directions under paragraph 9 may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.
- (4) Before making a practice direction under paragraph 9 that makes provision in relation to mediation, the person making the direction must consult ACAS.
- (5) Once a member has begun to act, in accordance with a practice direction under paragraph 9, as mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (6) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (staff for employment and other tribunals) may, subject to their terms of appointment, act in accordance with practice directions under paragraph 9 as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (7) In this paragraph—
  - “ACAS” means the Advisory, Conciliation and Arbitration Service;
  - “member” means a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges);
  - “proceedings” means proceedings before an employment tribunal.

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**Commencement Information**

**I25** Sch. 3 para. 13 not in force at Royal Assent, see [s. 51\(4\)](#)

**I26** [Sch. 3 para. 13](#) in force at 28.6.2023 by [S.I. 2023/631](#), [reg. 2](#)

**Changes to legislation:**

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