



# Employment Protection (Consolidation) Act 1978

## 1978 CHAPTER 44

### PART VIII

#### RESOLUTION OF DISPUTES RELATING TO EMPLOYMENT

##### *Employment Appeal Tribunal*

#### **135 Employment Appeal Tribunal.**

- (1) The Employment Appeal Tribunal established under section 87 of the <sup>M1</sup>Employment Protection Act 1975 shall continue in existence by that name <sup>F1</sup>
- (2) The Employment Appeal Tribunal (in this Act referred to as “the Appeal Tribunal”) shall consist of—
  - (a) such number of judges as may be nominated from time to time by the Lord Chancellor from among the judges (other than the Lord Chancellor) of the High Court and the Court of Appeal;
  - (b) at least one judge of the Court of Session nominated from time to time by the Lord President of that Court; and
  - (c) such number of other members as may be appointed from time to time by Her Majesty on the joint recommendation of the Lord Chancellor and the Secretary of State.
- (3) The members of the Appeal Tribunal appointed under subsection (2)(c) shall be persons who appear to the Lord Chancellor and the Secretary of State to have special knowledge or experience of industrial relations, either as representatives of employers or as representatives of workers (within the meaning of [<sup>F2</sup>the Trade Union and Labour Relations (Consolidation) Act 1992]).
- (4) The Lord Chancellor shall, after consultation with the Lord President of the Court of Session, appoint one of the judges nominated under subsection (2) to be President of the Appeal Tribunal.

*Status: Point in time view as at 07/02/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Employment Protection (Consolidation) Act 1978, Cross Heading: Employment Appeal Tribunal. (See end of Document for details)*

- (5) No judge shall be nominated a member of the Appeal Tribunal except with his consent.
- (6) The provisions of Schedule 11 shall have effect with respect to the Appeal Tribunal and proceedings before the Tribunal.

#### Textual Amendments

- F1** Words repealed by [Employment Act 1980 \(c. 42, SIF 43:5\)](#), **Sch. 2**
- F2** Words in s. 135(3) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, **Sch. 2 para.20**.

#### Marginal Citations

- M1** 1975 c. 71.

### 136 Appeals to Tribunal from industrial tribunals and Certification Officer.

- (1) An appeal shall lie to the Appeal Tribunal on a question of law arising from any decision of, or arising in any proceedings before, an industrial tribunal under, or by virtue of, the following Acts—
- (a) the <sup>M2</sup>Equal Pay Act 1970;
  - (b) the <sup>M3</sup>Sex Discrimination Act 1975;
  - <sup>F3</sup>(c) .....
  - (d) the <sup>M4</sup>Race Relations Act 1976;
  - (e) this Act.
  - [<sup>F4</sup>(f) the Wages Act 1986.]
  - <sup>F5</sup>(g) .....
- <sup>F6</sup>(2) .....
- <sup>F6</sup>(3) .....
- (4) Without prejudice to section 13 of the <sup>M5</sup>Administration of Justice Act 1960 (appeal in case of contempt of court), an appeal shall lie on any question of law from any decision or order of the Appeal Tribunal with the leave of the Tribunal or of the Court of Appeal or, as the case may be, the Court of Session,—
- (a) in the case of proceedings in England and Wales, to the Court of Appeal;
  - (b) in the case of proceedings in Scotland, to the Court of Session.
- (5) No appeal shall lie except to the Appeal Tribunal from any decision of an industrial tribunal under the Acts listed in subsection (1) <sup>F7</sup>. . .

#### Textual Amendments

- F3** S. 136(1)(c) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, **Sch.1** (with savings in Sch. 3 para. 2).
- F4** S. 136(1)(f) inserted by [Wages Act 1986 \(c. 48, SIF 43:2\)](#), s. 32(1), **Sch. 4 para. 10**
- F5** S. 136(1)(g) (which was inserted by [Employment Act 1990 \(c. 38\)](#), s. 3(5), Sch. 1 paras. 1, 8) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, **Sch.1** (with savings in Sch. 3 para. 2).
- F6** S. 136(2)(3) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, **Sch.1** (with savings in Sch. 3 para. 2).

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**F7** Words in s. 136(5) repealed (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(1), 302, [Sch.1](#) (with savings in [Sch. 3 para. 2](#)).

**Modifications etc. (not altering text)**

**C1** [S. 136](#) extended (1.8.1994) by [S.I. 1994/1748](#), [reg. 8](#)

**Marginal Citations**

**M2** [1970 c. 41](#).

**M3** [1975 c. 65](#).

**M4** [1976 c. 74](#).

**M5** [1960 c. 65](#).

[<sup>F8</sup>**136A Restriction of vexatious proceedings.**

- (1) If, on an application made by the Attorney General or the Lord Advocate under this section, the Appeal Tribunal is satisfied that any person has habitually and persistently and without any reasonable ground—
  - (a) instituted vexatious proceedings, whether in an industrial tribunal or before the Appeal Tribunal, and whether against the same person or against different persons; or
  - (b) made vexatious applications in any proceedings, whether in an industrial tribunal or before the Appeal Tribunal,the Appeal Tribunal may, after hearing that person or giving him an opportunity of being heard, make a restriction of proceedings order.
- (2) A “restriction of proceedings order” is an order that—
  - (a) no proceedings shall without the leave of the Appeal Tribunal be instituted in any industrial tribunal or before the Appeal Tribunal by the person against whom the order is made;
  - (b) any proceedings instituted by him in any industrial tribunal or before the Appeal Tribunal before the making of the order shall not be continued by him without the leave of the Appeal Tribunal; and
  - (c) no application (other than one for leave under this section) shall be made by him in any proceedings in any industrial tribunal or in the Appeal Tribunal without the leave of the Appeal Tribunal.
- (3) A restriction of proceedings order may provide that it is to cease to have effect at the end of a specified period, but shall otherwise remain in force indefinitely.
- (4) Leave for the institution or continuance of, or for the making of an application in, any proceedings in an industrial tribunal or before the Appeal Tribunal by a person who is the subject of a restricted proceedings order shall not be given unless the Appeal Tribunal is satisfied that the proceedings or application are not an abuse of the process of the tribunal in question and that there are reasonable grounds for the proceedings or application.
- (5) No appeal shall lie from a decision of the Appeal Tribunal refusing leave for the institution or continuance of, or for the making of an application in, proceedings by a person who is the subject of a restriction of proceedings order.
- (6) A copy of a restriction of proceedings order shall be published in the London Gazette and in the Edinburgh Gazette.]

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#### **Textual Amendments**

**F8** S. 136A inserted (30.11.1993) by 1993 c. 19, s.42; S.I. 1993/2503, art. 2(2), **Sch.2**

**Status:**

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**Changes to legislation:**

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