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STATUTORY INSTRUMENTS

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**2016 No. 271**

**EMPLOYMENT TRIBUNALS**

**The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2016**

<i>Made</i>	- - - -	<i>1st March 2016</i>
<i>Laid before Parliament</i>		<i>4th March 2016</i>
<i>Coming into force</i>	- -	<i>6th April 2016</i>

The Secretary of State, in exercise of the powers conferred by sections 7(1) and (3ZB), 13(1) and (3), 13A(1) and (2A), and 41(4) of the Employment Tribunals Act 1996<sup>(1)</sup>, makes the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2016 and come into force on 6th April 2016.

**Amendments to Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**

2.—(1) Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013<sup>(2)</sup> is amended as follows.

(2) At the beginning of the second sentence of rule 29 insert “Subject to rule 30A(2) and (3)”.

(3) After rule 30 insert—

**“Postponements**

**30A.**—(1) An application by a party for the postponement of a hearing shall be presented to the Tribunal and communicated to the other parties as soon as possible after the need for a postponement becomes known.

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(1) 1996 c.17; by virtue of the Employment Rights (Dispute Resolution) Act 1998 (c.8) industrial tribunals were renamed employment tribunals and references to “industrial tribunal” and “industrial tribunals” in any enactment were substituted with “employment tribunal” and “employment tribunals. Sections 7(3ZB), 13(3) and 13A(2A) were inserted into the Employment Tribunals Act 1996 by section 151 of the Small Business, Enterprise and Employment Act 2015 (c.26).

(2) S.I. 2013/1237, to which there are amendments not relevant to these Regulations

(2) Where a party makes an application for a postponement of a hearing less than 7 days before the date on which the hearing begins, the Tribunal may only order the postponement where—

- (a) all other parties consent to the postponement and—
  - (i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement; or
  - (ii) it is otherwise in accordance with the overriding objective;
- (b) the application was necessitated by an act or omission of another party or the Tribunal; or
- (c) there are exceptional circumstances.

(3) Where a Tribunal has ordered two or more postponements of a hearing in the same proceedings on the application of the same party and that party makes an application for a further postponement, the Tribunal may only order a postponement on that application where—

- (a) all other parties consent to the postponement and—
  - (i) it is practicable and appropriate for the purposes of giving the parties the opportunity to resolve their disputes by agreement; or
  - (ii) it is otherwise in accordance with the overriding objective;
- (b) the application was necessitated by an act or omission of another party or the Tribunal; or
- (c) there are exceptional circumstances.

(4) For the purposes of this rule—

- (a) references to postponement of a hearing include any adjournment which causes the hearing to be held or continued on a later date;
- (b) “exceptional circumstances” may include ill health relating to an existing long term health condition or disability.”.

(4) In rule 76 after paragraph (1)(d) add—

“or

- (e) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which the relevant hearing begins.”.

### **Transitional provisions**

3. The amendments to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 made by these Regulations apply in relation to proceedings which are presented to an employment tribunal on or after the day on which these Regulations come into force.

1st March 2016

*Nick Boles*  
Minister of State for Skills  
Department for Business, Innovation and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 to introduce rules in relation to the postponement of Employment Tribunal hearings and the use of costs orders where hearings are postponed following applications made at late notice.

Regulation 2(2) provides that the general power to manage proceedings is subject to the operation of the new rule on postponements to be contained in rule 30A.

Regulation 2(3) inserts a new rule 30A on postponements. It sets out that an application for postponement should be made as soon as possible after the need for the postponement becomes known. Any postponement application which has been made late or following two previous applications shall only be granted in the circumstances listed.

Regulation 2(4) amends rule 76 in relation to the making of costs orders. The effect of this amendment is that a Tribunal must consider whether to make a costs order where it has granted a postponement following a late application by one of the parties.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET.