

SCHEDULE 1

THE INDUSTRIAL TRIBUNALS AND FAIR EMPLOYMENT TRIBUNAL RULES OF PROCEDURE 2020

PART 15

MISCELLANEOUS

National security proceedings: industrial tribunals

91.—(1) Where in relation to particular Crown employment proceedings before an industrial tribunal the Secretary of State considers that it would be expedient in the interests of national security, the Secretary of State may direct a tribunal to—

- (a) conduct all or part of the proceedings in private;
- (b) exclude a person from all or part of the proceedings;
- (c) take steps to conceal the identity of a witness in the proceedings.

(2) Where an industrial tribunal considers it expedient in the interests of national security, it may order—

- (a) in relation to particular proceedings (including Crown employment proceedings), anything which can be required to be done under paragraph (1);
- (b) a person not to disclose any document (or the contents of any document), where provided for the purposes of the proceedings, to any other person (save for any specified person),

and any order so made shall be kept under review by the tribunal.

(3) Where the tribunal considers that it may be necessary to make an order under paragraph (2) in relation to particular proceedings (including Crown employment proceedings), the tribunal may consider any material provided by a party (or where the Secretary of State is not a party, by the Secretary of State) without providing that material to any other person. Such material shall be used by the tribunal solely for the purposes of deciding whether to make that order (unless that material is subsequently used as evidence in the proceedings by a party).

(4) Where the Secretary of State considers that it would be appropriate for the tribunal to make an order under paragraph (2), the Secretary of State may make an application for such an order.

(5) Where the Secretary of State has made an application under paragraph (4), the tribunal may order—

- (a) in relation to the part of the proceedings preceding the outcome of the application, anything which can be required to be done under paragraph (1);
- (b) a person not to disclose any document (or the contents of any document) to any other person (save for any specified person), where provided for the purposes of the proceedings preceding the outcome of the application.

(6) Where the Secretary of State has made an application under paragraph (4) for an order to exclude any person from all or part of the proceedings, the Secretary shall not send a copy of the response to that person, pending the decision on the application.

(7) If before the expiry of the time limit in rule 15(1)(b) the Secretary of State makes a direction under paragraph (1) or makes an application under paragraph (4), the Secretary of State may apply for an extension of that time limit.

(8) A direction under paragraph (1) or an application under paragraph (4) may be made irrespective of whether the Secretary of State is a party.

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(9) Where having considered making an order under paragraph (2) the tribunal decides not to do so, rule 6 of Schedule 2 shall apply to the reasons given by the tribunal under rule 57 for that decision, save that the reasons shall not be entered on the register.

(10) The tribunal must ensure that in exercising its functions, information is not disclosed contrary to the interests of national security.