

## SCHEDULE 1

### THE INDUSTRIAL TRIBUNALS AND FAIR EMPLOYMENT TRIBUNAL RULES OF PROCEDURE 2020

#### PART 4

#### THE RESPONSE TO THE CLAIM

##### **Presenting the response**

- 15.—(1) The response to a claim shall be—
- (a) on a prescribed form; and
  - (b) presented within 28 days of the date that the copy of the claim form was sent to the respondent.
- (2) A response form may include the response of more than one respondent if they are responding to a single claim and either—
- (a) they all resist the claim on the same grounds and details of those grounds are the same; or
  - (b) they do not resist the claim.
- (3) A response form may include the response to more than one claim if the claims are based on the same set of facts and either—
- (a) the respondent resists all of the claims on the same grounds and details of those grounds are the same; or
  - (b) the respondent does not resist the claims.

##### **Rejection**

- 16.—(1) The Secretary shall refer a response to an employment judge if—
- (a) it is not made on a prescribed form;
  - (b) it does not contain the respondent's full name and address;
  - (c) it does not indicate whether the respondent wishes to resist any part of the claim and, if the respondent does wish to do so, give the details of the grounds for such resistance; or
  - (d) it is presented outside the time limit in rule 15 (or any extension of that limit granted within the original limit).
- (2) The response shall be rejected if the employment judge considers that it is of a kind described in paragraph (1), except that—
- (a) if paragraph (1)(a) applies and the employment judge considers that the information provided in the response is substantially the same as the information which would have been provided had the prescribed form been used, the response shall not be rejected;
  - (b) if paragraph (1)(b) applies and the employment judge considers that sufficient information is available to enable the respondent's full name and address to be identified and that it would not be in the interests of justice to reject the response, the response shall not be rejected;
  - (c) if paragraph (1)(d) applies and an application for extension has already been made under rule 18 or the response includes or is accompanied by such an application, the response shall not be rejected pending the outcome of the application.

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(3) The Secretary shall return the rejected response to the respondent with a notice of rejection explaining—

- (a) why it has been rejected;
- (b) what steps may be taken by the respondent, including the need (if appropriate) to apply for an extension of time; and
- (c) how to apply for a reconsideration of the rejection.

### **Reconsideration of rejection**

17.—(1) Subject to paragraph (2), a respondent whose response has been rejected under rule 16 may apply for a reconsideration on the basis that—

- (a) the decision to reject was wrong; or
- (b) the notified defect can be rectified.

(2) Paragraph (1)(b) does not apply in the case of a rejection under rule 16(1)(d).

(3) The application shall—

- (a) be in writing;
- (b) be presented within 14 days of the date that the notice of rejection was sent;
- (c) explain why the decision is said to have been wrong or rectify the defect; and
- (d) state whether the respondent requests a hearing.

(4) If the respondent does not request a hearing, or an employment judge decides, on considering the application, that the response shall be accepted in full, the employment judge shall determine the application without a hearing; otherwise the application shall be considered at a hearing attended only by the respondent.

(5) If the employment judge decides that the original rejection was correct but that the defect has been rectified, the response shall be treated as presented on the date that the defect was rectified (but the employment judge may extend time under rule 6).

### **Applications for extension of time for presenting response**

18.—(1) An application for an extension of time for presenting a response shall—

- (a) be presented in writing;
- (b) be copied to the claimant;
- (c) set out the reason why the extension is sought;
- (d) except where the time limit has not yet expired, be accompanied by a draft of the response which the respondent wishes to present or an explanation of why that is not possible; and
- (e) if the respondent wishes to request a hearing, include that request.

(2) The claimant may within 7 days of receipt of the application give reasons in writing explaining why the application is opposed.

(3) An employment judge may determine the application without a hearing.

(4) If the decision is to refuse an extension, any prior rejection of the response shall stand. If the decision is to allow an extension, any judgment issued under rule 19 shall be set aside.

### **Effect of non-presentation or rejection of response or case not being contested**

19.—(1) Where—

- (a) the time limit in rule 15 has expired and no response has been presented; or

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(b) a response has been received but has been rejected, and no application for a reconsideration under rule 17 is outstanding; or

(c) the respondent has stated that no part of the claim is contested,

the claim shall proceed to early case management under rule 24.

(2) Where paragraph (1) applies, the respondent shall be entitled to notice of any hearings and decisions of the tribunal but, unless and until an extension of time is granted, shall only be entitled to participate in any hearing to the extent permitted by the employment judge.

#### **Notification of acceptance**

20. Where the response is accepted the Secretary shall send a copy of it to all other parties, and the claim shall proceed to early case management.