



Employment Act 2002

2002 CHAPTER 22

PART 2

TRIBUNAL REFORM

Costs and expenses

22 Employment tribunals

(1) In section 13 of the Employment Tribunals Act 1996 (c. 17) (costs and expenses), for subsection (1) there is substituted—

- “(1) Employment tribunal procedure regulations may include provision—
- (a) for the award of costs or expenses;
 - (b) for the award of any allowances payable under section 5(2)(c) or (3).
- (1A) Regulations under subsection (1) may include provision authorising an employment tribunal to have regard to a person’s ability to pay when considering the making of an award against him under such regulations.
- (1B) Employment tribunal procedure regulations may include provision for authorising an employment tribunal—
- (a) to disallow all or part of the costs or expenses of a representative of a party to proceedings before it by reason of that representative’s conduct of the proceedings;
 - (b) to order a representative of a party to proceedings before it to meet all or part of the costs or expenses incurred by a party by reason of the representative’s conduct of the proceedings;
 - (c) to order a representative of a party to proceedings before it to meet all or part of any allowances payable by the Secretary of State under section 5(2)(c) or (3) by reason of the representative’s conduct of the proceedings.

Changes to legislation: Employment Act 2002, Cross Heading: Costs and expenses is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(1C) Employment tribunal procedure regulations may also include provision for taxing or otherwise settling the costs or expenses referred to in subsection (1) (a) or (1B)(b) (and, in particular in England and Wales, for enabling the amount of such costs to be assessed by way of detailed assessment in a county court).”

(2) After that section there is inserted—

“13A Payments in respect of preparation time

- (1) Employment tribunal procedure regulations may include provision for authorising an employment tribunal to order a party to proceedings before it to make a payment to any other party in respect of time spent in preparing that other party’s case.
- (2) Regulations under subsection (1) may include provision authorising an employment tribunal to have regard to a person’s ability to pay when considering the making of an order against him under such regulations.
- (3) If employment tribunal procedure regulations include—
 - (a) provision of the kind mentioned in subsection (1), and
 - (b) provision of the kind mentioned in section 13(1)(a),
 they shall also include provision to prevent an employment tribunal exercising its powers under both kinds of provision in favour of the same person in the same proceedings.”

Commencement Information

II S. 22 in force at 9.7.2004 by S.I. 2004/1717, art. 2(1)

23 Employment Appeal Tribunal

For section 34 of the Employment Tribunals Act 1996 (c. 17) (costs and expenses) there is substituted—

“34 Costs and expenses

- (1) Appeal Tribunal procedure rules may include provision for the award of costs or expenses.
- (2) Rules under subsection (1) may include provision authorising the Appeal Tribunal to have regard to a person’s ability to pay when considering the making of an award against him under such rules.
- (3) Appeal Tribunal procedure rules may include provision for authorising the Appeal Tribunal—
 - (a) to disallow all or part of the costs or expenses of a representative of a party to proceedings before it by reason of that representative’s conduct of the proceedings;
 - (b) to order a representative of a party to proceedings before it to meet all or part of the costs or expenses incurred by a party by reason of the representative’s conduct of the proceedings.

Changes to legislation: Employment Act 2002, Cross Heading: Costs and expenses is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (4) Appeal Tribunal procedure rules may also include provision for taxing or otherwise settling the costs or expenses referred to in subsection (1) or (3)(b) (and, in particular in England and Wales, for enabling the amount of such costs to be assessed by way of detailed assessment in the High Court).”

Commencement Information

I2 [S. 23](#) in force at 9.7.2004 by [S.I. 2004/1717](#), [art. 2\(1\)](#)

Changes to legislation:

Employment Act 2002, Cross Heading: Costs and expenses is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7(3)(e) and word inserted by [2023 c. 20 Sch. para. 36\(4\)\(c\)](#)
- s. 15(2)(bb) word omitted by [2023 c. 20 Sch. para. 43\(a\)](#)
- s. 15(2)(bc) inserted by [2023 c. 20 Sch. para. 43\(b\)](#)