
STATUTORY INSTRUMENTS

1993 No. 2854

INDUSTRIAL TRIBUNALS

The Employment Appeal Tribunal Rules 1993

Made - - - - *23rd November 1993*

Laid before Parliament *24th November 1993*

Coming into force - - *16th December 1993*

The Lord Chancellor, in exercise of the powers conferred on him by section 154(3) of and paragraphs 17(1), 18, 18A(1) and 19(1) of Schedule 11 to the Employment Protection (Consolidation) Act 1978(1), and of all other powers enabling him in that behalf, after consultation with the Lord President of the Court of Session, hereby makes the following Rules:—

Citation and commencement

1.—(1) These Rules may be cited as the Employment Appeal Tribunal Rules 1993 and shall come into force on 16th December 1993.

(2) As from that date the Employment Appeal Tribunal Rules 1980(2), the Employment Appeal Tribunal (Amendment) Rules 1985(3) and the Employment Appeal Tribunal (Amendment) Rules 1988(4) shall be revoked.

Interpretation

2. In these Rules, unless the context otherwise requires—

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978 Schedule so numbered in the 1978 Act;

“the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992(5);

“the Appeal Tribunal” means the Employment Appeal Tribunal established under section 87 of the Employment Protection Act 1975(6) and continued in existence under section 135 of the

(1) 1978 c. 44; paragraph 18 was amended by the Employment Act 1980 (c. 42), Schedule 1, paragraph 28; by the Employment Act 1982 (c. 46), Schedule 3, paragraph 8(1); by the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), Schedule 2, paragraph 25; and by the Trade Union Reform and Employment Rights Act 1993 (c. 19), Schedule 7, paragraph 7 and Schedule 8, paragraphs 29 and 30. Paragraph 18A was inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 41.

(2) S.I.1980/2035, amended by the statutory instruments referred to in footnotes (c) and (d).

(3) S.I.1985/29.

(4) S.I.1988/2072.

(5) 1992 c. 52.

(6) 1975 c. 71.

1978 Act(7) and includes the President, a judge, a member or the Registrar acting on behalf of the Tribunal;

“the Certification Officer” means the person appointed to be the Certification Officer under section 7(1) of the Employment Protection Act 1975(8) or section 254(2) of the 1992 Act, as the case may be;

“judge” means a judge of the Appeal Tribunal nominated under section 135(2)(a) or (b) and includes a judge nominated under paragraph 5 or 6 and a judge appointed under paragraph 8 of Schedule 11(9) to act temporarily in the place of a judge of the Tribunal;

“member” means a member of the Appeal Tribunal appointed under section 135(2)(c) and includes a member appointed under paragraph 7 of Schedule 11 to act temporarily in the place of a member appointed under that section;

“the President” means the judge appointed under section 135(4) to be President of the Appeal Tribunal and includes a judge nominated under paragraph 4 of Schedule 11 to act temporarily in his place;

“the Registrar” means the person appointed to be Registrar of the Appeal Tribunal and includes any officer of the Tribunal authorised by the President to act on behalf of the Registrar;

“the Secretary of Industrial Tribunals” means the person acting for the time being as the Secretary of the Central Office of the Industrial Tribunals (England and Wales) or, as may be appropriate, of the Central Office of the Industrial Tribunals (Scotland);

“taxing officer” means any officer of the Appeal Tribunal authorised by the President to assess costs or expenses.

Institution of appeal

3.—(1) Every appeal to the Appeal Tribunal shall be instituted by serving on the Tribunal the following documents:—

- (a) a notice of appeal in, or substantially in, accordance with Form 1 or 2 in the Schedule to these Rules;
- (b) a copy of the decision or order of an industrial tribunal or of the Certification Officer which is the subject of the appeal;
- (c) in the case of an appeal from an industrial tribunal, a copy of the extended written reasons for the decision or order of that tribunal.

(2) The period within which an appeal to the Appeal Tribunal may be instituted is 42 days from the date on which extended written reasons for the decision or order of the industrial tribunal were sent to the appellant, or, in the case of an appeal from a decision of the Certification Officer, 42 days from the date on which the written record of that decision was so sent.

(3) Where it appears to the Registrar that the grounds of appeal stated in the notice of appeal do not give the Appeal Tribunal jurisdiction to entertain the appeal, he shall notify the appellant accordingly informing him of the reasons for the opinion and, subject to paragraphs (4) and (6) of this rule, no further action shall be taken on the appeal.

(4) Where notification has been given under paragraph (3) of this rule, the appellant may serve a fresh notice of appeal within the time remaining under paragraph (2) or within 28 days from the date on which the Registrar’s notification was sent to him, whichever is the longer period.

(7) Section 135 was amended by the Employment Act 1980 (c. 42), Schedule 2 and by the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), Schedule 2, paragraph 20.

(8) Section 7(1) was re-enacted by the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), section 254(2).

(9) Paragraph 8(2) was amended by the Supreme Court Act 1981 (c. 54), Schedule 5.

(5) Where the appellant serves a fresh notice of appeal under paragraph (4) of this rule the Registrar shall consider such fresh notice of appeal with regard to jurisdiction as though it were an original notice of appeal lodged pursuant to paragraphs (1) and (2) of this rule.

(6) Where an appellant expresses dissatisfaction in writing with the reasons given by the Registrar, under paragraph (3) of this rule, for his opinion that the grounds of appeal stated in a notice do not give the Appeal Tribunal jurisdiction to entertain the appeal, the Registrar shall place the papers before the President or a judge for his direction as to whether any further action should be taken on the appeal.

Service of notice of appeal

4. On receipt of notice under rule 3, the Registrar shall seal the notice with the Appeal Tribunal's seal and shall serve a sealed copy on the appellant and on—

- (a) every person who, in accordance with rule 5, is a respondent to the appeal; and
- (b) The Secretary of Industrial Tribunals in the case of an appeal from an industrial tribunal; or
- (c) the Certification Officer in the case of an appeal from any of his decisions; or
- (d) the Secretary of State in the case of an appeal under Part VI of the 1978 Act or Chapter II of Part IV of the 1992 Act to which he is not a respondent.

Respondents to appeals

5. The respondents to an appeal shall be—

- (a) in the case of an appeal from an industrial tribunal or of an appeal made pursuant to section 95 or 104 of the 1992 Act from a decision of the Certification Officer, the parties (other than the appellant) to the proceedings before the industrial tribunal or the Certification Officer;
- (b) in the case of an appeal made pursuant to section 9 of the 1992 Act from a decision of the Certification Officer, that Officer.

Respondent's answer and notice of cross-appeal

6.—(1) The Registrar shall, as soon as practicable, notify every respondent of the date appointed by the Appeal Tribunal by which any answer under this rule must be delivered.

(2) A respondent who wishes to resist an appeal shall, within the time appointed under paragraph (1) of this rule, deliver to the Appeal Tribunal an answer in writing in, or substantially in, accordance with Form 3 in the Schedule to these Rules, setting out the grounds on which he relies, so, however, that it shall be sufficient for a respondent to an appeal referred to in rule 5(a) who wishes to rely on any ground which is the same as a ground relied on by the industrial tribunal or the Certification Officer for making the decision or order appealed from to state that fact in his answer.

(3) A respondent who wishes to cross-appeal may do so by including in his answer a statement of the grounds of his cross-appeal, and in that event an appellant who wishes to resist the cross-appeal shall, within a time to be appointed by the Appeal Tribunal, deliver to the Tribunal a reply in writing setting out the grounds on which he relies.

(4) The Registrar shall serve a copy of every answer and reply to a cross-appeal on every party other than the party by whom it was delivered.

(5) Where the respondent does not wish to resist an appeal, the parties may deliver to the Appeal Tribunal an agreed draft of an order allowing the appeal and the Tribunal may, if it thinks it right to do so, make an order allowing the appeal in the terms agreed.

Disposal of appeal

7.—(1) The Registrar shall, as soon as practicable, give notice of the arrangements made by the Appeal Tribunal for hearing the appeal to —

- (a) every party to the proceedings; and
- (b) the Secretary of Industrial Tribunals in the case of an appeal from an industrial tribunal; or
- (c) the Certification Officer in the case of an appeal from one of his decisions; or
- (d) the Secretary of State in the case of an appeal under Part VI of the 1978 Act or Chapter II of Part IV of the 1992 Act to which he is not a respondent.

(2) Any such notice shall state the date appointed by the Appeal Tribunal by which any interlocutory application must be made.

Application in respect of exclusion or expulsion from, or unjustifiable discipline by, a trade union

8. Every application under section 67 or 176 of the 1992 Act⁽¹⁰⁾ to the Appeal Tribunal for:

- (a) an award of compensation for exclusion or expulsion from a trade union; or
- (b) one or both of the following, that is to say —
 - (i) an award of compensation for unjustifiable discipline;
 - (ii) an order that the union pay to the applicant an amount equal to any sum which he has paid in pursuance of any such determination as is mentioned in section 64(2)(b) of the 1992 Act; shall be made in writing in, or substantially in, accordance with Form 4 in the Schedule to these Rules and shall be served on the Appeal Tribunal together with a copy of the decision or order declaring that the applicant's complaint against the trade union was well-founded.

9. If on receipt of an application under rule 8(a) it becomes clear that at the time the application was made the applicant had been admitted or re-admitted to membership of the union against which the complaint was made, the Registrar shall forward the application to the Central Office of Industrial Tribunals.

Service of application under rule 8

10. On receipt of an application under rule 8, the Registrar shall seal it with the Appeal Tribunal's seal and shall serve a sealed copy on the applicant and on the respondent trade union and the Secretary of Industrial Tribunals.

Appearance by respondent trade union

11.—(1) Subject to paragraph (2) of this rule, a respondent trade union wishing to resist an application under rule 8 shall within 14 days of receiving the sealed copy of the application enter an appearance in, or substantially in, accordance with Form 5 in the Schedule to these Rules and setting out the grounds on which the union relies.

(2) Paragraph (1) above shall not require a respondent trade union to enter an appearance where the application is before the Appeal Tribunal by virtue of having been transferred there by an industrial tribunal and, prior to that transfer, the respondent had entered an appearance to the proceedings before the industrial tribunal.

⁽¹⁰⁾ Section 67 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), Schedule 8, paragraph 51. Section 176 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 14.

12. On receipt of the notice of appearance under rule 11 the Registrar shall serve a copy of it on the applicant.

Application for restriction of proceedings order

13. Every application to the Appeal Tribunal by the Attorney General or the Lord Advocate under section 136A(11) for a restriction of proceedings order shall be made in writing in, or substantially in, accordance with Form 6 in the Schedule to these Rules, accompanied by an affidavit in support, and shall be served on the Tribunal.

Service of application under rule 13

14. On receipt of an application under rule 13, the Registrar shall seal it with the Appeal Tribunal's seal and shall serve a sealed copy on the Attorney General or the Lord Advocate, as the case may be, on the Secretary of Industrial Tribunals and on the person named in the application.

Appearance by person named in application under rule 13

15. A person named in an application under rule 13 who wishes to resist the application shall within 14 days of receiving the sealed copy of the application enter an appearance in, or substantially in, accordance with Form 7 in the Schedule to these Rules, accompanied by an affidavit in support.

16. On receipt of the notice of appearance under rule 15 the Registrar shall serve a copy of it on the Attorney General or the Lord Advocate, as the case may be.

Disposal of application

17.—(1) The Registrar shall, as soon as practicable, give notice to the parties to an application under rule 8 or rule 13 of the arrangements made by the Appeal Tribunal for hearing the application.

(2) Any such notice shall state the date appointed by the Appeal Tribunal by which any interlocutory application must be made.

Joinder of parties

18. The Appeal Tribunal may, on the application of any person or of its own motion, direct that any person not already a party to the proceedings be added as a party, or that any party to proceedings shall cease to be a party, and in either case may give such consequential directions as it considers necessary.

Interlocutory applications

19.—(1) An interlocutory application may be made to the Appeal Tribunal by giving notice in writing specifying the direction or order sought.

(2) On receipt of a notice under paragraph (1) of this rule, the Registrar shall serve a copy on every other party to the proceedings who appears to him to be concerned in the matter to which the notice relates and shall notify the applicant and every such party of the arrangements made by the Appeal Tribunal for disposing of the application.

Disposal of interlocutory applications

20.—(1) Every interlocutory application made to the Appeal Tribunal shall be considered in the first place by the Registrar who will have regard to the just and economical disposal of the

application, to the expense which may be incurred by the parties in attending an oral hearing and, where applicable, to rule 23(5).

(2) Every interlocutory application other than an application for a restricted reporting order shall be disposed of by the Registrar except that any matter which he thinks should properly be decided by the President or a judge shall be referred by him to the President or a judge, who may dispose of it himself or refer it in whole or in part to the Appeal Tribunal as required to be constituted by paragraph 16(1) and (2) of Schedule 11(12) or refer it back to the Registrar with such directions as he thinks fit.

(3) Every interlocutory application for a restricted reporting order shall be disposed of by the President or a judge or, if he so directs, the application shall be referred to the Appeal Tribunal as required to be constituted by paragraph 16(1) and (2) of Schedule 11 who shall dispose of it.

(4) Paragraphs (2) and (3) of this rule are subject to rule 22(2).

Appeals from Registrar

21.—(1) Where an application is disposed of by the Registrar in pursuance of rule 20(2) any party aggrieved by his decision may appeal to a judge and in that case (subject to rule 22(2)) the judge may determine the appeal himself or refer it in whole or in part to the Appeal Tribunal as required to be constituted by paragraph 16(1) and (2) of Schedule 11.

(2) Notice of appeal under paragraph (1) of this rule may be given to the Appeal Tribunal, either orally or in writing, within five days of the decision appealed from and the Registrar shall notify every other party who appears to him to be concerned in the appeal and shall inform every such party and the appellant of the arrangements made by the Tribunal for disposing of the appeal.

Hearing of interlocutory applications

22.—(1) The Appeal Tribunal may, subject to rule 30 and, where applicable, to rule 23(6), sit either in private or in public for the hearing of any interlocutory application.

(2) Where a Minister of the Crown has given such a direction as is referred to in paragraph 16(4) of Schedule 11, any hearing of an interlocutory application shall be by the Appeal Tribunal comprised of the President alone.

Cases involving allegations of sexual misconduct or the commission of sexual offences

23.—(1) This rule applies to any proceedings to which paragraph 18A of Schedule 11 applies.

(2) In any such proceedings where the appeal appears to involve allegations of the commission of a sexual offence, the Registrar shall omit from any register kept by the Appeal Tribunal, which is available to the public, or delete from any order, judgment or other document, which is available to the public, any identifying matter which is likely to lead members of the public to identify any person affected by or making such an allegation.

(3) In any proceedings to which this rule applies where the appeal involves allegations of sexual misconduct the Appeal Tribunal may at any time before promulgation of its decision either on the application of a party or of its own motion make a restricted reporting order having effect, if not revoked earlier by the Appeal Tribunal, until the promulgation of its decision.

(4) A restricted reporting order shall specify the persons who may not be identified.

(5) The Appeal Tribunal shall not make a restricted reporting order unless it has given each party to the proceedings an opportunity to advance oral argument at a hearing, if they so wish.

(12) Paragraph 16 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 37, by substitution of a new paragraph 16(1)-(4).

(6) Any such hearing shall, subject to rule 30 or unless the Appeal Tribunal decides for any of the reasons mentioned in rule 29(2) to sit in private to hear evidence, be held in public.

(7) The Appeal Tribunal may revoke a restricted reporting order at any time where it thinks fit.

(8) Where the Appeal Tribunal makes a restricted reporting order, the Registrar shall ensure that a notice of that fact is displayed on the notice board of the Appeal Tribunal at the office in which the proceedings in question are being dealt with, on the door of the room in which those proceedings are taking place and with any list of the proceedings taking place before the Appeal Tribunal.

(9) In this rule, “promulgation of its decision” means the date recorded as being the date on which the Appeal Tribunal’s order finally disposing of the appeal is sent to the parties.

Appointment for direction

24.—(1) Where it appears to the Appeal Tribunal that the future conduct of any proceedings would thereby be facilitated, the Tribunal may (either of its own motion or on application) at any stage in the proceedings appoint a date for a meeting for directions as to their future conduct and thereupon the following provisions of this rule shall apply.

(2) The Registrar shall give to every party in the proceedings notice of the date appointed under paragraph (1) of this rule and any party applying for directions shall, if practicable, before that date give to the Appeal Tribunal particulars of any direction for which he asks.

(3) The Registrar shall take such steps as may be practicable to inform every party of any directions applied for by any other party.

(4) On the date appointed under paragraph (1) of this rule, the Appeal Tribunal shall consider every application for directions made by any party and any written representations relating to the application submitted to the Tribunal and shall give such directions as it thinks fit for the purpose of securing the just, expeditious and economical disposal of the proceedings, including, where appropriate, directions in pursuance of rule 36, for the purpose of ensuring that the parties are enabled to avail themselves of opportunities for conciliation.

(5) Without prejudice to the generality of paragraph (4) of this rule, the Appeal Tribunal may give such directions as it thinks fit as to —

- (a) the amendment of any notice, answer or other document;
- (b) the admission of any facts or documents;
- (c) the admission in evidence of any documents;
- (d) the mode in which evidence is to be given at the hearing;
- (e) the consolidation of the proceedings with any other proceedings pending before the Tribunal;
- (f) the place and date of the hearing.

(6) An application for further directions or for the variation of any directions already given may be made in accordance with rule 19.

Appeal Tribunal’s power to give directions

25. The Appeal Tribunal may either of its own motion or on application, at any stage of the proceedings, give any party directions as to any steps to be taken by him in relation to the proceedings.

Default by parties

26. If a respondent to any proceedings fails to deliver an answer or, in the case of an application made under section 67 or 176 of the 1992 Act or section 136A, a notice of appearance within the

time appointed under these Rules, or if any party fails to comply with an order or direction of the Appeal Tribunal, the Tribunal may order that he be debarred from taking any further part in the proceedings, or may make such other order as it thinks just.

Attendance of witnesses and production of documents

27.—(1) The Appeal Tribunal may, on the application of any party, order any person to attend before the Tribunal as a witness or to produce any document.

(2) No person to whom an order is directed under paragraph (1) of this rule shall be treated as having failed to obey that order unless at the time at which the order was served on him there was tendered to him a sufficient sum of money to cover his costs of attending before the Appeal Tribunal.

Oaths

28. The Appeal Tribunal may, either of its own motion or on application, require any evidence to be given on oath.

Oral hearings

29.—(1) Subject to paragraph (2) of this rule and to rule 30, an oral hearing at which any proceedings before the Appeal Tribunal are finally disposed of shall take place in public before, where applicable, such members of the Tribunal as (subject to paragraph 16 of Schedule 11) the President may nominate for the purpose.

(2) The Appeal Tribunal may sit in private for the purpose of—

- (a) hearing evidence which in the opinion of the Tribunal relates to matters of such a nature that it would be against the interests of national security to allow the evidence to be given in public; or
- (b) hearing evidence from any person which in the opinion of the Tribunal is likely to consist of—
 - (i) information which he could not disclose without contravening a prohibition imposed by or under any enactment; or
 - (ii) any information which has been communicated to him in confidence, or which he has otherwise obtained in consequence of the confidence reposed in him by another person; or
 - (iii) information the disclosure of which would cause substantial injury to any undertaking of his or any undertaking in which he works for reasons other than its effect on negotiations with respect to any of the matters mentioned in section 244(1) of the 1992 Act.

Proceedings to be conducted in private on grounds of national security

30. The Appeal Tribunal shall sit in private in circumstances in which an industrial tribunal has been required to sit in private by virtue of paragraph 1 of Schedule 9(13).

Drawing up, reasons for, and enforcement of orders

31.—(1) Every order of the Appeal Tribunal shall be drawn up by the Registrar and a copy, sealed with the seal of the Tribunal, shall be served by the Registrar on every party to the proceedings to which it relates and—

(13) Paragraph 1 was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 40 and by Schedule 7, paragraph 6(a) of that Act.

- (a) in the case of an order disposing of an appeal from an industrial tribunal or of an order under section 136A, on the Secretary of the Industrial Tribunals; or
 - (b) in the case of an order disposing of an appeal from the Certification Officer, on that Officer.
- (2) The Appeal Tribunal shall, on the application of any party made within 14 days after the making of an order finally disposing of any proceedings, give its reasons in writing for the order unless it was made after the delivery of a reasoned judgment.
- (3) Subject to any order made by the Court of Appeal or Court of Session and to any directions given by the Appeal Tribunal, an appeal from the Tribunal shall not suspend the enforcement of any order made by it.

Registration and proof of awards in respect of exclusion or expulsion from, or unjustifiable discipline by, a trade union

32.—(1) This rule applies where an application has been made to the Appeal Tribunal under section 67 or 176 of the 1992 Act.

(2) Without prejudice to rule 31, where the Appeal Tribunal makes an order in respect of an application to which this rule applies, and that order—

- (a) makes an award of compensation, or
- (b) is or includes an order of the kind referred to in rule 8(b)(ii),

or both, the Registrar shall as soon as may be enter a copy of the order, sealed with the seal of the Tribunal, into a register kept by the Tribunal (in this rule referred to as “the Register”).

(3) The production in any proceedings in any court of a document, purporting to be certified by the Registrar to be a true copy of an entry in the Register of an order to which this rule applies shall, unless the contrary is proved, be sufficient evidence of the document and of the facts stated therein.

Review of decisions and correction of errors

33.—(1) The Appeal Tribunal may, either of its own motion or on application, review any order made by it and may, on such review, revoke or vary that order on the grounds that—

- (a) the order was wrongly made as the result of an error on the part of the Tribunal or its staff;
- (b) a party did not receive proper notice of the proceedings leading to the order; or
- (c) the interests of justice require such review.

(2) An application under paragraph (1) above shall be made within 14 days of the date of the order.

(3) A clerical mistake in any order arising from an accidental slip or omission may at any time be corrected by, or on the authority of, a judge or member.

Costs or expenses

34.—(1) Where it appears to the Appeal Tribunal that any proceedings were unnecessary, improper or vexatious or that there has been unreasonable delay or other unreasonable conduct in bringing or conducting the proceedings the Tribunal may order the party at fault to pay any other party the whole or such part as it thinks fit of the costs or expenses incurred by that other party in connection with the proceedings.

(2) Where an order is made under paragraph (1) of this rule, the Appeal Tribunal may assess the sum to be paid or may direct that it be assessed by the taxing officer, from whose decision an appeal shall lie to a judge.

(3) Rules 21 and 22 shall apply to an appeal under paragraph (2) of this rule as they apply to an appeal from the Registrar.

(4) The costs of an assisted person shall be taxed or assessed in accordance with regulation 149(7) of the Civil Legal Aid (General) Regulations 1989(14).

Service of documents

35.—(1) Any notice or other document required or authorised by these Rules to be served on, or delivered to, any person may be sent to him by post to his address for service or, where no address for service has been given, to his registered office, principal place of business, head or main office or last known address, as the case may be, and any notice or other document required or authorised to be served on, or delivered to, the Appeal Tribunal may be sent by post or delivered to the Registrar—

- (a) in the case of a notice instituting proceedings, at the central office or any other office of the Tribunal; or
- (b) in any other case, at the office of the Tribunal in which the proceedings in question are being dealt with in accordance with rule 38(2).

(2) Any notice or other document required or authorised to be served on, or delivered to, an unincorporated body may be sent to its secretary, manager or other similar officer.

(3) Every document served by post shall be assumed, in the absence of evidence to the contrary, to have been delivered in the normal course of post.

(4) The Appeal Tribunal may inform itself in such manner as it thinks fit of the posting of any document by an officer of the Tribunal.

(5) The Appeal Tribunal may direct that service of any document be dispensed with or be effected otherwise than in the manner prescribed by these Rules.

Conciliation

36. Where at any stage of any proceedings it appears to the Appeal Tribunal that there is a reasonable prospect of agreement being reached between the parties, the Tribunal may take such steps as it thinks fit to enable the parties to avail themselves of any opportunities for conciliation, whether by adjourning any proceedings or otherwise.

Time

37.—(1) The time prescribed by these Rules or by order of the Appeal Tribunal for doing any act may be extended (whether it has already expired or not) or abridged, and the date appointed for any purpose may be altered, by order of the Tribunal.

(2) Where the last day for the doing of any act falls on a day on which the appropriate office of the Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office is open.

(3) An application for an extension of the time prescribed for the doing of an act, including the institution of an appeal under rule 3, shall be heard and determined as an interlocutory application under rule 20.

Tribunal offices and allocation of business

38.—(1) The central office and any other office of the Appeal Tribunal shall be open at such times as the President may direct.

(2) Any proceedings before the Tribunal may be dealt with at the central office or at such other office as the President may direct.

Non-compliance with, and waiver of, rules

39.—(1) Failure to comply with any requirements of these Rules shall not invalidate any proceedings unless the Appeal Tribunal otherwise directs.

(2) The Tribunal may, if it considers that to do so would lead to the more expeditious or economical disposal of any proceedings or would otherwise be desirable in the interests of justice, dispense with the taking of any step required or authorised by these Rules, or may direct that any such steps be taken in some manner other than that prescribed by these Rules.

(3) The powers of the Tribunal under paragraph (2) extend to authorising the institution of an appeal notwithstanding that the period prescribed in rule 3(2) may not have commenced.

Transitional provisions

40.—(1) Where, prior to 16th December 1993, an industrial tribunal has given full written reasons for its decision or order, those reasons shall be treated as extended written reasons for the purposes of rule 3(1)(c) and rule 3(2) and for the purposes of Form 1 in the Schedule to these Rules.

(2) Anything validly done under or pursuant to the Employment Appeal Tribunal Rules 1980(**15**) shall be treated as having been done validly for the purposes of these Rules, whether or not what was done could have been done under or pursuant to these Rules.

Dated 23rd November 1993

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

FORM 1 *Notice of Appeal from Decision of Industrial Tribunal*

Rule 3

1. The appellant is (*name and address of appellant*).
2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number if any*).
3. The appellant appeals from
(*here give particulars of the decision of the industrial tribunal from which the appeal is brought including the date*).
4. The parties to the proceedings before the industrial tribunal, other than the appellant, were (*names and addresses of other parties to the proceedings resulting in decision appealed from*).
5. A copy of the industrial tribunal's decision or order and of the extended written reasons for that decision or order are attached to this notice.
6. The grounds upon which this appeal is brought are that the industrial tribunal erred in law in that (*here set out in paragraphs the various grounds of appeal*).

Date

Signed

FORM 2 *Notice of Appeal from Decision of Certification Officer*

Rule 3

1. The appellant is (*name and address of appellant*).
2. Any communication relating to this appeal may be sent to the appellant at (*appellant's address for service, including telephone number if any*).
3. The appellant appeals from
(*here give particulars of the order or decision of the Certification Officer from which the appeal is brought*).
4. The appellant's grounds of appeal are:
(*here state the grounds of appeal*).
5. A copy of the Certification Officer's decision is attached to this notice.

Date

Signed

FORM 3 *Respondent's Answer*

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 6

1. The respondent is (*name and address of respondent*).
2. Any communication relating to this appeal may be sent to the respondent at (*respondent's address for service, including telephone number if any*).
3. The respondent intends to resist the appeal of (*here give the name of appellant*). The grounds on which the respondent will rely are [the grounds relied upon by the industrial tribunal/Certification Officer for making the decision or order appealed from] [and] [the following grounds]: (*here set out any grounds which differ from those relied upon by the industrial tribunal or Certification Officer, as the case may be*).
4. The respondent cross-appeals from (*here give particulars of the decision appealed from*).
5. The respondent's grounds of appeal are: (*here state the grounds of appeal*).

Date

Signed

FORM 4 *Application to the Employment Appeal Tribunal for Compensation for Exclusion or Expulsion from a Trade Union or for Compensation or an Order in respect of Unjustifiable Discipline*

Rule 8

1. My name is
My address is
2. Any communication relating to this application may be sent to me at (*state address for service, including telephone number, if any*).
3. My complaint against (*state the name and address of the trade union*) was declared to be well-founded by (*state tribunal*) on (*give date of decision or order*).
4. (*Where the application relates to exclusion or expulsion from a trade union*) I have not been admitted/re-admitted* to membership of the above-named trade union and hereby apply for compensation on the following grounds.
(*Where the application relates to unjustifiable discipline*) The determination infringing my right not to be unjustifiably disciplined has not been revoked./ The trade union has failed to take all the steps necessary for securing the reversal of things done for the purpose of giving effect to the determination.*
(*Delete as appropriate)

Date

Signed

NB.—A copy of the decision or order declaring the complaint against the trade union to be well-founded must be enclosed with this application.

FORM 5 *Notice of appearance to Application to Employment Appeal Tribunal for Compensation for Exclusion or Expulsion from a Trade Union or for Compensation or an Order in respect of Unjustifiable Discipline*

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 11

1. The respondent trade union is *(name and address of union)*.
2. Any communication relating to this application may be sent to the respondent at *(respondent's address for service, including telephone number, if any)*.
3. The respondent intends to resist the application of *(here give name of the applicant)*.
The grounds on which the respondent will rely are as follows:
4. *(Where the application relates to exclusion or expulsion from the trade union, state whether or not the applicant had been admitted or re-admitted to membership on or before the date of application.)*
(Where the application relates to unjustifiable discipline, state whether—
 - (a) the determination infringing the applicant's right not to be unjustifiably disciplined has been revoked; and*
 - (b) the trade union has taken all the steps necessary for securing the reversal of anything done for the purpose of giving effect to the determination.)*

Date

Position in union

Signed

FORM 6 *Application to the Employment Appeal Tribunal Under Section 136A of the Employment Protection (Consolidation) Act 1978 for a Restriction of Proceedings Order*

Rule 13

1. The applicant is *(the Attorney General|Lord Advocate)*.
2. Any communication relating to this application may be sent to the applicant at *(state address for service, including telephone number)*.
3. The application is for a restriction of proceedings order to be made against *(state the name and address of the person against whom the order is sought)*.
4. An affidavit in support of the application is attached.

Date

Signed

FORM 7 *Notice of appearance to Application to the Employment Appeal Tribunal under section 136A of the Employment Protection (Consolidation) Act 1978 for a Restriction of Proceedings Order*

Rule 15

1. The respondent is *(state name and address of respondent)*.
2. Any communication relating to this application may be sent to the respondent at *(respondent's address for service, including telephone number, if any)*.
3. The respondent intends to resist the application. An affidavit in support is attached to this notice.

Date

Signed

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules consolidate, with amendments, the Employment Appeal Tribunal Rules 1980 (S.I.1980/2035) as amended by the Employment Appeal Tribunal (Amendment) Rules 1985 (S.I.1985/29) and the Employment Appeal Tribunal (Amendment) Rules 1988 (S.I.1988/2072) (“the old rules”). The amendments made to the old rules are primarily consequent on the Trade Union Reform and Employment Rights Act 1993 (c. 19).

In addition to minor and drafting amendments, these Rules, which come into force on 16th December 1993, make the following changes of substance to the old rules—

- (a) they provide a procedure for the Attorney General or the Lord Advocate to apply to the Appeal Tribunal for a restriction of proceedings order under section 136A of the Employment Protection (Consolidation) Act 1978 (c. 44) (rules 13-17). Two additional Forms are included in the Schedule to the Rules in connection with this;
- (b) they provide for the Appeal Tribunal to be able to make a restricted reporting order in certain appeals involving allegations of sexual misconduct (rule 23);
- (c) they provide, in certain appeals appearing to involve allegations of the commission of a sexual offence, for the Registrar to take steps so as to prevent the identification to members of the public of any person affected by or making such an allegation (rule 23);
- (d) they provide that the Appeal Tribunal shall sit in private where the industrial tribunal has been required to sit in private by virtue of a direction on grounds of national security from a Minister of the Crown (rule 30);
- (e) they provide that an interlocutory application for a restricted reporting order shall be disposed of by the President of the Appeal Tribunal, a judge or the Appeal Tribunal and that the hearing of any interlocutory application shall be by the President alone where a Minister has so directed on grounds of national security (rules 20-22);

Form 3 in the Schedule to the old rules is not repeated because it related to appeals from an industrial tribunal on questions of fact in cases of unreasonable exclusion or expulsion from a trade union which can no longer be brought.

The Rules also contain transitional provisions (rule 40).