*Draft Order laid before Parliament under section 49(5) of the Tribunals, Courts and Enforcement Act 2007, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2013 No.

# TRIBUNALS AND INQUIRIES

## The Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013

| | |
|---|---|
| *Made - - - -* | *** |
| *Coming into force - -* | *** |

The Lord Chancellor makes the following Order with the consent of the Treasury in exercise of the powers conferred by sections 42(1)(d) and (2) and 49(3) of the Tribunals, Courts and Enforcement Act 2007(**1**).

The Lord Chancellor has consulted the Senior President of Tribunals and the Administrative Justice and Tribunals Council in accordance with section 42(5) before making this Order.

In accordance with section 49(5), a draft of this Order was laid before and has been approved by a resolution of each House of Parliament.

## PART 1

## General

### Citation and commencement

**1.** This Order may be cited as the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013 and shall come into force on the day after the date on which it is made.

### Interpretation

**2.** In this Order—

"the 2007 Act" means the Tribunals, Courts and Enforcement Act 2007;

"appellant" means a person who appeals to the Employment Appeal Tribunal against a decision of an employment tribunal;

(**1**) 2007 c.15

"claim" means any proceedings brought before an employment tribunal and includes an appeal, application, complaint, reference or question, and "claimant" shall be construed accordingly;

"claim form" means the form by means of which a person presents a claim;

"employer's contract claim" means a claim brought by an employer in accordance with articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994(**2**) or articles 4 and 8 of the Employment Tribunals Extension of Jurisdiction (Scotland) Order 1994(**3**);

"fee group" means—

(a) in relation to the payment of the issue fee, the group of persons named as claimants in the claim form at the time the claim was presented;

(b) subject to article 12(2), in relation to the payment of a hearing fee, the group of persons each of whom—

(i) were named as claimants in the claim form at the time the claim was presented; and

(ii) are named as claimants in the notification of the listing of the final hearing.

"final hearing" means the first hearing at which an employment tribunal will determine liability, remedy or costs;

"notice of appeal" means the notice referred to in rule 3(1)(a) of the Employment Appeal Tribunal Rules 1993(**4**); and

"single claimant" means a claimant who is the only claimant named in the claim form.

**Matters in relation to which fees are payable**

**3.** Fees are payable in respect of any claim presented to an employment tribunal, or an appeal to the Employment Appeal Tribunal, as provided for in this Order.

# PART 2

## Fees in employment tribunals

**Fee charging occasions**

**4.**—(1) A fee is payable by a single claimant or a fee group—

(a) when a claim form is presented to an employment tribunal ("the issue fee"); and

(b) on a date specified in a notice accompanying the notification of the listing of a final hearing of the claim ("the hearing fee").

(2) A fee is payable by the party making an application listed in column 1 of Schedule 1 on a date specified by the Lord Chancellor in a notice following the making of the application.

(3) A fee of £600 is payable by the respondent on a date specified in a notice accompanying a notification of listing for judicial mediation.

(**2**) S.I. 1994/1623, as amended by section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c.8), S.I. 2004/752 and S.I.2011/1133.

(**3**) S.I.1994/1624, as amended by section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c.8), S.I. 2004/752 and S.I.2011/1133.

(**4**) S.I 1993/2854 as amended by S.I.1996/3216, section 1(2) of the Employment Rights (Dispute Resolution) Act 1998 (c.8), S.I.2001/1128, S.I.2004/2526, S.I.2004/3426, S.I.2005/1871, section 59(5) of, and paragraph 5 of Part 3 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4), and S.I.2010/1088.

**Fees payable**

**5.** Table 1 in Schedule 2 has effect for the purpose of defining expressions used in Table 2 in that Schedule.

**6.** The issue fee and hearing fee payable by a single claimant in respect of a claim listed in Table 2 in Schedule 2 ("a type A claim") is the amount specified in column 2 of Table 3 in Schedule 2.

**7.** The issue fee and hearing fee payable by a single claimant in respect of any claim other than one listed in Table 2 in Schedule 2 ("a type B claim") is the amount specified in column 3 of Table 3 in Schedule 2.

**8.** Subject to articles 9 and 10, the issue fee and hearing fee payable by a fee group is the amount calculated by reference to Table 4 in Schedule 2.

**9.** Subject to article 10, where, on the date on which a fee is payable in accordance with article 4, the claim form contains—

(a) one or more type A claim and one or more type B claim, the total amount of the fees payable in respect of all the claims is the fee specified in respect of a type B claim; or

(b) more than one claim of the same type, then the total amount of the fees payable in respect of all the claims is the amount specified in Table 3 or, in the case of a fee group, Table 4 in Schedule 2 for that type of claim.

**10.** Any fee payable by a fee group under article 8 or 9—

(a) must not exceed an amount equal to the sum of the fees which the members of the fee group would have been liable to pay as single claimants; and

(b) where one or more members of the group is entitled to remission in accordance with Schedule 3, must not exceed an amount equal to the sum of the fees which the members of the fee group would be liable to pay as single claimants, taking into account any remission which would have been granted to individual members of the group if they were single claimants.

**11.**—(1) The fee payable in relation to an application listed in column 1 of Schedule 1, irrespective of the number of claims or of claimants named in the application is the amount specified in the relevant part of column 2 of Schedule 1.

(2) Where an application referred to in paragraph (1) is made in respect of one or more type A claims and one or more type B claims, the amount of the fee payable in respect of the application is the amount specified in column 2 of Schedule 1 in respect of a type B claim.

**Fee group – failure to pay fee**

**12.**—(1) Where a fee payable by a fee group remains unpaid after the date specified in accordance with article 4, a member of that fee group may, before the date on which the claim to which the fee relates is liable to be struck out for non payment, notify the Lord Chancellor of that member's decision no longer to be part of the group.

(2) Where a notice is received by the Lord Chancellor before the date on which the claim is liable to be struck out, the member of the fee group who has given the notification shall be treated as a single claimant for the purposes of the claim to which the notice referred to in paragraph (1) relates.

# PART 3

## Fees in the Employment Appeal Tribunal

### Fees payable

**13.** A fee of £400 is payable by an appellant on the date specified in a notice issued by the Lord Chancellor, following the receipt by the Employment Appeal Tribunal of a notice of appeal.

**14.** A fee of £1200 is payable by an appellant on the date specified in a notice issued by the Lord Chancellor, following a direction by the Employment Appeal Tribunal that a matter proceed to an oral hearing at which the appeal is to be finally disposed of.

# PART 4

## Transitional arrangements, remission etc

### Transitional arrangements

**15.** No fee is payable in respect of a claim where the claim form was presented before the date this Order comes into force.

**16.** No fee is payable in respect of proceedings in the Employment Appeal Tribunal where a notice of appeal was received by that Tribunal before the date on which this Order comes into force.

### Remission provisions

**17.**—(1) Schedule 3 applies for the purposes of determining whether a person is entitled to a remission or part remission of any fee otherwise payable under this Order.

(2) Where an application for remission is made by a member of a fee group, Schedule 3 is to have effect for the purposes of determining whether or not the member of the group would be entitled to remission (whether wholly or in part) if that person was a single claimant.

**18.** The Lord Chancellor may disregard an application for remission by a member of a fee group if the amount of the fee payable by the fee group would not be altered in consequence of the application being granted.

### International obligations

**19.** Where by any Convention, treaty or other instrument entered into by Her Majesty with any foreign power it is provided that no fee is required to be paid in respect of any proceedings, the fees specified in this Order are not payable in respect of those proceedings.

Signed by authority of the Lord Chancellor

*Name*
Parliamentary Under Secretary of State
Date Ministry of Justice

We consent,

*Name*
*Name*
Two of the Lords Commissioners of Her
Date Majesty's Treasury