

## SCHEDULE 2

### INDUSTRIAL TRIBUNALS (NATIONAL SECURITY) RULES OF PROCEDURE

#### **Special advocate**

8.—(1) In any proceedings in which there is an excluded person the tribunal or chairman shall inform the Attorney General for Northern Ireland of the proceedings before it or him with a view to the Attorney General for Northern Ireland appointing, if he thinks it fit to do so, a special advocate to represent the interests of the claimant in respect of those parts of the proceedings from which –

- (a) any representative of the claimant is excluded;
- (b) both the claimant and his representative are excluded; or
- (c) the claimant is excluded, where he does not have a representative.

(2) A special advocate shall –

- (a) have a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
- (b) be an advocate or solicitor admitted in Scotland; or
- (c) be a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland.

(3) Where the excluded person is the claimant, he shall be permitted to make a statement to the tribunal or chairman before the commencement of the proceedings, or the part of the proceedings, from which he is excluded.

(4) Except in accordance with paragraphs (5) to (7), the special advocate may not communicate directly or indirectly with any person (including an excluded person) –

- (a) (except in the case of the tribunal, chairman and the respondent) on any matter contained in the grounds for the response referred to in rule 3(3);
- (b) (except in the case of a person who was present) on any matter discussed or referred to during any part of the proceedings in which the tribunal or chairman sat in private in accordance with a direction or an order given or made under rule 54.

(5) The special advocate may apply for orders from the tribunal or chairman authorising him to seek instructions from, or otherwise to communicate with, an excluded person –

- (a) on any matter contained in the grounds for the response referred to in rule 3(3); or
- (b) on any matter discussed or referred to during any part of the proceedings in which the tribunal or chairman sat in private in accordance with a direction or an order given or made under rule 54.

(6) An application under paragraph (5) shall be made in writing to the Office of the Tribunals and shall include the title of the proceedings and the grounds for the application.

(7) The Secretary shall notify the Secretary of State of an application under paragraph (5) and the Secretary of State shall be entitled to address the tribunal or chairman on the application.

(8) In these Rules and those in Schedule 1, in any case in which a special advocate has been appointed to represent the interests of the claimant in accordance with paragraph (1), any reference to a party shall (save in those references specified in paragraph (9)) include the special advocate.

(9) The following references to “party” or “parties” shall not include the special advocate –

- (a) regulation 5(3);
- (b) in Schedule 1, rules 2(2)(b), 9, 10(2)(r), 10(3), all references in rule 11(4) save that in rule 11(4)(c), 11(5), 18(7), 20, 22, 23, 27(3), 27(5), 29(3), 30(6)(f), 33(1), 34(2), all references

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in rule 38 save that in rule 38(10), 40, 41, all references in rule 42 save that in rule 42(8), 44 to 48, 51, 54(1), the first reference in rule 54(3), the first reference in rule 56(2), 60(3), (4)(a) and (b), (8);

- (c) in Schedule 5, rules 4(b), 5(5) and 9; and
- (d) in Schedule 6, rule 3(b).