

## SCHEDULE 1

### THE EMPLOYMENT TRIBUNALS RULES OF PROCEDURE (SCOTLAND)

#### Expenses

**14.**—(1) Where, in the opinion of the tribunal, a party has in bringing the proceedings, or a party or a party’s representative has in conducting the proceedings, acted vexatiously, abusively, disruptively or otherwise unreasonably, or the bringing or conducting of the proceedings by a party has been misconceived, the tribunal shall consider making, and if it so decides, may make—

- (a) an order containing an award against that party in respect of the expenses incurred by another party;
- (b) an order that that party shall pay to the Secretary of State the whole, or any part, of any allowances (other than allowances paid to members of tribunals) paid by the Secretary of State under section 5(2) or (3) of the 1996 Act to any person for the purposes of, or in connection with, his attendance at the tribunal.

(2) Paragraph (1) applies to a respondent who has not entered an appearance in relation to the conduct of any part in the proceedings which he has taken.

(3) An order containing an award against a party (“the first party”) in respect of the expenses incurred by another party (“the second party”) shall be—

- (a) where the tribunal thinks fit, an order that the first party pay to the second party a specified sum not exceeding £10,000;
- (b) where those parties agree on a sum to be paid by the first party to the second party in respect of those expenses, an order that the first party pay to the second party a specified sum, being the sum so agreed; or
- (c) in any other case, an order that the first party pay to the second party the whole or a specified part of the expenses incurred by the second party as taxed (if not otherwise agreed).

(4) Where the tribunal has on the application of a party postponed the day or time fixed for or adjourned the hearing, the tribunal may make orders, of the kinds mentioned in paragraphs (1)(a) and (1)(b), against or, as the case may require, in favour of that party as respects any expenses incurred or any allowances paid as a result of the postponement or adjournment.

(5) A tribunal shall make orders against a respondent of the kinds mentioned in paragraphs (1)(a) and (1)(b) as respects any expenses or any allowances paid as a result of the postponement or adjournment of a hearing where, on a complaint of unfair dismissal, the applicant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing of the complaint and the postponement or adjournment has been caused by the respondent’s failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the applicant was dismissed, or of comparable or suitable employment.

(6) Any expenses required by an order under this rule to be taxed may be taxed according to such part of the table of fees prescribed for proceedings in the sheriff court as shall be directed by the order, and thereafter the tribunal may issue an order for payment of the amount as taxed.

(7) Where—

- (a) a party has been ordered under rule 7 to pay a deposit as a condition of being permitted to continue to participate in proceedings relating to a matter;
- (b) in respect of that matter, the tribunal has found against that party in its decision, and
- (c) there has been no award of expenses made against that party arising out of the proceedings on the matter,

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the tribunal shall consider whether to award expenses against that party on the ground that he conducted the proceedings relating to the matter unreasonably in persisting in having the matter determined by a tribunal; but the tribunal shall not make an award of expenses on that ground unless it has considered the document recording the order under rule 7 and is of the opinion that the reasons which caused the tribunal to find against the party in its decision were substantially the same as the reasons recorded in that document for considering that the contentions of the party had no reasonable prospect of success.

(8) Where an award of expenses is made against a party who has had an order under rule 7 made against him (whether the award arises out of the proceedings relating to the matter in respect of which the order was made or out of proceedings relating to any other matter considered with that matter), his deposit shall be paid in part or full settlement of the award—

- (a) where an award is made in favour of one party, to that party, and
- (b) where awards are made in favour of more than one party, to all of them or any one or more of them as the tribunal thinks fit, and if to all or more than one, in such proportions as the tribunal considers appropriate,

and if the amount of the deposit exceeds the amount of the award of expenses, the balance shall be refunded to the party who paid it.