

SCHEDULE 2

THE INDUSTRIAL TRIBUNALS (NATIONAL SECURITY) RULES OF PROCEDURE 2020

Special advocate

4.—(1) The tribunal shall inform the Advocate General for Northern Ireland if a party becomes an excluded person.

(2) The Advocate General for Northern Ireland may appoint a special advocate to represent the interests of a person in respect of those parts of the proceedings from which—

- (a) a person’s representative is excluded;
- (b) a person and their representative are excluded;
- (c) a person is excluded and is unrepresented.

(3) A special advocate shall be—

- (a) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland;
- (b) a person who has a right of audience in relation to any class of proceedings in any part of the Senior Courts of England and Wales or all proceedings in county courts or magistrates’ courts, or
- (c) an advocate or a solicitor admitted in Scotland.

(4) An excluded person (where that person is a party) may make a statement to the tribunal before the commencement of the proceedings or the relevant part of the proceedings.

(5) The special advocate may communicate, directly or indirectly, with an excluded person at any time before receiving material from the Secretary of State in relation to which the Secretary of State states an objection to disclosure to the excluded person (“closed material”).

(6) After receiving closed material, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (7) or (9) or an order of the tribunal.

(7) The special advocate may communicate about the proceedings with—

- (a) the tribunal;
- (b) the Secretary of State, or a representative of the Secretary of State;
- (c) the Advocate General for Northern Ireland, or a representative of the Advocate General for Northern Ireland;
- (d) any other person, except for an excluded person or a representative of that person, with whom it is necessary for administrative purposes to communicate about matters not connected with the substance of the proceedings.

(8) The special advocate may apply for an order from the tribunal to authorise communication with an excluded person or with any other person and if such an application is made—

- (a) the Secretary must notify the Secretary of State of the request; and
- (b) the Secretary of State may, within a period specified by the tribunal present to the tribunal and serve on the special advocate notice of any objection to the proposed communication.

(9) After the special advocate has received closed material, an excluded person may only communicate with the special advocate in writing and the special advocate must not reply to the communication, except that the special advocate may send a written acknowledgment of receipt.

(10) References in these Regulations and Schedules 1 and 2 to a party shall include any special advocate appointed in particular proceedings, save that the references to “party” or “parties” in rules

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3, 7(c), 20, 28, 30(2) and (3), the first reference in rule 32, 33 to 35, 41, 59, 71 to 81, 83, 94 and 96(3) shall not include the special advocate.