
STATUTORY INSTRUMENTS

2013 No. 1237

**The Employment Tribunals (Constitution
and Rules of Procedure) Regulations 2013**

Citation and commencement

1.—(1) These Regulations may be cited as the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 and the Rules of Procedure contained in Schedules 1, 2 and 3 may be referred to, respectively, as—

- (a) the Employment Tribunals Rules of Procedure 2013;
- (b) the Employment Tribunals (National Security) Rules of Procedure 2013; and
- (c) the Employment Tribunals (Equal Value) Rules of Procedure 2013.

(2) This regulation and regulations 3 and 11 come into force on 1st July 2013 and the remainder of these Regulations (including the Schedules) come into force on 29th July 2013.

Revocation

2. Subject to the savings in regulation 15 the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 ^{M1} are revoked.

Marginal Citations

M1 [S.I. 2004/1861](#).

Interpretation

3. Except in the Schedules which are subject to the definitions contained in the Schedules, in these Regulations—

“2004 Regulations” means the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004;

“appointing office holder” means, in England and Wales, the Lord Chancellor, and in Scotland, the Lord President;

“Employment Tribunals Act” means the Employment Tribunals Act 1996;

“Lord President” means the Lord President of the Court of Session;

“national security proceedings” means proceedings in relation to which a direction is given, or an order is made, under rule 94 of Schedule 1;

“President” means either of the two presidents appointed from time to time in accordance with regulation 5(1);

“Regional Employment Judge” means a person appointed or nominated in accordance with regulation 6(1) or (2);

“Senior President of Tribunals” means the person appointed in accordance with section 2 of the Tribunals, Courts and Enforcement Act 2007;

“Tribunal” means an employment tribunal established in accordance with regulation 4 and, in relation to any proceedings, means the Tribunal responsible for the proceedings in question, whether performing administrative or judicial functions;

“Vice President” means a person appointed or nominated in accordance with regulation 6(3) or (4).

Establishment of employment tribunals

4. There are to be tribunals known as employment tribunals.

President of Employment Tribunals

5.—(1) There shall be a President of Employment Tribunals, responsible for Tribunals in England and Wales, and a President of Employment Tribunals, responsible for Tribunals in Scotland, appointed by the appointing office holder.

(2) A President shall be—

- (a) a person who satisfies the judicial-appointment eligibility condition within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007 on a 5-year basis;
- (b) an advocate or solicitor admitted in Scotland of at least five years standing; or
- (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least five years standing.

(3) A President may at any time resign from office by giving the appointing officer holder notice in writing to that effect.

(4) The appointing officer holder may remove a President from office on the ground of inability or misbehaviour, or if the President is [^{F1}made] bankrupt or makes a composition or arrangement with his creditors.

(5) Where a President is unable to carry out the functions set out in these Regulations, those functions may be discharged by a person nominated by the appointing office holder (save that any nomination in relation to England and Wales shall be made by the Lord Chief Justice following consultation with the Senior President of Tribunals, rather than by the Lord Chancellor).

(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005 ^{M2}) to exercise his functions under this regulation.

Textual Amendments

- F1** Word in reg. 5(4) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\), reg. 1, Sch. 2 para. 12](#)

Marginal Citations

- M2** 2005 c. 4; section 109 was amended by the Tribunals, Courts and Enforcement Act 2007, Schedule 8, paragraph 63.

Regional Employment Judges and the Vice President

- 6.—(1) The Lord Chancellor may appoint Regional Employment Judges.

(2) The President (England and Wales) or the Regional Employment Judge for an area may nominate an Employment Judge to discharge the functions of the Regional Employment Judge for that area.

(3) The Lord President may appoint a Vice President.

(4) The President (Scotland) or the Vice President may nominate an Employment Judge to discharge the functions of the Vice President.

(5) Appointments and nominations under this regulation shall be from the [^{F2}salaried] Employment Judges on the panel referred to in regulation 8(2)(a).

Textual Amendments

F2 Word in reg. 6(5) substituted (6.4.2014) by [The Employment Tribunals \(Constitution and Rules of Procedure\) \(Amendment\) Regulations 2014 \(S.I. 2014/271\)](#), regs. 1, 2

Responsibilities of the Presidents, Regional Employment Judges and Vice President

7.—(1) The President shall, in relation to the area for which the President is responsible, use the resources available to—

- (a) secure, so far as practicable, the speedy and efficient disposal of proceedings;
- (b) determine the allocation of proceedings between Tribunals; and
- (c) determine where and when Tribunals shall sit.

(2) The President (England and Wales) may direct Regional Employment Judges, and the President (Scotland) may direct the Vice President, to take action in relation to the fulfilment of the responsibilities in paragraph (1) and the Regional Employment Judges and Vice President shall follow such directions.

Panels of members for tribunals

8.—(1) There shall be three panels of members for the Employment Tribunals (England and Wales) and three panels of members for the Employment Tribunals (Scotland).

(2) The panels of members shall be—

- [^{F3}(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) a panel of persons appointed by the Lord Chancellor after consultation with organisations or associations representative of employees; and
 - (c) a panel of persons appointed by the Lord Chancellor after consultation with organisations or associations representative of employers.

[^{F4}(2A) A relevant tribunal judge 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—

- (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 or section 102 of the Senior Courts Act 1981;
 - (xi) the holder of an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc);
 - (xii) the holder of an office listed in column 1 of Part 2 of Schedule 2 to that Act (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 (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);
 - (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 or section 102 of the Senior Courts Act 1981;
 - (o) holds an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc);
 - (p) holds an office listed in column 1 of Part 2 of Schedule 2 to that Act (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 (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.]

(3) Members of the panels shall hold and vacate office in accordance with the terms of their appointment, but may resign from office by written notice to the person who appointed them under paragraph (2), and any member who ceases to hold office shall be eligible for reappointment.

(4) The President may establish further specialist panels of members referred to in paragraph (2)

F5
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Textual Amendments

- F3** Reg. 8(2)(a) substituted (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), **3(a)**
- F4** Reg. 8(2A)-(2I) 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), **3(b)**
- F5** Words in reg. 8(4) 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(2)** (with reg. 9(b))

Composition of tribunals

^{F6}9.

Textual Amendments

F6 Reg. 9 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(3)** (with reg. 9(b))

National security proceedings – panel of members and composition of tribunals

10.—(1) The President shall select—

- (a) a panel of persons from the panel referred to in regulation 8(2)(a);
- (b) a panel of persons from the panel referred to in regulation 8(2)(b); and
- (c) a panel of persons from the panel referred to in regulation 8(2)(c),

who may act in national security proceedings.

^{F7}(2)

Textual Amendments

F7 Reg. 10(2) 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(4)** (with reg. 9(b))

^{F8}Legal officers

10A.—(1) The Lord Chancellor may appoint legal officers who may, in accordance with section 4(6B) of the Employment Tribunals Act, carry out such functions set out in regulation 10B as the Senior President of Tribunals shall authorise in a practice direction.

(2) Within 14 days after the date on which a Tribunal sends notice of a decision made by a legal officer to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by an Employment Judge.

(3) The Senior President of Tribunals must consult both Presidents before making a practice direction under paragraph (1).

Textual Amendments

F8 Regs. 10A, 10B 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), **4**

Responsibilities of legal officers

10B.—(1) In this regulation any reference to a rule is a reference to the Rules of Procedure in Schedule 1.

(2) For the purpose of any determination made under regulation 10B(3) any rule mentioned in regulation 10B(3) must be read as though reference to the Tribunal or an Employment Judge includes reference to a legal officer.

(3) The following are the matters that, subject to being authorised by a practice direction of the Senior President of Tribunals, may be determined by a legal officer—

- (a) a referral under rules 12(1)(c), (e) or (f);
- (b) an application under rule 20;
- (c) an application under rule 30—
 - (i) for an extension of time to comply with a case management order;
 - (ii) to which all parties agree, to amend a claim or response;
 - (iii) for additional information about another party’s claim or defence;
 - (iv) for different claims to be considered together;
- (d) an application under rule 30A—
 - (i) which is made more than 7 days before the date on which the hearing begins; and
 - (ii) to which all parties consent;
- (e) an application to which all parties agree for an order under rule 36(1);
- (f) an application under rule 54 to which all parties agree, where the hearing sought would only determine matters under rule 53(1)(a);
- (g) confirmation of a stay (or in Scotland sist) of the proceedings in the event of a respondent’s compulsory liquidation or administration; and
- (h) whether to dismiss a claim under rule 52.]

Textual Amendments

F8 Regs. 10A, 10B 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), 4

Practice directions

11.—(1) The President may make, vary or revoke practice directions about the procedure of the Tribunals in the area for which the President is responsible, including—

- (a) practice directions about the exercise by Tribunals of powers under these Regulations (including the Schedules); and
- (b) practice directions about the provision by Employment Judges of mediation, in relation to disputed matters in a case that is the subject of proceedings, and may permit an Employment Judge to act as mediator in a case even though they have been selected to decide matters in that case.

(2) Practice directions may make different provision for different cases, different areas, or different types of proceedings.

(3) Any practice direction made, varied or revoked shall be published by the President in an appropriate manner to bring it to the attention of the persons to whom it is addressed.

Power to prescribe

12.—(1) The Secretary of State may prescribe—

- (a) one or more versions of a form which shall be used by claimants to start proceedings in a Tribunal;

- (b) one or more versions of a form which shall be used by respondents to respond to a claim before a Tribunal; and
 - (c) that the provision of certain information on the prescribed forms is mandatory.
- (2) It is not necessary to use a form prescribed under paragraph (1) if the proceedings are—
- (a) referred to a Tribunal by a court;
 - (b) proceedings in which a Tribunal will be exercising its appellate jurisdiction; or
 - (c) proceedings brought by an employer under section 11 of the Employment Rights Act 1996^{M3}.
- (3) The Secretary of State shall publish the prescribed forms in an appropriate manner to bring them to the attention of prospective claimants, respondents and their advisers.

Marginal Citations

M3 1996 c. 18.

Application of Schedules 1 to 3

13.—(1) Subject to paragraph (2), Schedule 1 applies to all proceedings before a Tribunal except where separate rules of procedure made under the provisions of any enactment are applicable.

(2) Schedules 2 and 3 apply to modify the rules in Schedule 1 in relation, respectively, to proceedings which are—

- (a) national security proceedings; or
- (b) proceedings which involve an equal value claim (as defined in rule 1 of Schedule 3).

Modifications etc. (not altering text)

C1 Reg. 13(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\(2\)](#))

Register and proof of judgments

14.—(1) The Lord Chancellor shall maintain a register containing a copy of all judgments and written reasons issued by a Tribunal which are required to be entered in the register under Schedules 1 to 3.

^{F9}(2)

(3) A document purporting to be certified by a member of staff of a Tribunal to be a true copy of an entry of a judgment in the register shall, unless the contrary is proved, be sufficient evidence of the document and its contents.

Textual Amendments

F9 Reg. 14(2) omitted (6.4.2014) by virtue of [The Employment Tribunals \(Constitution and Rules of Procedure\) \(Amendment\) \(No. 2\) Regulations 2014 \(S.I. 2014/611\)](#), [regs. 1, 2](#)

Transitional provisions

15.—(1) Subject to paragraphs (2) and (3), these Regulations and the Rules of Procedure contained in Schedules 1 to 3 apply in relation to all proceedings to which they relate.

(2) Where a respondent receives from a Tribunal a copy of the claim form before 29th July 2013, rules 23 to 25 of Schedule 1 do not apply to the proceedings and rule 7 of Schedule 1 to the 2004 Regulations continues to apply.

(3) Where in accordance with Schedules 3 to 5 of the 2004 Regulations, a notice of appeal was presented to a Tribunal before 29th July 2013, Schedule 1 does not apply to the proceedings and Schedule 3, 4 or 5, as appropriate, of the 2004 Regulations continues to apply.

Department for Business, Innovation and Skills

Jo Swinson
Parliamentary Under Secretary of State for
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Changes to legislation:

There are currently no known outstanding effects for the The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.