



# Employment Rights (Dispute Resolution) Act 1998

## 1998 CHAPTER 8

### PART I

#### EMPLOYMENT TRIBUNALS

##### *Hearings etc.*

## **2 Determinations without a hearing or full hearing.**

In section 7 of the <sup>M1</sup>Employment Tribunals Act 1996 (which authorises the making of employment tribunal procedure regulations), after subsection (3) insert—

“(3A) Employment tribunal procedure regulations may authorise the determination of proceedings without any hearing (and in private) where the parties have given their written consent (whether or not they have subsequently withdrawn it).

(3B) Employment tribunal procedure regulations may authorise the determination of proceedings without hearing anyone other than the person or persons by whom the proceedings are brought (or his or their representatives) where—

- (a) the person (or, where more than one, each of the persons) against whom the proceedings are brought has done nothing to contest the case, or
- (b) it appears from the application made by the person (or, where more than one, each of the persons) bringing the proceedings that he is not (or they are not) seeking any relief which an employment tribunal has power to give or that he is not (or they are not) entitled to any such relief.

(3C) Employment tribunal procedure regulations may authorise the determination of proceedings without hearing anyone other than the person or persons by whom, and the person or persons against whom, the proceedings are brought (or his or their representatives) where—

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- (a) an employment tribunal is on undisputed facts bound by the decision of a court in another case to dismiss the case of the person or persons by whom, or of the person or persons against whom, the proceedings are brought, or
- (b) the proceedings relate only to a preliminary issue which may be heard and determined in accordance with regulations under section 9(4).”

#### Marginal Citations

M1 1996 c. 17.

### 3 Hearings etc. by chairman alone.

- (1) In section 4 of the Employment Tribunals Act 1996 (which makes provision about the composition of an employment tribunal), subsection (3) (which specifies the tribunal proceedings which are to be heard by the chairman alone unless he decides otherwise) is amended in accordance with subsections (2) to (5).
- (2) In paragraph (a) (which specifies proceedings under the <sup>M2</sup>Trade Union and Labour Relations (Consolidation) Act 1992)—
  - (a) after “proceedings” insert “ on a complaint under section 68A or 192 of the Trade Union and Labour Relations (Consolidation) Act 1992 or ”, and
  - (b) for “the <sup>M3</sup>Trade Union and Labour Relations (Consolidation) Act 1992” substitute “ that Act ”.
- (3) In paragraph (c) (which specifies proceedings under the <sup>M4</sup>Employment Rights Act 1996)—
  - (a) after “proceedings” insert “ on a reference under section 11, 163 or 170 of the Employment Rights Act 1996, ”,
  - (b) after “section 23” insert “ , 34 ”,
  - (c) for “the Employment Rights Act 1996 or” substitute “ that Act, on a complaint under section 70(1) of that Act relating to section 64 of that Act, ”, and
  - (d) after “that” insert “ Act or for an appointment under section 206(4) of that ”.
- (4) After that paragraph insert—
  - “(ca) proceedings on a complaint under regulation 11(5) of the <sup>M5</sup>Transfer of Undertakings (Protection of Employment) Regulations 1981,”.
- (5) Omit paragraph (f) (which specifies proceedings in which the person bringing the proceedings has given written notice withdrawing the case), apart from the word “and”.
- (6) After subsection (6) of that section (which makes provision for employment tribunal procedure regulations to provide that any act required or authorised by the regulations to be done by a tribunal may be done by the chairman alone) insert—
  - “(6A) Subsection (6) in particular enables employment tribunal procedure regulations to provide that—
    - (a) the determination of proceedings in accordance with regulations under section 7(3A), (3B) or (3C)(a),
    - (b) the carrying-out of pre-hearing reviews in accordance with regulations under subsection (1) of section 9 (including the exercise

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- of powers in connection with such reviews in accordance with regulations under paragraph (b) of that subsection), or
- (c) the hearing and determination of a preliminary issue in accordance with regulations under section 9(4) (where it involves hearing witnesses other than the parties or their representatives as well as where, in accordance with regulations under section 7(3C)(b), it does not),
- may be done by the person mentioned in subsection (1)(a) alone.”

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**Marginal Citations**

- M2** 1992 c. 52.  
**M3** 1992 c. 52.  
**M4** 1996 c. 18.  
**M5** S.I. 1981/1794.

PROSPECTIVE

#### **4 Hearings by chairman and one other member.**

In subsection (1) of section 4 of the <sup>M6</sup>Employment Tribunals Act 1996 (which provides that, subject to the following provisions of that section, employment tribunal proceedings are to be heard by the chairman and either two other members or, with the consent of the parties, one other member), for paragraph (b) substitute—

- “(b) two other members selected as the other members in accordance with regulations so made or, with appropriate consent, one other member selected as the other member in accordance with regulations so made;

and in paragraph (b) “appropriate consent” means either consent given at the beginning of the hearing by such of the parties as are then present in person or represented, or consent given by each of the parties. ”

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**Marginal Citations**

- M6** 1996 c. 17.

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