



**Tribunals
Judiciary**

JUDGE SUSAN WALKER
PRESIDENT
EMPLOYMENT TRIBUNALS
(SCOTLAND)



**Courts and
Tribunals Judiciary**

JUDGE BARRY CLARKE
PRESIDENT
EMPLOYMENT TRIBUNALS
(ENGLAND & WALES)

18 December 2024

To: All members of the ET (E&W) and ET (Scotland) national user groups

Dear user group members

This letter is being circulated to the members of the national user groups for Employment Tribunals north and south of the border. It is also published on the websites of the two jurisdictions at these links: [here](#) for England and Wales and [here](#) for Scotland.

The Employment Tribunal Procedural Rules 2024 take effect on 6 January 2025. The Practice Directions and the Presidential Guidance documents that have been issued (whether by us or our predecessors) and which remain extant are set out on our respective websites: [here](#) for England and Wales and [here](#) for Scotland. They were issued under previous iterations of our procedural rules. Those Practice Directions and Presidential Guidance documents remain in effect. Until such time they are reviewed, references therein to the Employment Tribunals Rules of Procedure 2013 should be read as references to the Employment Tribunal Procedural Rules 2024, with the assistance of the attached conversion table prepared by Regional Employment Judge David Franey. Furthermore, please note the power of the Presidents to make Practice Directions is now set out at section 7A(1) of the Employment Tribunals Act 1996.

Yours sincerely

Judge Barry Clarke
President

Judge Susan Walker
President



Courts and Tribunals Judiciary

Comparison Table

The Employment Tribunal Procedure Rules 2024

This table compares the procedural rules found in the [Employment Tribunals \(Constitution and Rules of Procedure\) Regulations 2013](#) with the provisions of the [Employment Tribunal Procedure Rules 2024](#) found in SI 2024 No 1155. The statutory instrument was laid before Parliament on 6 December 2024 and will come into force on **6 January 2025**.

From that date the 2024 rules will apply to all cases in the Employment Tribunals in England & Wales and in Scotland.

Responsibility for making the procedural rules for Employment Tribunals, save in relation to national security matters, passed to the [Tribunal Procedure Committee](#) (“TPC”) on 25 April 2024 when the [Judicial Review and Courts Act 2022 \(Commencement No. 6\) Regulations 2024](#) brought into force section 34 of and Schedule 5 to the [Judicial Review and Courts Act 2022](#). The new provisions now form [section 37QA](#) of and [Schedule A1](#) to the [Employment Tribunals Act 1996](#).

In anticipation of this change the TPC issued a [Consultation Paper](#) on 3 April 2024. The [TPC Reply to the Consultation](#) was issued on 22 November 2024. The background to the 2024 rules, and the rationale for the changes, can be found in those documents.

Responsibility for national security provisions passed to the Lord Chancellor at the same time. The procedural rules for such cases were found in schedule 2 to the 2013 regulations. The new statutory instrument is made jointly by the TPC and Lord Chancellor and the national security rules now form schedule 1 to it.

Most of the changes to the wording of the rules are required in order to meet the drafting standards for a new statutory instrument.

The provisions about time limits for health and safety and Energy Act appeals (2013 rules 105 and 106 respectively) are to be moved into the 2013 regulations (new regulations 14A and 14B respectively) as the TPC has no power to prescribe such time limits.

“Old” Provision - 2013 Regulations and Schedules	“New” Provision - 2024 Rules	Notes
Regulation 1 Citation and commencement	Rule 1	No substantive change. The new Rules will come into force on 6 January 2025 immediately after the Employment Tribunals (Procedure Rules) (Consequential Amendments) Regulations 2024 , which amend the 2013 Regulations by revoking those parts which contain provisions about procedure rules so as to enable the 2024 Rules to take their place.
Rule 1 Interpretation	Rule 2	There are no substantive changes to the definitions but rule 2 now contains provisions which used to be found elsewhere in the Rules. The distinction between an Order and a Judgment, formerly rule 1(3), is now contained in the interpretation rule. The definition of “presiding member” found in the Employment Tribunals and Employment Appeal Tribunal (Composition of Tribunal) Regulations 2024 is now incorporated here.
Rule 2 Overriding objective	Rule 3	No substantive change but the rule has been subdivided. Here and in many other rules “shall” has been replaced by “must”.
Rule 3 Alternative dispute resolution	Rule 4	No change.
Rule 4 Time	Rule 5	Slight change to what is now rule 5(2): if time expires on a non-working day the act is treated as in time if done by midnight on the next working day. The definition of a working day is moved to sub-rule (8).
Rule 5 Extending or shortening time	Rule 5(7)	No change but now part of the general rule on time rather than a separate rule.

Rule 6 Irregularities and non-compliance	Rule 6	The rule has been split into sections and references to other rules revised. Note that new rule 6(3) identifies those rules which are beyond its scope because they make their own provision for the consequences of non-compliance.
Regulation 10B Delegation to Legal Officers	Rule 7	The power to delegate functions to Legal Officers has been moved from the Regulations into the Rules and given to the Senior President of Tribunals (“SPT”). The right to have a Legal Officer decision considered afresh by a Judge is preserved. Note that the phrase “Legal Officer” does not appear in the new provisions, which instead use the term “staff” as in the First Tier Tribunals.
Rule 7 Presidential Guidance	Rule 8	No substantive change but it is clarified that there can be separate guidance from the Presidents of England & Wales and of Scotland for their own area.
Regulation 12 Prescribed forms	Rule 9	The power to prescribe forms has been moved from the Secretary of State to the Presidents, acting by Practice Direction. There is otherwise no substantive change.
Rule 8 Presenting the claim	Rule 10	No change.
Rule 9 Multiple Claimants	Rule 11	No change.
Rule 10 Rejection – Prescribed form/minimum information	Rule 12	No change.
Rule 11 Rejection – Fees	-	Rule omitted as fees are no longer applicable.
Rule 12 Rejection: Substantive defects	Rule 13	No substantive change but the lettering/numbering of the sub-rules has been regularised.

Rule 13 Reconsideration of rejection	Rule 14	No change save to what is now rule 14(4), which applies where a defect is rectified. The wording has been amended slightly to clarify that it is the date that the application to rectify the defect is received which is treated as the date of presentation, instead of the date the defect was rectified.
Rule 14 Protected disclosures – referral to regulator	Rule 15	No change.
Rule 15 Sending claim form to respondents	Rule 16	No change save that the requirement to send a blank response form with the notice of claim has been removed to reflect digital working.
Rule 16 Response	Rule 17	No substantive change but this rule has been amended so as to reflect the power for the Presidents to prescribe by Practice Direction how a response must be presented. Rule 17(4) has been added to make the position for response forms from multiple respondents the same as for claim forms in rule 9: rule 6 applies to any irregularity.
Rule 17 Rejection of response form	Rule 18	No change save that the rule now recognises that if there is more than one respondent each gets a copy of the rejected response.
Rule 18 Rejection – Late response form	Rule 19	No substantive change but the wording has been clarified to cover pending applications.
Rule 19 Reconsideration of rejection of response	Rule 20	No substantive change save for clarification of the deemed date of presentation of the response where a defect is rectified, to match new rule 14(4) for claim forms.
Rule 20 Applications for extension of time for response	Rule 21	No substantive change.

Rule 21 Case not contested	Rule 22	No change.
Rule 22 Notification of acceptance of response	Rule 23	No change save for express exception for national security proceedings.
Rule 23 Employer's Contract Claim ("ECC")	Rule 24	No substantive change but the wording has been clarified where it refers to the equivalent rules for claims.
Rule 24 Notification of ECC	Rule 25	Slight rewording but no change.
Rule 25 Responding to an ECC	Rule 26	No substantive change but such a document is now called a "reply" not a "response" to the ECC.
Rule 26 Initial consideration	Rule 27	Slightly reworded. The express reference to case management powers has been removed because it is covered by new rule 30.
Rule 27 Dismissal of claim or part	Rule 28	Slight rewording but no change. Note that the definition in rule 2(1) means this can now apply to an ECC too.
Rule 28 Dismissal of response	Rule 29	Slightly reworded but no change save that it now covers a reply to an ECC.
Rule 29 Case Management Orders	Rule 30	No change save that the rule now expressly acknowledges the restrictions on granting postponements under new rule 32 (old rule 30A).
Rule 30 Applications for Case Management Orders	Rule 31	No change.

Rule 30A Postponements	Rule 32	No change though the wording has been consolidated.
Rule 31 Disclosure	Rule 33	No change.
Rule 32 Witness Orders	Rule 34	No change.
Rule 33 Evidence from EU Member States	-	This rule was repealed on 31 December 2020 by virtue of withdrawal from the EU.
Rule 34 Addition, substitution and removal of parties	Rule 35	No change.
Rule 35 Interested Parties	Rule 36	No change save it is enough now if the Tribunal <i>considers</i> that the person has a legitimate interest in the proceedings.
Rule 36 Lead Cases	Rule 37	No change
Rule 37 Striking Out	Rule 38	No change save that this rule now applies to a reply to an ECC too.
Rule 38 Unless Orders	Rule 39	No change save that this rule now applies to a reply to an ECC too.
Rule 39 Deposit Orders	Rule 40	No change save terminology – the “paying party” is now the “depositor”. The rule also now applies to a reply to an ECC.

Rule 40 Non-payment of fees	-	Omitted as fees are no longer applicable.
Rule 41 General conduct of hearings	Rule 41	No substantive change but divided into sub-rules.
Rule 42 Written representations	Rule 42	The rule has been reworded to make it clear that the Tribunal can still consider written representations submitted less than seven days before the hearing, but is not bound to do so.
Rule 43 Witnesses	Rule 43	No change but split into sub-rules.
Rule 44 Inspection of witness statements	Rule 44	No change save the addition of sub-rule (3) which clarifies that if a witness statement is not admitted in evidence it is not available for inspection.
Rule 45 Timetabling	Rule 45	No change.
Rule 46 Electronic Communications	Rule 46	No change.
Rule 47 Non-attendance	Rule 47	No change.
Rule 48 Conversion of Preliminary Hearing to Final Hearing	Rule 48	No change.

Rule 49 Majority Decisions	-	This rule was repealed by the Employment Tribunals and EAT (Composition of Tribunal) Regulations 2024 from 29 October 2024 (when the SPT's Practice Direction on Panel Composition took effect). The provision on majority decisions is now in regulation 6(5) of those regulations.
Rule 50 Privacy	Rule 49	No change save that the examples of possible orders in new rule 49(3) now include a new example (e): redaction of a name, address or other personal information.
Rule 51 Withdrawal	Rule 50	No change.
Rule 52 Dismissal following withdrawal	Rule 51	No change.
Rule 53 Preliminary Hearings	Rule 52	No change.
Rule 54 Fixing of Preliminary Hearing	Rule 53	No change but slightly reworded.
Rule 55 Constitution of Tribunal for PH	-	Superseded by the Composition Regulations and now in the SPT's Practice Direction .
Rule 56 When PH in public	Rule 54	No change but rule slightly reworded.
Rule 57 Scope of Final Hearing	Rule 55	No change.
Rule 58 Notice of Final Hearing	Rule 56	No change but now covers a reply to an ECC.

Rule 59 Final Hearing in public	Rule 57	No change.
Rule 60 Decisions without a hearing	Rule 58	No change but now covers Legal Officer decisions too.
Rule 61 Decisions at a hearing	Rule 59	No change, save that the requirement for the Judgment to be signed by the Judge as presiding member has been replaced by a requirement for it to be “approved”. This was one element of a separate consultation exercise by the TPC between 30 July and 22 October 2024, and the majority of responses were in favour of removing this requirement.
Rule 62 Reasons	Rule 60	No change save the reference to approval rather than signature.
Rule 63 Absence of presiding member	Rule 61	No change save the reference to approval rather than signature.
Rule 64 Consent orders	Rule 62	No change.
Rule 65 When a Judgment takes effect	Rule 63	No change.
Rule 66 Time for Compliance	Rule 64	No change.
Rule 67 The Register	Rule 65	No change.

Rule 68 Copies of Judgment for referring Court	Rule 66	No change.
Rule 69 Slip rule	Rule 67	No change, but (a) this rule also now refers to approval rather than signature, and (b) sub-rule (4) now extends this to Legal Officer decisions.
Rule 70 Reconsideration principles	Rule 68	No change save clarification that the Tribunal taking a decision again may come to a different conclusion.
Rule 71 Application for Reconsideration	Rule 69	No change.
Rule 72 Reconsideration Process	Rule 70	No substantive change but the rule has been divided into sub-rules. Note that under paragraph 6 of the SPT's Practice Direction consideration under rule 70(2) is done by the presiding member alone.
Rule 73 Reconsideration by the Tribunal on its own initiative	Rule 71	No change.
Rule 74 Costs definitions	Rule 72	Some of these definitions have been moved into new Rule 1, including definitions of lay and legal representatives.
Rule 75 Costs Orders and Preparation Time Orders	Rule 73	No change.

Rule 76 When an order may be made	Rule 74	No substantive change but the rule has been reorganised. Old rule 76(4) about fees has been omitted.
Rule 77 Costs Procedure	Rule 75	No change.
Rule 78 Amount of a Costs Order	Rule 76	No change.
Rule 79 Amount of PTO	Rule 77	No change but the applicable hourly rate has been updated to its current level.
Rule 80 Wasted Costs Order	Rule 78	No change but the rule has been reorganised.
Rule 81 Effect of Wasted Costs Order	Rule 79	No change.
Rule 82 Wasted Costs Procedure	Rule 80	No change but divided into sub-rules.
Rule 83 Allowances	Rule 81	No change.
Rule 84 Ability to pay	Rule 82	No change.

Rule 85 Delivery to the Tribunal	Rule 83	"Delivery" has been replaced by "sending documents" in this and subsequent rules. Otherwise no change.
Rule 86 Delivery to Parties	Rule 84	No change.
Rule 87 Delivery to non- parties	Rule 85	No change.
Rule 88 Special Cases	Rule 86	No change, but the Law Officers are now specified.
Rule 89 Substituted Service	Rule 87	Now termed "Alternative Address" but no substantive change.
Rule 90 Date of Delivery	Rule 88	No change.
Rule 91 Irregular Service	Rule 89	No change.
Rule 92 Correspondence	Rule 90	No change save that national security cases are now expressly exempt in addition to applications for witness orders.
Rule 92A Digital Case Management	Rule 91	No change.
Rule 93 ACAS	Rule 92	No change.
Rule 94 National Security Proceedings	Rule 93	No change but the rule has been slightly reorganised.

Rule 95 Interim Relief Proceedings	Rule 94	No change.
Rule 96 National Insurance Fund	Rule 95	No change.
Rule 97 Collective Agreements	Rule 96	No change.
Rule 98 Devolution Issues	Rule 97	No change.
Rule 99 Transfer between Scotland and E&W	Rule 98	The rule has been reorganised and the power to consent to a transfer in is extended from the Presidents to the Vice President (Scotland) and to Regional Employment Judges (E&W).
Rule 100 References to the CJEU	-	Repealed on 31 December 2020 due to withdrawal from the EU.
Rule 101 Transfer of Proceedings from a Court	Rule 99	No change.
Rule 102 Vexatious Litigants	Rule 100	No change.
Rule 103 Information to the Equality and Human Rights Commission	Rule 101	No change.
Rule 104 Levy Appeals	Rule 102	No change but levy appeal is now defined.

Rule 105 Health and Safety Appeals	Rule 103	No change save that the new rule now refers to the new regulation 14A in the 2013 Regulations, where the time limit provision will be found.
Rule 105A Energy Act Appeals	Rule 104	No change save that the new rule now refers to new regulation 14B in the 2013 Regulations, where the time limit provision will be found.
Rule 106 Appeal against unlawful act notice	Rule 105	No change but “unlawful act notice” is now defined by reference to section 21 of the Equality Act 2006 .
Schedule 2 National Security Proceedings	Schedule 1	No substantive change but there has been some rewording in the interests of clarity.
Schedule 3 Equal Value Rules	Schedule 2	No substantive change but there has been some rewording in the interests of clarity. The indicative timetable has been abandoned.