

SCHEDULE 1

THE EMPLOYMENT TRIBUNALS RULES OF PROCEDURE

CASE MANAGEMENT

General power to manage proceedings

10.—(1) Subject to the following rules, the chairman may at any time either on the application of a party or on his own initiative make an order in relation to any matter which appears to him to be appropriate. Such orders may be any of those listed in paragraph (2) or such other orders as he thinks fit. Subject to the following rules, orders may be issued as a result of a chairman considering the papers before him in the absence of the parties, or at a hearing (see regulation 2 for the definition of “hearing”).

(2) Examples of orders which may be made under paragraph (1) are orders —

- (a) as to the manner in which the proceedings are to be conducted, including any time limit to be observed;
- (b) that a party provide additional information;
- (c) requiring the attendance of any person in Great Britain either to give evidence or to produce documents or information;
- (d) requiring any person in Great Britain to disclose documents or information to a party to allow a party to inspect such material as might be ordered by a County Court (or in Scotland, by a sheriff);
- (e) extending any time limit, whether or not expired (subject to rules 4(4), 11(2), 25(5), 30(5), 33(1), 35(1), 38(7) and 42(5) of this Schedule, and to rule 3(4) of Schedule 2);
- (f) requiring the provision of written answers to questions put by the tribunal or chairman;
- (g) that, subject to rule 22(8), a short conciliation period be extended into a standard conciliation period;
- (h) staying (in Scotland, sisting) the whole or part of any proceedings;
- (i) that part of the proceedings be dealt with separately;
- (j) that different claims be considered together;
- (k) that any person who the chairman or tribunal considers may be liable for the remedy claimed should be made a respondent in the proceedings;
- (l) dismissing the claim against a respondent who is no longer directly interested in the claim;
- (m) postponing or adjourning any hearing;
- (n) varying or revoking other orders;
- (o) giving notice to the parties of a pre-hearing review or the Hearing;
- (p) giving notice under rule 19;
- (q) giving leave to amend a claim or response;
- (r) that any person who the chairman or tribunal considers has an interest in the outcome of the proceedings may be joined as a party to the proceedings;
- (s) that a witness statement be prepared or exchanged; or
- (t) as to the use of experts or interpreters in the proceedings.

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(3) An order may specify the time at or within which and the place at which any act is required to be done. An order may also impose conditions and it shall inform the parties of the potential consequences of non-compliance set out in rule 13.

(4) When a requirement has been imposed under paragraph (1) the person subject to the requirement may make an application under rule 11 (applications in proceedings) for the order to be varied or revoked.

(5) An order described in either paragraph (2)(d) which requires a person other than a party to grant disclosure or inspection of material may be made only when the disclosure sought is necessary in order to dispose fairly of the claim or to save expense.

(6) Any order containing a requirement described in either sub-paragraph (2)(c) or (d) shall state that under section 7(4) of the Employment Tribunals Act, any person who without reasonable excuse fails to comply with the requirement shall be liable on summary conviction to a fine, and the document shall also state the amount of the maximum fine.

(7) An order as described in paragraph (2)(j) may be made only if all relevant parties have been given notice that such an order may be made and they have been given the opportunity to make oral or written representations as to why such an order should or should not be made.

(8) Any order made under this rule shall be recorded in writing and signed by the chairman and the Secretary shall inform all parties to the proceedings of any order made as soon as is reasonably practicable.

Applications in proceedings

11.—(1) At any stage of the proceedings a party may apply for an order to be issued, varied or revoked or for a case management discussion or pre-hearing review to be held.

(2) An application for an order must be made not less than 10 days before the date of the hearing at which it is to be considered (if any) unless it is not reasonably practicable to do so, or the chairman or tribunal considers it in the interests of justice that shorter notice be allowed. The application must (unless a chairman orders otherwise) be in writing to the Employment Tribunal Office and include the case number for the proceedings and the reasons for the request. If the application is for a case management discussion or a pre-hearing review to be held, it must identify any orders sought.

(3) An application for an order must include an explanation of how the order would assist the tribunal or chairman in dealing with the proceedings efficiently and fairly.

(4) When a party is legally represented in relation to the application (except where the application is for a witness order described in rule 10(2)(c) only), that party or his representative must, at the same time as the application is sent to the Employment Tribunal Office, provide all other parties with the following information in writing —

- (a) details of the application and the reasons why it is sought;
- (b) notification that any objection to the application must be sent to the Employment Tribunal Office within 7 days of receiving the application, or before the date of the hearing (whichever date is the earlier);
- (c) that any objection to the application must be copied to both the Employment Tribunal Office and all other parties;

and the party or his representative must confirm in writing to the Employment Tribunal Office that this rule has been complied with.

(5) Where a party is not legally represented in relation to the application, the Secretary shall inform all other parties of the matters listed in paragraphs (4)(a) to (c).

(6) A chairman may refuse a party's application and if he does so the Secretary shall inform the parties in writing of such refusal unless the application is refused at a hearing.

Chairman acting on his own initiative

12.—(1) Subject to paragraph (2) and to rules 10(7) and 18(7), a chairman may make an order on his own initiative with or without hearing the parties or giving them an opportunity to make written or oral representations. He may also decide to hold a case management discussion or pre-hearing review on his own initiative.

(2) Where a chairman makes an order without giving the parties the opportunity to make representations —

- (a) the Secretary must send to the party affected by such order a copy of the order and a statement explaining the right to make an application under paragraph (2)(b); and
- (b) a party affected by the order may apply to have it varied or revoked.

(3) An application under paragraph (2)(b) must (subject to rule 10(2)(e)) be made before the time at which, or the expiry of the period within which, the order was to be complied with. Such an application must (unless a chairman orders otherwise) be made in writing to an Employment Tribunal Office and it must include the reasons for the application. Paragraphs (4) and (5) of rule 11 apply in relation to informing the other parties of the application.

Compliance with orders and practice directions

13.—(1) If a party does not comply with an order made under these rules, under rule 8 of Schedule 3, rule 7 of Schedule 4 or a practice direction, a chairman or tribunal —

- (a) may make an order in respect of costs or preparation time under rules 38 to 46; or
- (b) may (subject to paragraph (2) and rule 19) at a pre-hearing review or a Hearing make an order to strike out the whole or part of the claim or, as the case may be, the response and, where appropriate, order that a respondent be debarred from responding to the claim altogether.

(2) An order may also provide that unless the order is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice under rule 19 or hold a pre-hearing review or Hearing.

(3) Chairmen and tribunals shall comply with any practice directions issued under regulation 13.