

## SCHEDULE 1

### INDUSTRIAL TRIBUNAL RULES OF PROCEDURE

#### *Pre-hearing reviews*

#### **Conduct of pre-hearing reviews**

18.—(1) Pre-hearing reviews are interim hearings and shall be conducted by a chairman unless the circumstances in paragraph (3) are applicable. Subject to rule 16, they shall take place in public.

(2) At a pre-hearing review the chairman may carry out a preliminary consideration of the proceedings and he may –

- (a) determine any interim or preliminary matter relating to the proceedings;
- (b) issue any order in accordance with rule 10 or do anything else which may be done at a case management discussion;
- (c) order that a deposit be paid in accordance with rule 20 without hearing evidence;
- (d) consider any oral or written representations or evidence;
- (e) deal with an application for interim relief made under Article 163 of the Employment Rights Order.

(3) Pre-hearing reviews shall be conducted by a tribunal composed in accordance with Article 6(1) and (2) of the Industrial Tribunals Order if –

- (a) a party has made a request in writing not less than 10 days before the date on which the pre-hearing review is due to take place that the pre-hearing review be conducted by a tribunal instead of a chairman; and
- (b) a chairman considers that one or more substantive issues of fact are likely to be determined at the pre-hearing review, that it would be desirable for the pre-hearing review to be conducted by a tribunal and he has issued an order that the pre-hearing review be conducted by a tribunal.

(4) If an order is made under paragraph (3), any reference to a chairman in relation to a pre-hearing review shall be read as a reference to a tribunal.

(5) Notwithstanding the preliminary or interim nature of a pre-hearing review, at a pre-hearing review the chairman may make a decision on any preliminary issue of substance relating to the proceedings. Orders made at a pre-hearing review may result in the proceedings being struck out or dismissed or otherwise determined with the result that a hearing under rule 26 is no longer necessary in those proceedings.

(6) Before an order listed in paragraph (7) is made, notice must be given in accordance with rule 19. The orders listed in paragraph (7) may be made at a pre-hearing review or a hearing under rule 26 if one of the parties has so requested. If no such request has been made such orders may be made in the absence of the parties.

(7) Subject to paragraph (6), a chairman or tribunal may make an order –

- (a) as to the entitlement of any party to bring or contest particular proceedings;
- (b) striking out or amending all or part of any claim or response on the grounds that it is scandalous, vexatious or misconceived;
- (c) striking out any claim or response (or part of one) on the grounds that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
- (d) striking out a claim which has not been actively pursued;

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- (e) striking out a claim or response (or part of one) for non-compliance with an order or practice direction;
  - (f) striking out a claim where the chairman or tribunal considers that it is no longer possible to have a fair hearing under rule 26 in those proceedings;
  - (g) making a restricted reporting order (in accordance with rule 50).
- (8) A claim or response or any part of one may be struck out under these Rules only on the grounds stated in paragraph (7)(b) to (f).
- (9) If at a pre-hearing review a requirement to pay a deposit under rule 20 has been considered, the chairman who conducted that pre-hearing review shall not be a member of the tribunal at the hearing under rule 26 in relation to those proceedings.