



# Employment Tribunals Act 1996

## 1996 CHAPTER 17

### PART II

#### THE EMPLOYMENT APPEAL TRIBUNAL

##### *Introductory*

#### **20 The Appeal Tribunal.**

- (1) The Employment Appeal Tribunal ("the Appeal Tribunal") shall continue in existence.
- (2) The Appeal Tribunal shall have a central office in London but may sit at any time and in any place in Great Britain.
- (3) The Appeal Tribunal shall be a superior court of record and shall have an official seal which shall be judicially noticed.
- <sup>[F1]</sup>(4) Subsection (2) is subject to regulation 34 of the Transnational Information and Consultation of Employees Regulations <sup>[F2]</sup>1999, <sup>[F3]</sup> regulation 46(1) of the European Public Limited-Liability Company Regulations <sup>[F4]</sup>2004, <sup>[F5]</sup> regulation 36(1) of the Information and Consultation of Employees Regulations <sup>[F6]</sup>2004, <sup>[F7]</sup> regulation 37(1) of the European Cooperative Society (Involvement of Employees) Regulations <sup>[F8]</sup>2006, <sup>[F9]</sup> regulation 58(1) of the Companies (Cross-Border Mergers) Regulations 2007 <sup>[F10]</sup> and regulation 33(1) of the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 <sup>[S.I. 2009/2401]</sup>.

#### **Textual Amendments**

- F1** S. 20(4) inserted (15.1.2000) by [S.I. 1999/3323](#), [reg. 35\(2\)](#)
- F2** Words in s. 20(4) substituted (6. 4 2005) by [The Information and Consultation of Employees Regulations 2004 \(S.I. 2004/3426\)](#), [reg. 36\(2\)\(a\)](#) (with [reg. 3](#))
- F3** Words in s. 20(4) inserted (8.10.2004) by [The European Public Limited-Liability Company Regulations 2004 \(S.I. 2004/2326\)](#), [reg. 48\(2\)](#)

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- F4** Words in s. 20(4) substituted (18.8.2006) by [The European Cooperative Society \(Involvement of Employees\) Regulations 2006 \(S.I. 2006/2059\)](#), **reg. 37(2)(a)**
- F5** Words in s. 20(4) inserted (6. 4 2005) by [The Information and Consultation of Employees Regulations 2004 \(S.I. 2004/3426\)](#), **reg. 36(2)(b)** (with reg. 3)
- F6** Words in s. 20(4) substituted (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations 2007 \(S.I. 2007/2974\)](#), **reg. 58(2)(a)**
- F7** Words in s. 20(4) substituted (18.8.2006) by [The European Cooperative Society \(Involvement of Employees\) Regulations 2006 \(S.I. 2006/2059\)](#), **reg. 37(2)(b)**
- F8** Words in s. 20(4) substituted (1.10.2009) by [The European Public Limited-Liability Company \(Employee Involvement\) \(Great Britain\) Regulations 2009 \(S.I. 2009/2401\)](#), regs. 1(2), **35(2)(a)** (with regs. 4, 41)
- F9** Words in s. 20(4) substituted (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations 2007 \(S.I. 2007/2974\)](#), **reg. 58(2)(b)**
- F10** Words in s. 20(4) inserted (1.10.2009) by [The European Public Limited-Liability Company \(Employee Involvement\) \(Great Britain\) Regulations 2009 \(S.I. 2009/2401\)](#), regs. 1(2), **35(2)(b)** (with regs. 4, 41)

### *Jurisdiction*

## **21 Jurisdiction of Appeal Tribunal.**

- (1) An appeal lies to the Appeal Tribunal on any question of law arising from any decision of, or arising in any proceedings before, an [<sup>F11</sup>employment tribunal] under or by virtue of—
- <sup>F12</sup>(a) .....
  - <sup>F12</sup>(b) .....
  - <sup>F12</sup>(c) .....
  - (d) <sup>M1</sup> the Trade Union and Labour Relations (Consolidation) Act 1992,
  - <sup>F13</sup>(e) .....
  - (f) <sup>M2</sup> the Employment Rights Act 1996 <sup>F14</sup>[<sup>F15</sup> . . .
  - [ <sup>F16</sup> .....
  - (fg) .....
  - [<sup>F17</sup>(g) this Act,
  - (ga) the National Minimum Wage Act 1998,
  - (gb) the Employment Relations Act 1999,]
  - [<sup>F18</sup>(gc) the Equality Act 2006,]
  - [<sup>F19</sup>(gd) the Pensions Act 2008,]
  - [<sup>F20</sup>(ge) the Equality Act 2010,]
  - [<sup>F21</sup>(h) the Working Time Regulations 1998, <sup>F22</sup> . . .
  - (i) the Transnational Information and Consultation of Employees Regulations 1999]<sup>F23</sup>[<sup>F24</sup> . . .
  - (j) the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000]<sup>F25</sup>[<sup>F26</sup> . . .
  - (k) the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002]<sup>F27</sup>[<sup>F28</sup> . . .
  - (l) <sup>F29</sup> .....
  - [<sup>F30</sup>(m) <sup>F31</sup> .....
  - [<sup>F32</sup>(n) the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003]<sup>F33</sup>[<sup>F34</sup> . . .

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- (o) the European Public Limited-Liability Company Regulations 2004]
  - [<sup>F35</sup>[<sup>F36</sup>(p)] the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004]<sup>F37</sup>[<sup>F38</sup> . . .
  - (q) the Information and Consultation of Employees Regulations 2004][<sup>F39</sup>, <sup>F40</sup> . . .
  - (r) the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006]<sup>F41</sup>[<sup>F42</sup> . . .
  - (s) <sup>F43</sup> . . . . . ]
  - [<sup>F44</sup>(t) the European Cooperative Society (Involvement of Employees) Regulations 2006]<sup>F45</sup> . . .
  - <sup>F46</sup>(u) . . . . .
  - [<sup>F47</sup>(v) the Cross-border Railway Services (Working Time) Regulations 2008][<sup>F48</sup>, <sup>F49</sup> . . .
  - (w) the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009(S.I. 2009/2401).][<sup>F50</sup>, <sup>F51</sup> . . .
  - (x) the Employment Relations Act 1999 (Blacklists) Regulations 2010.][<sup>F52</sup>, <sup>F53</sup> . . .
  - (y) the Agency Workers Regulations 2010.][<sup>F54</sup>, or]
  - [<sup>F55</sup>(z) the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (S.I. 2018/58).]
- (2) No appeal shall lie except to the Appeal Tribunal from any decision of an [<sup>F11</sup>employment tribunal] under or by virtue of the Acts listed [<sup>F56</sup>or the Regulations referred to] in subsection (1).
- (3) Subsection (1) does not affect any provision contained in, or made under, any Act which provides for an appeal to lie to the Appeal Tribunal (whether from an [<sup>F11</sup>employment tribunal], the Certification Officer or any other person or body) otherwise than on a question to which that subsection applies.
- [<sup>F57</sup>(4) The Appeal Tribunal also has any jurisdiction in respect of matters other than appeals which is conferred on it by or under—
- (a) the Trade Union and Labour Relations (Consolidation) Act 1992,
  - (b) this Act, or
  - (c) any other Act.]

#### Textual Amendments

- F11** Words in s. 21 substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1
- F12** S. 21(1)(a)(b)(c) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(a), Sch. 27 Pt 1 (as amended) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, Sch. 2 (see S.I. 2010/2317, art. 2)
- F13** S. 21(1)(e) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(a), Sch. 27 Pt 1 (as amended) (1.10.2010) by S.I. 2010/2279, art. 1(2), Sch. 1 para. 5, Sch. 2 (see S.I. 2010/2317, art. 2)
- F14** Word at the end of s. 21(1)(f) repealed (1.11.1998) by 1998 c. 39, s. 53, Sch. 3 (with s. 36); S.I. 1998/2574, art. 2(1), Sch. 1
- F15** S. 21(1)(g) and word “or” immediately preceding inserted (*retrospectively*) by 1998 c. 8, ss. 15, 17(3), Sch. 1 para. 17(1)(2)
- F16** S. 21(1)(fg) inserted (5.10.1999) by 1999 c. 10, ss. 7, 19(4), 20(2), Sch. 3 para. 5, Sch. 6 and repealed (6.4.2003) by 2002 c. 21, ss. 60, 61, Sch. 6; S.I. 2003/962, art. 2(3)(e), Sch. 1 (subject to arts. 3, 4)
- F17** S. 21(1)(g)(ga)(gb) substituted (1.10.2004) for s. 21(1)(ff)(g) by Employment Relations Act 2004 (c. 24), ss. 38, 59; S.I. 2004/2566, art. 3(a)

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- F18** S. 21(1)(gc) inserted (30.4.2007) by Equality Act 2006 (c. 3), ss. 40, 93, **Sch. 3 para. 57**; S.I. 2007/1092, **art. 2(e)**
- F19** S. 21(1)(gd) inserted (30.6.2012) by Pensions Act 2008 (c. 30), **ss. 59**, 149(1); S.I. 2012/1682, art. 2, **Sch. 2**
- F20** S. 21(1)(ge) inserted by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(b) (as amended) (1.10.2010) by S.I. 2010/2279, **art. 1(2)**, **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2)
- F21** S. 21(1)(h)(i) substituted (15.1.2000) for words at the end of subsection (1) by S.I. 1999/3323, **reg. 35(3)**
- F22** Word at the end of s. 21(1)(h) omitted (1.7.2000) by virtue of S.I. 2000/1551, **reg. 10**, **Sch. para. 1(b)(i)**
- F23** Word at the end of s. 21(1)(i) omitted (1.10.2002) by virtue of S.I. 2002/2034, **reg. 11 Sch. 2 para. 2(b)(i)**
- F24** S. 21(1)(j) and word “or” immediately preceding it inserted (1.7.2000) by S.I. 2000/1551, **reg. 10**, **Sch. para. 1(b)(ii)**
- F25** Word at the end of s. 21(1)(j) omitted (1.12.2003) by virtue of The Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), **reg. 39**, **Sch. 5 para. 1(b)(i)**
- F26** S. 21(1)(k) inserted (1.10.2002) by S.I. 2002/2034, **reg. 11 Sch. 2 para. 2(b)(ii)**
- F27** Word at the end of s. 21(1)(k) omitted (2.12.2003) by virtue of The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), **reg. 39(2)**, **Sch. 5 para. 1(b)(i)**
- F28** S. 21(1)(l) and preceding word inserted (1.12.2003) by The Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661), **reg. 39**, **Sch. 5 para. 1(b)(ii)**
- F29** S. 21(1)(l) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(a), Sch. 27 Pt 1 (as amended) (1.10.2010) by S.I. 2010/2279, **art. 1(2)**, **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F30** S. 21(1)(m) and preceding word inserted (2.12.2003) by The Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), **reg. 39(2)**, **Sch. 5 para. 1(b)(ii)**
- F31** S. 21(1)(m) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(a), Sch. 27 Pt 1 (as amended) (1.10.2010) by S.I. 2010/2279, **art. 1(2)**, **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2)
- F32** S. 21(1)(n) inserted (24.12.2003) by The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 (S.I. 2003/3049), **reg. 20**, **Sch. 2 para. 2(3)**
- F33** Word at the end of s. 21(1)(n) repealed (6.4.2005) by The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 37(a)** (with **reg. 3**)
- F34** S. 21(1)(o) and preceding word inserted (8.10.2004) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 49**
- F35** S. 21(1)(o) inserted (16.8.2004) by The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 (S.I. 2004/1713), **reg. 22**, **Sch. 2 para.1(3)**
- F36** S. 21(1)(o) renumbered (6.4.2005) as s. 21(1)(p) by virtue of The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 37(b)** (with **reg. 3**)
- F37** Word at the end of s. 21(1)(p) omitted (6.4.2006) by virtue of The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349), **reg. 17**, **Sch. para. 10(a)** (with **reg. 3**)
- F38** S. 21(1)(q) and preceding word inserted (6.4.2004) by The Information and Consultation of Employees Regulations 2004 (S.I. 2004/3426), **reg. 37(c)** (with **reg. 3**)
- F39** S. 21(1)(r) and preceding word inserted (6.4.2006) by The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (S.I. 2006/349), **reg. 17**, **Sch. para. 10(b)** (with **reg. 3**)
- F40** Word at the end of s. 21(1)(q) omitted (1.10.2006) by virtue of The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), **reg. 49(1)**, **Sch. 8 para. 20(2)** (with **reg. 44**)
- F41** Word at the end of s. 21(1)(r) omitted (18.8.2006) by virtue of The European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059), **reg. 38(a)**
- F42** S. 21(1)(s) and preceding word inserted (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), **reg. 49(1)**, **Sch. 8 para. 20(3)** (with **reg. 44**)
- F43** S. 21(1)(s) repealed by Equality Act 2010 (c. 15), Sch. 26 Pt. 1 para. 32(a), Sch. 27 Pt 1 (as amended) (1.10.2010) by S.I. 2010/2279, **art. 1(2)**, **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2)

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- F44** S. 21(1)(t) and preceding word inserted (18.8.2006) by The European Cooperative Society (Involvement of Employees) Regulations 2006 (S.I. 2006/2059), **reg. 38(b)**
- F45** Word in s. 21(1)(t) omitted (27.7.2008) by virtue of The Cross-border Railway Services (Working Time) Regulations 2008 (S.I. 2008/1660), **reg. 1(1), Sch. 3 para. 1(b)(i)**
- F46** S. 21(1)(u) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), **reg. 2, Sch. 3 para. 4; 2020 c. 1, Sch. 5 para. 1(1)**
- F47** S. 21(1)(v) and word inserted (27.7.2008) by The Cross-border Railway Services (Working Time) Regulations 2008 (S.I. 2008/1660), **reg. 1(1), Sch. 3 para. 1(b)(ii)**
- F48** S. 21(1)(w) and word inserted (1.10.2009) by The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009 (S.I. 2009/2401), **regs. 1(2), 36** (with **regs. 4, 41**)
- F49** Word in s. 21(1)(v) omitted (2.3.2010) by virtue of The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), **regs. 1(b), 17(5)(a)**
- F50** S. 21(1)(x) and word inserted (2.3.2010) by The Employment Relations Act 1999 (Blacklists) Regulations 2010 (S.I. 2010/493), **regs. 1(b), 17(5)(b)**
- F51** Word in s. 21(1)(w) omitted (1.10.2011) by virtue of The Agency Workers Regulations 2010 (S.I. 2010/93), **reg. 1(1), Sch. 2 para. 8(b)(i)**
- F52** S. 21(1)(y) and word inserted (1.10.2011) by The Agency Workers Regulations 2010 (S.I. 2010/93), **reg. 1(1), Sch. 2 para. 8(b)(ii)**
- F53** Word in s. 21(1)(x) omitted (17.3.2014) by virtue of The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), **reg. 1(2), Sch. para. 1(3)(a)**
- F54** Word in s. 21(1)(y) inserted (17.3.2014) by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), **reg. 1(2), Sch. para. 1(3)(b)**
- F55** S. 21(1)(z) substituted (6.4.2018) by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (S.I. 2018/58), **reg. 1, Sch. 2 para. 1(b)** (with **regs. 3, 4**)
- F56** Words in s. 21(2) inserted (1.10.1998) by S.I. 1998/1833, **reg. 34(b)**
- F57** S. 21(4) inserted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 17(3)**; S.I. 1998/1658, **art. 2(1), Sch. 1**

#### Marginal Citations

- M1** 1992 c.52  
**M2** 1996 c.18

*Membership etc.*

## 22 Membership of Appeal Tribunal.

- (1) The Appeal Tribunal shall consist of—
- such number of judges as may be nominated from time to time [<sup>F58</sup>by the Lord Chief Justice, after consulting the Lord Chancellor,] from the judges [<sup>F59</sup> . . . of the High Court and the Court of Appeal [<sup>F60</sup> and the judges within subsection (2A) ] ,
  - at least one judge of the Court of Session nominated from time to time by the Lord President of the Court of Session, and
  - 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 (“appointed members”).

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- (2) The appointed members shall be persons who appear to the Lord Chancellor and the Secretary of State to have special knowledge or experience of industrial relations either—
- (a) as representatives of employers, or
  - (b) as representatives of workers (within the meaning of the <sup>M3</sup>Trade Union and Labour Relations (Consolidation) Act 1992).
- [<sup>F61</sup>(2A) A person is a judge within this subsection if the person—
- (a) is the Senior President of Tribunals,
  - (b) is a deputy judge of the High Court,
  - (c) is the Judge Advocate General,
  - (d) is a Circuit judge,
  - (e) is a Chamber President, or a Deputy Chamber President, of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal,
  - (f) is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007,
  - (g) is a transferred-in judge of the Upper Tribunal (see section 31(2) of that Act),
  - (h) is a deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 to, or section 31(2) of, that Act),
  - (i) is a district judge, which here does not include a deputy district judge, <sup>F62</sup>...
  - (j) is a District Judge (Magistrates' Courts), which here does not include a Deputy District Judge (Magistrates' Courts).]
- [<sup>F63</sup>(k) is the President of Employment Tribunals (England and Wales), or
- (l) is the President of Employment Tribunals (Scotland).]
- (3) The [<sup>F64</sup>Lord Chief Justice shall] appoint one of the judges nominated under subsection (1) to be the President of the Appeal Tribunal.
- [<sup>F65</sup>(3A) The Lord Chief Justice must not make an appointment under subsection (3) unless—
- (a) he has consulted the Lord Chancellor, and
  - (b) the Lord President of the Court of Session agrees.]
- (4) No judge shall be nominated a member of the Appeal Tribunal [<sup>F66</sup> under subsection (1) (b) ] except with his consent.
- [<sup>F67</sup>(5) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A)(b).]

#### Textual Amendments

- F58** Words in s. 22(1)(a) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 246\(2\)\(a\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F59** Words in s. 22(1)(a) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 246\(2\)\(b\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F60** Words in s. 22(1)(a) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 11\(2\)](#); S.I. 2013/2200, [art. 3\(g\)](#)



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- F61** S. 22(2A) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 11\(3\)](#); S.I. 2013/2200, art. 3(g)
- F62** Word in s. 22(2A)(i) omitted (20.2.2019) by virtue of [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\)](#), [ss. 1\(5\)\(a\)](#), 4(2)
- F63** S. 22(2A)(k)(l) inserted (20.2.2019) by [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\)](#), [ss. 1\(5\)\(b\)](#), 4(2)
- F64** Words in s. 22(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 246\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F65** S. 22(3A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 246\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1
- F66** Words in s. 22(4) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 11\(4\)](#); S.I. 2013/2200, art. 3(g)
- F67** S. 22(5)(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 246\(5\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1

#### Marginal Citations

- M3** 1992 c. 52.

## 23 Temporary membership.

- (1) At any time when—
- the office of President of the Appeal Tribunal is vacant, or
  - the person holding that office is temporarily absent or otherwise unable to act as the President of the Appeal Tribunal,
- the [<sup>F68</sup>Lord Chief Justice] may nominate another judge nominated under section 22(1)(a) to act temporarily in his place.
- (2) At any time when a judge of the Appeal Tribunal nominated under paragraph (a) or (b) of subsection (1) of section 22 is temporarily absent or otherwise unable to act as a member of the Appeal Tribunal—
- in the case of a judge nominated under paragraph (a) of that subsection, the [<sup>F69</sup>Lord Chief Justice] may nominate another judge who is qualified to be nominated under that paragraph to act temporarily in his place, and
  - in the case of a judge nominated under paragraph (b) of that subsection, the Lord President of the Court of Session may nominate another judge who is qualified to be nominated under that paragraph to act temporarily in his place.
- (3) At any time when an appointed member of the Appeal Tribunal is temporarily absent or otherwise unable to act as a member of the Appeal Tribunal, the Lord Chancellor and the Secretary of State may jointly appoint a person appearing to them to have the qualifications for appointment as an appointed member to act temporarily in his place.
- (4) A person nominated or appointed to act temporarily in place of the President or any other member of the Appeal Tribunal, when so acting, has all the functions of the person in whose place he acts.
- (5) No judge shall be nominated to act temporarily as a member of the Appeal Tribunal except with his consent.
- [<sup>F70</sup>(6) The functions conferred on the Lord Chief Justice by the preceding provisions of this section may be exercised only after consulting the Lord Chancellor.

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- (7) The functions conferred on the Lord Chancellor by subsection (3) may be exercised only after consultation with the Lord Chief Justice.
- (8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

**Textual Amendments**

- F68** Words in s. 23(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 247(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1
- F69** Words in s. 23(2)(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 247(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1
- F70** S. 23(6)-(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 247(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1

**24 Temporary additional judicial membership.**

- [<sup>F71</sup>(1) This section applies if both of the following conditions are met—
  - (a) the Lord Chancellor thinks that it is expedient, after consulting the Lord Chief Justice, for a qualified person to be appointed to be a temporary additional judge of the Appeal Tribunal in order to facilitate in England and Wales the disposal of business in the Appeal Tribunal;
  - (b) the Lord Chancellor requests the Lord Chief Justice to make such an appointment.
- (1A) The Lord Chief Justice may, after consulting the Lord Chancellor, appoint a qualified person as mentioned in subsection (1)(a).
- (1B) An appointment under this section is—
  - (a) for such period, or
  - (b) on such occasions,
 as the Lord Chief Justice determines, after consulting the Lord Chancellor.]
- (2) In [<sup>F72</sup>this section] “qualified person” means a person who—
  - (a) is qualified for appointment as a judge of the High Court under section 10 of the <sup>M4</sup>Supreme Court Act 1981, <sup>F73</sup>...

<sup>F73</sup> .....
- (3) A person appointed to be a temporary additional judge of the Appeal Tribunal has all the functions of a judge nominated under section 22(1)(a).
- [<sup>F74</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

**Textual Amendments**

- F71** S. 24(1)-(1B) substituted (3.4.2006) for s. 24(1) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 248(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1
- F72** Words in s. 24(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 248(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1



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- F73** Words in s. 24(2) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 9](#); [S.I. 2022/1014](#), reg. 2(d) (with reg. 3)
- F74** S. 24(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 248\(4\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), Sch. 1

#### Marginal Citations

- M4** 1981 c. 54.

### [<sup>F75</sup>24A Training etc. of members of Appeal Tribunal

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges, and other members, of the Appeal Tribunal (in their capacities as members of the Appeal Tribunal).

#### Textual Amendments

- F75** Ss. 24A, 24B inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 44](#); [S.I. 2008/2696](#), [art. 5\(c\)\(i\)](#) (with art. 3)

### 24B Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
  - (a) who is appointed under section 22(1)(c) or 23(3), or
  - (b) who is appointed under section 24(1A) and—
    - (i) falls when appointed within paragraph (a), but not paragraph (b), of section 24(2), and
    - (ii) has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
  - (a) the Senior President of Tribunals, or
  - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a member of the Appeal Tribunal appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
  - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
  - (b) he holds judicial office (as defined in section 109(4) of that Act);
  - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,

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as set out in the Promissory Oaths Act 1868.]

#### Textual Amendments

**F75** Ss. 24A, 24B inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 44](#); [S.I. 2008/2696](#), [art. 5\(c\)\(i\)](#) (with [art. 3](#))

## 25 Tenure of appointed members.

- (1) Subject to subsections (2) to (4), an appointed member shall hold and vacate office in accordance with the terms of his appointment.
- (2) An appointed member—
  - (a) may at any time resign his membership by notice in writing addressed to the Lord Chancellor and the Secretary of State, and
  - (b) shall vacate his office on the day on which he attains the age of [<sup>F76</sup>75].
- <sup>F77</sup>(3) .....
- (4) If the Lord Chancellor, after consultation with the Secretary of State, is satisfied that an appointed member—
  - (a) has been absent from sittings of the Appeal Tribunal for a period longer than six consecutive months without the permission of the President of the Appeal Tribunal,
  - (b) has become bankrupt or [<sup>F78</sup>had a debt relief order (under Part 7A of the Insolvency Act 1986) made in respect of him or has] made an arrangement with his creditors, or has had his estate sequestrated or made a trust deed for behoof of his creditors or a composition contract,
  - (c) is incapacitated by physical or mental illness, or
  - (d) is otherwise unable or unfit to discharge the functions of a member,
 the Lord Chancellor may declare his office as a member to be vacant and shall notify the declaration in such manner as the Lord Chancellor thinks fit; and when the Lord Chancellor does so, the office becomes vacant.
- [<sup>F79</sup>(5) The Lord Chancellor may declare an appointed member's office vacant under subsection (4) only with the concurrence of the appropriate senior judge.
- (6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.]

#### Textual Amendments

- F76** Word in [s. 25\(2\)\(b\)](#) substituted (10.3.2022) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(a), [Sch. 1 para. 28\(a\)](#) (with [Sch. 1 para. 43](#))
- F77** [S. 25\(3\)](#) omitted (10.3.2022) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(a), [Sch. 1 para. 28\(b\)](#) (with [Sch. 1 para. 43](#))
- F78** Words in [s. 25\(4\)\(b\)](#) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), [art. 1](#), [Sch. 2 para. 35](#) (with [art. 5](#))
- F79** [S. 25\(5\)\(6\)](#) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 249](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1](#)

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**F80 26 Staff.**

.....

**Textual Amendments**

**F80** S. 26 repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i) (with art. 3)

**27 Remuneration, pensions and allowances.**

- (1) The [F81 Lord Chancellor] shall pay—
  - (a) the appointed members, [F82 and]
  - (b) any person appointed to act temporarily in the place of an appointed member,  
F83  
.....
  - F84 (c) .....such remuneration and such travelling and other allowances as he may, with the relevant approval, determine; and for this purpose the relevant approval is that of the Treasury in the case of persons within paragraph (a) or (b) F85 .....
- (2) A person appointed to be a temporary additional judge of the Appeal Tribunal shall be paid such remuneration and allowances as the Lord Chancellor may, with the approval of the Treasury, determine.
- (3) If the [F86 Lord Chancellor] determines, with the approval of the Treasury, that this subsection applies in the case of an appointed member, the [F86 Lord Chancellor] shall—
  - (a) pay such pension, allowance or gratuity to or in respect of that person on his retirement or death, or
  - (b) make to the member such payments towards the provision of a pension, allowance or gratuity for his retirement or death,as the [F86 Lord Chancellor] may, with the approval of the Treasury, determine.
- (4) Where—
  - (a) a person ceases to be an appointed member otherwise than on his retirement or death, and
  - (b) it appears to the [F87 Lord Chancellor] that there are special circumstances which make it right for him to receive compensation,the [F87 Lord Chancellor] may make to him a payment of such amount as the [F87 Lord Chancellor] may, with the approval of the Treasury, determine.

**Textual Amendments**

- F81** Words in s. 27(1) substituted (7.11.2023) by Judicial Review and Courts Act 2022 (c. 35), ss. 38(b), 51(4); S.I. 2023/1194, reg. 2(d)
- F82** Word in s. 27(1)(a) inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 8 para. 45; S.I. 2008/2696, art. 5(c)(i) (with art. 3)
- F83** Word in s. 27(1)(b) repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i) (with art. 3)
- F84** S. 27(1)(c) repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i) (with art. 3)

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- F85** Words in s. 27(1) repealed (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 5(i) (with art. 3)
- F86** Words in s. 27(3) substituted (7.11.2023) by Judicial Review and Courts Act 2022 (c. 35), ss. 38(b), 51(4); S.I. 2023/1194, reg. 2(d)
- F87** Words in s. 27(4) substituted (7.11.2023) by Judicial Review and Courts Act 2022 (c. 35), ss. 38(b), 51(4); S.I. 2023/1194, reg. 2(d)

## **[<sup>F88</sup>28 Composition of Appeal Tribunal.**

- (1) The Appeal Tribunal is, for the purpose of deciding any given matter, to be composed of a member or members chosen by the Senior President of Tribunals.
- (2) The Senior President of Tribunals (or any person to whom the function under subsection (1) is delegated)—
  - (a) must act in accordance with regulations under subsection (3);
  - (b) may choose themselves (if otherwise eligible to sit).
- (3) The Lord Chancellor must by regulations make provision, in relation to every matter that may fall to be decided by the Appeal Tribunal, for determining the number of members who are to compose the Tribunal.
- (4) Where regulations under subsection (3) provide for the Appeal Tribunal to be composed of a single member, the regulations must provide for that member to be a judge.
- (5) Where regulations under subsection (3) provide for the Appeal Tribunal to be composed of more than one member, the regulations—
  - (a) must provide for at least one of those members to be a judge,
  - (b) must make provision for determining how many (if any) of the other members are to be judges and how many (if any) are to be appointed members, and
  - (c) if the Tribunal is to be composed of persons who include one or more appointed members, may make provision for determining what qualifications (if any) that member or any of those members must have.
- (6) A duty under subsection (3) or (5) to provide for the determination of anything may be discharged by providing for the thing to be determined by the Senior President of Tribunals or the President of the Appeal Tribunal in accordance with any provision made under that subsection.
- (7) The power under subsection (5)(c) may be exercised by giving the Senior President of Tribunals or the President of the Appeal Tribunal power to determine what qualifications are required in accordance with any provision made by the regulations.
- (8) Where the Appeal Tribunal is to be composed of more than one member, the Tribunal may proceed in the absence of one or more of the members chosen to compose it if—
  - (a) the parties to the case agree, and
  - (b) at least one of the members who is present is a judge.
- (9) Where a person (other than a judge) is chosen as one of the members composing the Appeal Tribunal but does not have a qualification required by virtue of subsection (5) (c), the Tribunal may still proceed with that person as a member if the parties to the case agree.

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(10) Before making regulations under this section, the Lord Chancellor must consult the Senior President of Tribunals.

(11) In this section, “qualification” includes experience.]

#### Textual Amendments

**F88** S. 28 substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), [ss. 35\(3\), 51\(4\)](#) (with [s. 36](#)); [S.I. 2023/1194](#), [reg. 2\(b\)](#) (with [reg. 3](#))

### Procedure

#### 29 Conduct of hearings.

- (1) A person may appear before the Appeal Tribunal in person or be represented by—
- counsel or a solicitor,
  - a representative of a trade union or an employers’ association, or
  - any other person whom he desires to represent him.
- (2) The Appeal Tribunal has in relation to—
- the attendance and examination of witnesses,
  - the production and inspection of documents, and
  - all other matters incidental to its jurisdiction,
- the same powers, rights, privileges and authority (in England and Wales) as the High Court and (in Scotland) as the Court of Session.

#### [<sup>F89</sup>29A Practice directions

- (1) Directions about the [<sup>F90</sup>practice and] procedure of the Appeal Tribunal may be given—
- by the Senior President of Tribunals, or
  - by the President of the Appeal Tribunal.
- (2) A power under subsection (1) includes—
- power to vary or revoke directions given in exercise of the power, and
  - power to make different provision for different purposes.
- (3) Directions under subsection (1)(a) may not be given without the approval of the Lord Chancellor.
- (4) Directions under subsection (1)(b) may not be given without the approval of—
- the Senior President of Tribunals, and
  - the Lord Chancellor.
- (5) Subsection (1) does not prejudice any power apart from that subsection to give directions about the [<sup>F91</sup>practice or] procedure of the Appeal Tribunal.
- (6) Directions may not be given in exercise of any such power as is mentioned in subsection (5) without the approval of—
- the Senior President of Tribunals, and

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- (b) the Lord Chancellor.
- (7) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of guidance about any of the following—
  - (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the Appeal Tribunal.
- (8) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the Appeal Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.
- (9) Subsections (4) and (6) do not apply to directions given in a particular case for the purposes of that case only.
- (10) Subsection (6) does not apply to directions under section 28(1).]

#### Textual Amendments

- F89** S. 29A inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 148, Sch. 8 para. 47](#); S.I. 2008/2696, [art. 5\(c\)\(i\)](#) (with [art. 3](#))
- F90** Words in [s. 29A\(1\)](#) inserted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(4\), Sch. 5 para. 18\(a\)](#); S.I. 2023/1194, [reg. 2\(f\)](#)
- F91** Words in [s. 29A\(5\)](#) inserted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(4\), Sch. 5 para. 18\(b\)](#); S.I. 2023/1194, [reg. 2\(f\)](#)

### 30 Appeal Tribunal procedure rules.

- (1) The Lord Chancellor, after consultation with the Lord President of the Court of Session, shall make rules (“Appeal Tribunal procedure rules”) with respect to proceedings before the Appeal Tribunal.
- (2) Appeal Tribunal procedure rules may, in particular, include provision—
  - (a) with respect to the manner in which, and the time within which, an appeal may be brought,
  - (b) with respect to the manner in which [<sup>F92</sup>or complaint] to the Appeal Tribunal may be made,
  - (c) for requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses,
  - (d) for requiring or enabling the Appeal Tribunal to sit in private in circumstances in which an [<sup>F93</sup>employment tribunal] is required or empowered to sit in private by virtue of [<sup>F94</sup>section 10A] of this Act,
  - (e) <sup>F95</sup> .....
  - (f) for interlocutory matters arising on any appeal or application to the Appeal Tribunal to be dealt with [<sup>F96</sup>by an officer of the Appeal Tribunal ] .
- [<sup>F97</sup>(2A) Appeal Tribunal procedure rules may make provision of a kind which may be made by employment tribunal procedure regulations under section 10(2), (5), (6) or (7).
- (2B) For the purposes of subsection (2A)—
  - (a) the reference in section 10(2) to section 4 shall be treated as a reference to section 28, and



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- (b) the reference in section 10(4) to the President or a Regional [F98 Employment Judge] shall be treated as a reference to a judge of the Appeal Tribunal.
- (2C) Section 10B shall have effect in relation to a direction to or determination of the Appeal Tribunal as it has effect in relation to a direction to or determination of an employment tribunal.]
- (3) Subject to Appeal Tribunal procedure rules [F99 and directions under section 28(1) or 29A(1)], the Appeal Tribunal has power to regulate its own procedure.

#### Textual Amendments

- F92** Words in s. 30(2)(b) substituted (15.1.2000) by S.I. 1999/3323, **reg. 35(4)**
- F93** Words in s. 30 (2)(d) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, **art. 2(1), Sch. 1**
- F94** Words in s. 30(2)(d) substituted (16.7.2001) by 1999 c. 26, ss. 41, 45(1), **Sch. 8 para. 5**; S.I. 2001/1187, **art. 3(b), Sch.** (as amended by S.I. 2001/1461, **art. 2(2)**)
- F95** S. 30(2)(e) omitted (31.12.2004) by virtue of Employment Relations Act 2004 (c. 24), ss. 57, 59(2)-(4), **Sch. 1 para. 26**; and the said s. 30(2)(e) repealed (6.4.2005) by {Sch. 2} of the said Employment Relations Act 2004 (c. 24); S.I. 2004/3342, **art. 4(b)** (with arts. 5-12); S.I. 2005/872, **art. 4**, Sch (with arts. 5-21)
- F96** Words in s. 30(2)(f) substituted (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 12(3), 103(2)** (with s. 24(2))
- F97** S. 30(2A)-(2C) inserted (16.7.2001) by 1999 c. 26, ss. 41, 45(1), **Sch. 8 para. 5**; S.I. 2001/1187, **art. 3(b), Sch.** (as amended by S.I. 2001/1461, **art. 2(2)**)
- F98** Words in s. 30(2B)(b) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 14 para. 13(3)**; S.I. 2013/2200, **art. 3(g)**
- F99** Words in s. 30(3) inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 8 para. 48**; S.I. 2008/2696, **art. 5(c)(i)** (with art. 3)

### 31 Restriction of publicity in cases involving sexual misconduct.

- (1) Appeal Tribunal procedure rules may, as respects proceedings to which this section applies, include provision—
- (a) for cases involving allegations of the commission of sexual offences, for securing that the registration or other making available of documents or decisions shall be so effected as to prevent the identification of any person affected by or making the allegation, and
- (b) for cases involving allegations of sexual misconduct, enabling the Appeal Tribunal, on the application of any party to the proceedings before it or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the Appeal Tribunal.
- (2) This section applies to—
- (a) proceedings on an appeal against a decision of an [F100 employment tribunal] to make, or not to make, a restricted reporting order, and
- (b) proceedings on an appeal against any interlocutory decision of an [F100 employment tribunal] in proceedings in which the [F100 employment tribunal] has made a restricted reporting order which it has not revoked.
- (3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order—

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- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
- (b) in the case of publication in any other form, the person publishing the matter, and
- (c) in the case of matter included in a relevant programme—
  - (i) any body corporate engaged in providing the service in which the programme is included, and
  - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,
 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Where a person is charged with an offence under subsection (3) it is a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or included, the matter in question.
- (5) Where an offence under subsection (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity,
 he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (5), means a member of the body corporate.
- (7) “Restricted reporting order” means—
  - (a) in subsections (1) and (3), an order—
    - (i) made in exercise of a power conferred by rules made by virtue of this section, and
    - (ii) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain, and
  - (b) in subsection (2), an order which is a restricted reporting order for the purposes of section 11.
- (8) In this section—
  - “identifying matter”, in relation to a person, means any matter likely to lead members of the public to identify him as a person affected by, or as the person making, the allegation,
  - “relevant programme” has the same meaning as in the <sup>M5</sup>Sexual Offences (Amendment) Act 1992,
  - “sexual misconduct” means the commission of a sexual offence, sexual harassment or other adverse conduct (of whatever nature) related to sex, and conduct is related to sex whether the relationship with sex lies in the character of the conduct or in its having reference to the sex or sexual orientation of the person at whom the conduct is directed,
  - “sexual offence” means any offence to which section 4 of the <sup>M6</sup>Sexual Offences (Amendment) Act 1976, the Sexual Offences (Amendment) Act

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1992 or section 274(2) of the <sup>M7</sup>Criminal Procedure (Scotland) Act 1995 applies (offences under the <sup>M8</sup>Sexual Offences Act 1956, Part I of the <sup>M9</sup>Criminal Law (Consolidation) (Scotland) Act 1995 and certain other enactments), and

“written publication” has the same meaning as in the Sexual Offences (Amendment) Act 1992.

#### Textual Amendments

**F100** Words in s. 31(2) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

#### Marginal Citations

**M5** 1992 c. 34.

**M6** 1976 c. 82.

**M7** 1995 c. 46.

**M8** 1956 c. 69.

**M9** 1995 c. 39.

## 32 Restriction of publicity in disability cases.

- (1) This section applies to proceedings—
  - (a) on an appeal against a decision of an [<sup>F101</sup>employment tribunal] to make, or not to make, a restricted reporting order, or
  - (b) on an appeal against any interlocutory decision of an [<sup>F101</sup>employment tribunal] in proceedings in which the [<sup>F101</sup>employment tribunal] has made a restricted reporting order which it has not revoked.
- (2) Appeal Tribunal procedure rules may, as respects proceedings to which this section applies, include provision for—
  - (a) enabling the Appeal Tribunal, on the application of the complainant or of its own motion, to make a restricted reporting order having effect (if not revoked earlier) until the promulgation of the decision of the Appeal Tribunal, and
  - (b) where a restricted reporting order is made in relation to an appeal which is being dealt with by the Appeal Tribunal together with any other proceedings, enabling the Appeal Tribunal to direct that the order is to apply also in relation to those other proceedings or such part of them as the Appeal Tribunal may direct.
- (3) If any identifying matter is published or included in a relevant programme in contravention of a restricted reporting order—
  - (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,
  - (b) in the case of publication in any other form, the person publishing the matter, and
  - (c) in the case of matter included in a relevant programme—
    - (i) any body corporate engaged in providing the service in which the programme is included, and
    - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (4) Where a person is charged with an offence under subsection (3), it is a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or included, the matter in question.
- (5) Where an offence under subsection (3) committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity,
- he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In relation to a body corporate whose affairs are managed by its members “director”, in subsection (5), means a member of the body corporate.
- (7) “Restricted reporting order” means—
- (a) in subsection (1), an order which is a restricted reporting order for the purposes of section 12, and
  - (b) in subsections (2) and (3), an order—
    - (i) made in exercise of a power conferred by rules made by virtue of this section, and
    - (ii) prohibiting the publication in Great Britain of identifying matter in a written publication available to the public or its inclusion in a relevant programme for reception in Great Britain.
- (8) In this section—
- “complainant” means the person who made the complaint to which the proceedings before the Appeal Tribunal relate,
- “identifying matter” means any matter likely to lead members of the public to identify the complainant or such other persons (if any) as may be named in the order,
- “promulgation” has such meaning as may be prescribed by rules made by virtue of this section,
- “relevant programme” means a programme included in a programme service, within the meaning of the <sup>M10</sup>Broadcasting Act 1990, and
- “written publication” includes a film, a sound track and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

#### Textual Amendments

**F101** Words in s. 32(1) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

#### Commencement Information

**II** S. 32 wholly in force at 22.8.1996 with effect as mentioned in Sch. 2 Pt. II para. 7(7)(8) and S.I. 1996/3150, art. 2

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#### Marginal Citations

M10 1990 c. 42.

### 33 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 a person has habitually and persistently and without any reasonable ground—
- (a) instituted vexatious proceedings, whether [<sup>F102</sup>before the Certification Officer,] in an [<sup>F103</sup>employment 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 [<sup>F104</sup>before the Certification Officer,] in an [<sup>F103</sup>employment tribunal] or before the Appeal Tribunal,
- the Appeal Tribunal may, after hearing the 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 [<sup>F105</sup>before the Certification Officer,] in any [<sup>F103</sup>employment tribunal] or before the Appeal Tribunal by the person against whom the order is made,
  - (b) any proceedings instituted by him [<sup>F106</sup>before the Certification Officer,] in any [<sup>F103</sup>employment 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) is to be made by him in any proceedings [<sup>F107</sup>before the Certification Officer,] in any [<sup>F103</sup>employment tribunal] or before 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 otherwise it remains in force indefinitely.
- (4) Leave for the institution or continuance of, or for the making of an application in, any proceedings [<sup>F108</sup>before the Certification Officer,] in an [<sup>F103</sup>employment tribunal] or before the Appeal Tribunal by a person who is the subject of a restriction of proceedings order shall not be given unless the Appeal Tribunal is satisfied—
- (a) that the proceedings or application are not an abuse of the [<sup>F109</sup>process] , and
  - (b) that there are reasonable grounds for the proceedings or application.
- (5) A copy of a restriction of proceedings order shall be published in the London Gazette and the Edinburgh Gazette.

#### Textual Amendments

**F102** Words in s. 33(1)(a) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(2)**, 59; S. I. 2005/872, **art. 4**, Sch. (with **arts. 5-21**)

**F103** Words in s. 33(1)(2)(b)(c)(4) substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with s. 16(2)); S.I. 1998/1658, **art. 2(1)**, **Sch. 1**

**F104** Words in s. 33(1)(b) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(3)**, 59; S. I. 2005/872, **art. 4**, Sch. (with **arts. 5-21**)

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- F105** Words in s. 33(2)(a) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(4)**, 59; S. I. 2005/872, **art. 4**, Sch. (with arts. 5-21)
- F106** Words in s. 33(2)(b) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(5)**, 59; S. I. 2005/872, **art. 4**, Sch. (with arts. 5-21)
- F107** Words in s. 33(2)(c) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(6)**, 59; S. I. 2005/872, **art. 4**, Sch. (with arts. 5-21)
- F108** Words in s. 33(4) inserted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(7)(a)**, 59; S. I. 2005/872, **art. 4**, Sch. (with arts. 5-21)
- F109** Words in s. 33(4) substituted (6.4.2005) by [Employment Relations Act 2004 \(c. 24\)](#), **ss. 49(7)(b)**, 59; S. I. 2005/872, **art. 4**, Sch. (with arts. 5-21)

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

- C1** S. 33: transfer of functions (6.5.1999) by [S.I. 1999/901](#), arts. 4-8, **Sch.**

**[<sup>F110</sup>34 Costs and expenses**

- (1) Appeal Tribunal procedure rules may include provision for the award of costs or expenses.
- (2) Rules under subsection (1) may include provision authorising the Appeal Tribunal to have regard to a person's ability to pay when considering the making of an award against him under such rules.
- (3) Appeal Tribunal procedure rules may include provision for authorising the Appeal Tribunal—
  - (a) to disallow all or part of the costs or expenses of a representative of a party to proceedings before it by reason of that representative's conduct of the proceedings;
  - (b) to order a representative of a party to proceedings before it to meet all or part of the costs or expenses incurred by a party by reason of the representative's conduct of the proceedings.
- (4) Appeal Tribunal procedure rules may also include provision for taxing or otherwise settling the costs or expenses referred to in subsection (1) or (3)(b) (and, in particular in England and Wales, for enabling the amount of such costs to be assessed by way of detailed assessment in the High Court).]

**Textual Amendments**

- F110** S. 34 substituted (9.7.2004) by [2002 c. 22](#), ss. 23, 55(2); S.I. 2004/1717, **art. 2(1)**

*Decisions and further appeals*

**35 Powers of Appeal Tribunal.**

- (1) For the purpose of disposing of an appeal, the Appeal Tribunal may—
  - (a) exercise any of the powers of the body or officer from whom the appeal was brought, or
  - (b) remit the case to that body or officer.



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- (2) Any decision or award of the Appeal Tribunal on an appeal has the same effect, and may be enforced in the same manner, as a decision or award of the body or officer from whom the appeal was brought.

### 36 Enforcement of decisions etc.

- (1) <sup>F111</sup> .....
- (2) <sup>F111</sup> .....
- (3) <sup>F111</sup> .....
- (4) No person shall be punished for contempt of the Appeal Tribunal except by, or with the consent of, a judge.
- (5) A magistrates' court shall not remit the whole or part of a fine imposed by the Appeal Tribunal unless it has the consent of a judge who is a member of the Appeal Tribunal.

#### Textual Amendments

**F111** S. 36(1)-(3) omitted (31.12.2004) by virtue of [Employment Relations Act 2004 \(c. 24\)](#), ss. 57, 59(2)-(4), [Sch. 1 para. 27](#); and the said s. 36(1)-(3) repealed (6.4.2005) by {Sch. 2} of the said [Employment Relations Act 2004 \(c. 24\)](#); S.I. 2004/3342, [art. 4\(b\)](#) (with arts. 5-12); S.I. 2005/872, [art. 4](#), Sch (with arts. 5-21)

### 37 Appeals from Appeal Tribunal.

- (1) Subject to subsection (3), an appeal on any question of law lies from any decision or order of the Appeal Tribunal to the relevant appeal court with the leave of the Appeal Tribunal or of the relevant appeal court.
- (2) In subsection (1) the “relevant appeal court” means—
  - (a) in the case of proceedings in England and Wales, the Court of Appeal, and
  - (b) in the case of proceedings in Scotland, the Court of Session.
- (3) No appeal lies 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 made under section 33.
- (4) This section is without prejudice to section 13 of the <sup>M11</sup>Administration of Justice Act 1960 (appeal in case of contempt of court).

#### Marginal Citations

**M11** 1960 c. 65.

### [<sup>F112</sup>37ZA] Appeals to Supreme Court: grant of certificate by Appeal Tribunal

- (1) If the Appeal Tribunal is satisfied that—
  - (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Appeal Tribunal's decision or order in any proceedings, and

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- (b) as regards that decision or order, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 37ZB, the Appeal Tribunal may grant a certificate to that effect.
- (2) The Appeal Tribunal may grant a certificate under this section only on an application made by a party to the proceedings.
- (3) The Appeal Tribunal may not grant a certificate under this section in the case of proceedings in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that point of law is—
  - (a) a point of law that—
    - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
    - (ii) has been fully argued in the proceedings and fully considered in the judgment of the Appeal Tribunal in the proceedings, or
  - (b) a point of law—
    - (i) in respect of which the Appeal Tribunal is bound by a decision of the Court of Appeal or the Supreme Court in previous proceedings, and
    - (ii) that was fully considered in the judgments given by the Court of Appeal or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that—
  - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
  - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Appeal Tribunal, a hearing by the Supreme Court is justified, or
  - (c) the Appeal Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1).

#### Textual Amendments

**F112** Ss. 37ZA-37ZC inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. 65, 95(1); S.I. 2016/717, art. 3(b) (with art. 5)

### 37ZB Appeals to Supreme Court: permission to appeal

- (1) If the Appeal Tribunal grants a certificate under section 37ZA in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made—
  - (a) within one month from the date on which the certificate is granted, or
  - (b) within such time as the Supreme Court may allow in a particular case.

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- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section—
  - (a) no appeal from the decision or order to which the certificate relates lies to the Court of Appeal, but
  - (b) an appeal lies from that decision or order to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the Court of Appeal from a decision or order of the Appeal Tribunal in respect of which a certificate is granted under section 37ZA until—
  - (a) the time within which an application can be made under subsection (1) has expired, and
  - (b) where such an application is made, that application has been determined in accordance with this section.

#### Textual Amendments

**F112** Ss. 37ZA-37ZC inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. 65, 95(1); S.I. 2016/717, art. 3(b) (with art. 5)

### 37ZC Appeals to Supreme Court: exclusions

- (1) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment (other than sections 37ZA and 37ZB), no appeal would lie from that decision or order of the Appeal Tribunal to the Court of Appeal, with or without the leave or permission of the Appeal Tribunal or the Court of Appeal.
- (2) No certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the Court of Appeal on that decision or order of the Appeal Tribunal to the Supreme Court, with or without the leave or permission of the Court of Appeal or the Supreme Court.
- (3) Where no appeal would lie to the Court of Appeal from the decision or order of the Appeal Tribunal except with the leave or permission of the Appeal Tribunal or the Court of Appeal, no certificate may be granted under section 37ZA in respect of a decision or order of the Appeal Tribunal unless it appears to the Appeal Tribunal that it would be a proper case for granting leave or permission to appeal to the Court of Appeal.
- (4) No certificate may be granted under section 37ZA where the decision or order of the Appeal Tribunal is made in the exercise of its jurisdiction to punish for contempt.]

#### Textual Amendments

**F112** Ss. 37ZA-37ZC inserted (8.8.2016) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. 65, 95(1); S.I. 2016/717, art. 3(b) (with art. 5)

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