

SCHEDULE 1

THE EMPLOYMENT TRIBUNALS RULES OF PROCEDURE

CONSEQUENCES OF A RESPONSE NOT BEING PRESENTED OR ACCEPTED

Default judgments

8.—(1) In any proceedings if the relevant time limit for presenting a response has passed, a chairman may, in the circumstances listed in paragraph (2), issue a default judgment to determine the claim without a hearing if he considers it appropriate to do so.

(2) Those circumstances are when either —

- (a) no response in those proceedings has been presented to the Employment Tribunal Office within the relevant time limit; or
- (b) a response has been so presented, but a decision has been made not to accept the response either by the Secretary under rule 6(1) or by a chairman under rule 6(3), and the Employment Tribunal Office has not received an application under rule 34 to have that decision reviewed;

and the claimant has not informed the Employment Tribunal Office in writing either that he does not wish a default judgment to be issued or that the claim has been settled.

(3) A default judgment may determine liability only or it may determine liability and remedy. If a default judgment determines remedy it shall be such remedy as it appears to the chairman that the claimant is entitled to on the basis of the information before him.

(4) Any default judgment issued by a chairman under this rule shall be recorded in writing and shall be signed by him. The Secretary shall send a copy of that judgment to the parties, to ACAS, and, if the proceedings were referred to the tribunal by a court, to that court. The Secretary shall also inform the parties of their right to have the default judgment reviewed under rule 33. The Secretary shall put a copy of the default judgment on the Register (subject to rule 49 (sexual offences and the Register)).

(5) The claimant or respondent may apply to have the default judgment reviewed in accordance with rule 33.

(6) If the parties settle the proceedings (either by means of a compromise agreement (as defined in rule 23(2)) or through ACAS) before or on the date on which a default judgment in those proceedings is issued, the default judgment shall have no effect.

(7) When paragraph (6) applies, either party may apply under rule 33 to have the default judgment revoked.

Taking no further part in the proceedings

9. A respondent who has not presented a response to a claim or whose response has not been accepted shall not be entitled to take any part in the proceedings except to —

- (a) make an application under rule 33 (review of default judgments);
- (b) make an application under rule 35 (preliminary consideration of application for review) in respect of rule 34(3)(a) and (b);
- (c) be called as a witness by another person; or
- (d) be sent a copy of a document or corrected entry in accordance with rule 8(4), 29(2) or 37;

and in these rules the word “party” or “respondent” includes a respondent only in relation to his entitlement to take such a part in the proceedings, and in relation to any such part which he takes.