
STATUTORY INSTRUMENTS

2020 No. 1003

The Employment Tribunals (Constitution and Rules of Procedure) (Early Conciliation: Exemptions and Rules of Procedure) (Amendment) Regulations 2020

Amendments to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

3. In regulation 8 (panels of members for tribunals)—
- (a) for paragraph (2)(a) substitute—
 - “(a) a panel of Employment Judges who—
 - (i) satisfy the criteria set out in regulation 5(2) and are appointed by the appointing office holder; or
 - (ii) are able to act as Employment Judges by virtue of paragraph (2A) or (2B);”;
 - (b) after paragraph (2) insert—
 - “(2A) A relevant tribunal judge⁽¹⁾ may act as an Employment Judge if the conditions in paragraph (2C) are satisfied.
 - (2B) A relevant judge may act as an Employment Judge if the conditions in paragraph (2C) are satisfied and—
 - (a) the relevant judge consents; and
 - (b) unless the relevant judge is the Lord Chief Justice of England and Wales, the appropriate consent has been given.
 - (2C) The conditions are—
 - (a) the judge is nominated by the Senior President of Tribunals; and
 - (b) the President who is responsible for the panel the judge will act as a member of consents to the judge acting in a particular case.
 - (2D) The relevant President must consult the other President before consenting under paragraph (2C)(b) to any individual judge acting for the first time as a member of the panel for which the relevant President is responsible.
 - (2E) A person who has been appointed to one panel of Employment Judges may act as a member of the other panel of Employment Judges if—
 - (a) the person is nominated by the Senior President of Tribunals; and
 - (b) the Presidents responsible for both panels consent to the person acting for such period as the Presidents shall specify.
 - (2F) Consent under paragraph (2E)(b) can be withdrawn at any time by either President.
 - (2G) In paragraph (2B)(b) “the appropriate consent” means—

(1) See section 5D(4)(a) of the Employment Tribunals Act 1996 (c.17) for the definition of a “relevant tribunal judge”.

- (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
- (i) the Master of the Rolls or an ordinary judge of the Court of Appeal in England and Wales;
 - (ii) the President of the Queen’s Bench Division or Family Division, or the Chancellor, of the High Court in England and Wales;
 - (iii) a puisne judge of the High Court in England and Wales;
 - (iv) a circuit judge;
 - (v) a district judge in England and Wales;
 - (vi) a District Judge (Magistrates’ Courts);
 - (vii) a deputy judge of the High Court in England and Wales;
 - (viii) a Recorder;
 - (ix) a Deputy District Judge (Magistrates’ Courts);
 - (x) a deputy district judge appointed under section 8 of the County Courts Act 1984(2) or section 102 of the Senior Courts Act 1981(3);
 - (xi) the holder of an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981(4) (senior High Court Masters etc);
 - (xii) the holder of an office listed in column 1 of Part 2 of Schedule 2 to that Act(5) (High Court Masters etc); or
 - (xiii) the Judge Advocate General or a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951(6) (assistants to the Judge Advocate General);
- (b) the consent of the Lord President where the relevant judge is—
- (i) a sheriff; or
 - (ii) a summary 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.
- (2H) In this regulation “relevant judge” means a person who—
- (a) is 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);

(2) 1984 c. 28, as amended by the Tribunals, Courts and Enforcement Act 2007 (c.15) and the Crime and Courts Act 2013 (c.22).
(3) 1981 c.54, as amended by the Tribunals, Courts and Enforcement Act 2007 (c.15) and the Crime and Courts Act 2013 (c.22).
(4) 1981 c.54, as amended by the Constitutional Reform Act 2005 (c.4), the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c.33) and the Alteration of Judicial Titles (Registrar in Bankruptcy of the High Court) Order 2018 (S.I. 2018/130).
(5) 1981 c. 54, as repealed in part by the Access to Justice Act 1999 (c.22).
(6) 1951 c.46, as amended by the Armed Forces Act 1996 (c.46), the Armed Forces Act 2001 (c.19) and the Tribunals, Courts and Enforcement Act 2007 (c.15).

- (b) is the President of the Queen’s Bench Division or Family Division, or the Chancellor, of the High Court in England and Wales;
 - (c) is a Lord Justice of Appeal in Northern Ireland;
 - (d) is a puisne judge of the High Court in England and Wales or Northern Ireland;
 - (e) is a circuit judge;
 - (f) is a sheriff in Scotland;
 - (g) is a summary sheriff;
 - (h) is a county court judge in Northern Ireland;
 - (i) is a district judge in England and Wales or Northern Ireland;
 - (j) is a District Judge (Magistrates’ Courts);
 - (k) is a deputy judge of the High Court in England and Wales;
 - (l) is a Recorder;
 - (m) is a Deputy District Judge (Magistrates’ Courts);
 - (n) is a deputy district judge appointed under section 8 of the County Courts Act 1984(7) or section 102 of the Senior Courts Act 1981(8);
 - (o) holds an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981(9) (senior High Court Masters etc);
 - (p) holds an office listed in column 1 of Part 2 of Schedule 2 to that Act(10) (High Court Masters etc); or
 - (q) is the Judge Advocate General or a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951(11) (assistants to the Judge Advocate General).
- (2I) References in paragraph (2H)(d) to (j) to office-holders do not include deputies or temporary office-holders.”.

(7) 1984 c.28, as amended by the Tribunals, Courts and Enforcement Act 2007 (c.15) and the Crime and Courts Act 2013 (c.22).
(8) 1981 c.54, as amended by the Constitutional Reform Act 2005 (c.4), the Tribunals, Courts and Enforcement Act 2007 c.15) and the Crime and Courts Act 2013 (c.22).
(9) 1981 c.54, as amended by the Constitutional Reform Act 2005 (c.4), the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c.33) and the Alteration of Judicial Titles (Registrar in Bankruptcy of the High Court) Order 2018 (S.I. 2018/130).
(10) 1981 c.54, as repealed in part by the Access to Justice Act 1999 (c.22).
(11) 1951 c.46, as amended by the Armed Forces Act 1996 (c.46), the Armed Forces Act 2001 (c.19) and the Tribunals, Courts and Enforcement Act 2007 (c.15).