SCHEDULE 1

THE EMPLOYMENT TRIBUNALS RULES OF PROCEDURE

Modifications etc. (not altering text)

C1 Sch. 1 applied (1.6.2015) by The Control of Major Accident Hazards Regulations 2015 (S.I. 2015/483), regs. 1(1), **23(6)** (with reg. 3(2))

CASE MANAGEMENT ORDERS AND OTHER POWERS

Case management orders

29. The Tribunal may at any stage of the proceedings, on its own initiative or on application, make a case management order. The particular powers identified in the following rules do not restrict that general power. A case management order may vary, suspend or set aside an earlier case management order where that is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.

Applications for case management orders

30.—(1) An application by a party for a particular case management order may be made either at a hearing or presented in writing to the Tribunal.

(2) Where a party applies in writing, they shall notify the other parties that any objections to the application should be sent to the Tribunal as soon as possible.

(3) The Tribunal may deal with such an application in writing or order that it be dealt with at a preliminary or final hearing.

[[F1]Postponements

30A.—(1) An application by a party for the postponement of a hearing shall be presented to the Tribunal and communicated to the other parties as soon as possible after the need for a postponement becomes known.

(2) Where a party makes an application for a postponement of a hearing less than 7 days before the date on which the hearing begins, the Tribunal may only order the postponement where—

(a) all other parties consent to the postponement and—

(i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement; or

(ii) it is otherwise in accordance with the overriding objective;

(b) the application was necessitated by an act or omission of another party or the Tribunal; or

(c) there are exceptional circumstances.

(3) Where a Tribunal has ordered two or more postponements of a hearing in the same proceedings on the application of the same party and that party makes an application for a further postponement, the Tribunal may only order a postponement on that application where—

(a) all other parties consent to the postponement and—

(i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement; or

(ii) it is otherwise in accordance with the overriding objective;

(b) the application was necessitated by an act or omission of another party or the Tribunal; or

(c) there are exceptional circumstances.

(4) For the purposes of this rule—

(a) references to postponement of a hearing include any adjournment which causes the hearing to be held or continued on a later date;

(b) "exceptional circumstances" may include ill health relating to an existing long term health condition or disability.**]**

Textual Amendments

F1 Sch. 1 rule 30A inserted (6.4.2016) by The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2016 (S.I. 2016/271), regs. 1, **2(3)** (with reg. 3)

Disclosure of documents and information

31. The Tribunal may order any person in Great Britain to disclose documents or information to a party (by providing copies or otherwise) or to allow a party to inspect such material as might be ordered by a county court or, in Scotland, by a sheriff.

Requirement to attend to give evidence

32. The Tribunal may order any person in Great Britain to attend a hearing to give evidence, produce documents, or produce information. **[**[F2]Where an order is made under this rule, the Tribunal shall notify the parties in writing that the order has been made, and the name of the person required to attend the hearing.**]**

Textual Amendments

F2 Words in Sch. 1 rule 32 inserted (8.10.2020) by The Employment Tribunals (Constitution and Rules of Procedure) (Early Conciliation: Exemptions and Rules of Procedure) (Amendment) Regulations 2020 (S.I. 2020/1003), regs. 1(2), **12**

Evidence from other EU Member States

[F3]**33.** . . . . . .

Textual Amendments

F3 Sch. 1 para. 33 omitted (31.12.2020) by virtue of The Employment Rights (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/535), reg. 1(1), **Sch. 1 para. 14(a)** (with Sch. 1 para. 22); 2020 c. 1, Sch. 5 para. 1(1)

Addition, substitution and removal of parties

34. The Tribunal may on its own initiative, or on the application of a party or any other person wishing to become a party, add any person as a party, by way of substitution or otherwise, if it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings; and may remove any party apparently wrongly included.

Other persons

35. The Tribunal may permit any person to participate in proceedings, on such terms as may be specified, in respect of any matter in which that person has a legitimate interest.

Lead cases

36.—(1) Where a Tribunal considers that two or more claims give rise to common or related issues of fact or law, the Tribunal [F4]... may make an order specifying one or more of those claims as a lead case and staying, or in Scotland sisting, the other claims ("the related cases").

(2) When the Tribunal makes a decision in respect of the common or related issues it shall send a copy of that decision to each party in each of the related cases and, subject to paragraph (3), that decision shall be binding on each of those parties.

(3) Within 28 days after the date on which the Tribunal sent a copy of the decision to a party under paragraph (2), that party may apply in writing for an order that the decision does not apply to, and is not binding on the parties to, a particular related case.

(4) If a lead case is withdrawn before the Tribunal makes a decision in respect of the common or related issues, it shall make an order as to—

(a) whether another claim is to be specified as a lead case; and

(b) whether any order affecting the related cases should be set aside or varied.

Textual Amendments

F4 Words in Sch. 1 rule 36(1) omitted (27.1.2024) by virtue of The Employment Tribunals and Employment Appeal Tribunal (Composition of Tribunal) Regulations 2024 (S.I. 2024/94), regs. 1(1), **8(5)(i)** (with reg. 9(b))

Striking out

37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—

(a) that it is scandalous or vexatious or has no reasonable prospect of success;

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;

(c) for non-compliance with any of these Rules or with an order of the Tribunal;

(d) that it has not been actively pursued;

(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect shall be as if no response had been presented, as set out in rule 21 above.

Unless orders

38.—(1) An order may specify that if it is not complied with by the date specified the claim or response, or part of it, shall be dismissed without further order. If a claim or response, or part of

it, is dismissed on this basis the Tribunal shall give written notice to the parties confirming what has occurred.

(2) A party whose claim or response has been dismissed, in whole or in part, as a result of such an order may apply to the Tribunal in writing, within 14 days of the date that the notice was sent, to have the order set aside on the basis that it is in the interests of justice to do so. Unless the application includes a request for a hearing, the Tribunal may determine it on the basis of written representations.

(3) Where a response is dismissed under this rule, the effect shall be as if no response had been presented, as set out in rule 21.

Deposit orders

39.—(1) Where at a preliminary hearing (under rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little reasonable prospect of success, it may make an order requiring a party ("the paying party") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument.

(2) The Tribunal shall make reasonable enquiries into the paying party's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.

(3) The Tribunal's reasons for making the deposit order shall be provided with the order and the paying party must be notified about the potential consequences of the order.

(4) If the paying party fails to pay the deposit by the date specified the specific allegation or argument to which the deposit order relates shall be struck out. Where a response is struck out, the consequences shall be as if no response had been presented, as set out in rule 21.

(5) If the Tribunal at any stage following the making of a deposit order decides the specific allegation or argument against the paying party for substantially the reasons given in the deposit order—

(a) the paying party shall be treated as having acted unreasonably in pursuing that specific allegation or argument for the purpose of rule 76, unless the contrary is shown; and

(b) the deposit shall be paid to the other party (or, if there is more than one, to such other party or parties as the Tribunal orders),

otherwise the deposit shall be refunded.

(6) If a deposit has been paid to a party under paragraph (5)(b) and a costs or preparation time order has been made against the paying party in favour of the party who received the deposit, the amount of the deposit shall count towards the settlement of that order.

Non-payment of fees

40.—(1) Subject to rule 11, where a party has not paid a relevant Tribunal fee or presented a remission application in respect of that fee the Tribunal will send the party a notice specifying a date for payment of the Tribunal fee or presentation of a remission application.

(2) If at the date specified in a notice sent under paragraph (1) the party has not paid the Tribunal fee and no remission application in respect of that fee has been presented—

(a) where the Tribunal fee is payable in relation to a claim, the claim shall be dismissed without further order;

(b) where the Tribunal fee is payable in relation to an employer's contract claim, the employer's contract claim shall be dismissed without further order;

(c) where the Tribunal fee is payable in relation to an application, the application shall be dismissed without further order;

(d) where the Tribunal fee is payable in relation to judicial mediation, the judicial mediation shall not take place.

(3) Where a remission application is refused in part or in full, the Tribunal shall send the claimant a notice specifying a date for payment of the Tribunal fee.

(4) If at the date specified in a notice sent under paragraph (3) the party has not paid the Tribunal fee, the consequences shall be those referred to in sub-paragraphs (a) to (d) of paragraph (2).

(5) In the event of a dismissal under paragraph (2) or (4) a party may apply for the claim or response, or part of it, which was dismissed to be reinstated and the Tribunal may order a reinstatement. A reinstatement shall be effective only if the Tribunal fee is paid, or a remission application is presented and accepted, by the date specified in the order.

Changes to legislation:
There are currently no known outstanding effects for the The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, CASE MANAGEMENT ORDERS AND OTHER POWERS.