

STATUTORY INSTRUMENTS

2008 No. 2698

The Tribunal Procedure (Upper Tribunal) Rules 2008

PART 5

Hearings

Decision with or without a hearing

34.—(1) Subject to [^{F1}paragraphs (2) and (3)], the Upper Tribunal may make any decision without a hearing.

(2) The Upper Tribunal must have regard to any view expressed by a party when deciding whether to hold a hearing to consider any matter, and the form of any such hearing.

[^{F2}(3) In immigration judicial review proceedings, the Upper Tribunal must hold a hearing before making a decision which disposes of proceedings.

(4) Paragraph (3) does not affect the power of the Upper Tribunal to—

- (a) strike out a party's case, pursuant to rule 8(1)(b) or 8(2);
- (b) consent to withdrawal, pursuant to rule 17;
- (c) determine an application for permission to bring judicial review proceedings, pursuant to rule 30; or
- (d) make a consent order disposing of proceedings, pursuant to rule 39,

without a hearing.]

Textual Amendments

- F1** Words in rule 34(1) substituted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **14(a)**
- F2** Rule 34(3)(4) inserted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **14(b)**

Entitlement to attend a hearing

35.—[^{F3}(1)] Subject to rule 37(4) (exclusion of a person from a hearing), each party is entitled to attend a hearing.

[^{F4}(2) In a national security certificate appeal the relevant Minister is entitled to attend any hearing.]

Textual Amendments

- F3** Rule 35(1): Rule 35 renumbered as Rule 35(1) (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **11(a)**

Status: Point in time view as at 20/10/2014.

Changes to legislation: The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 5 is up to date with all changes known to be in force on or before 28 June 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)

- F4** Rule 35(2) inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, [rule 11\(b\)](#)

Notice of hearings

36.—(1) The Upper Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any change to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days except that—

(a) in applications for permission to bring judicial review proceedings, the period of notice must be at least 2 working days; ^{F5}...

[^{F6}(aa) in a fast-track case the period of notice must be at least one working day; and]

(b) [^{F7}in any case other than a fast-track case] the Upper Tribunal may give shorter notice—

(i) with the parties' consent; or

(ii) in urgent or exceptional cases.

Textual Amendments

- F5** Word in rule 36(2)(a) omitted (15.2.2010) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, [17\(a\)\(i\)](#)
- F6** Rule 36(2)(aa) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, [17\(a\)\(ii\)](#)
- F7** Words in rule 36(2)(b) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, [17\(b\)](#)

[^{F8}Special time limits for hearing an appeal in a fast-track case

36A.—(1) Subject to rule 36(2)(aa) (notice of hearings) and paragraph (2) of this rule, where permission to appeal to the Upper Tribunal has been given in a fast-track case, the Upper Tribunal must start the hearing of the appeal not later than—

(a) [^{F9}five] working days after the date on which the First-tier Tribunal or the Upper Tribunal sent notice of its grant of permission to appeal to the appellant; or

(b) where the notice of its grant of permission to appeal is sent electronically or delivered personally, two working days after the date on which the First-tier Tribunal or the Upper Tribunal sent notice of its grant of permission to appeal to the appellant.

(2) If the Upper Tribunal is unable to arrange for the hearing to start within the time specified in paragraph (1), it must set a date for the hearing as soon as is reasonably practicable.]

Textual Amendments

- F8** Rule 36A inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, [18](#)
- F9** Word in [rule 36A\(1\)\(a\)](#) substituted (20.10.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), [12](#)

Public and private hearings

37.—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Upper Tribunal may give a direction that a hearing, or part of it, is to be held in private.

[^{F10}(2A) In a national security certificate appeal, the Upper Tribunal must have regard to its duty under rule 14(10) (no disclosure of information contrary to the interests of national security) when considering whether to give a direction that a hearing, or part of it, is to be held in private.]

(3) Where a hearing, or part of it, is to be held in private, the Upper Tribunal may determine who is entitled to attend the hearing or part of it.

(4) The Upper Tribunal may give a direction excluding from any hearing, or part of it—

- (a) any person whose conduct the Upper Tribunal considers is disrupting or is likely to disrupt the hearing;
- (b) any person whose presence the Upper Tribunal considers is likely to prevent another person from giving evidence or making submissions freely;
- (c) any person who the Upper Tribunal considers should be excluded in order to give effect to [^{F11}the requirement at rule 14(11) (prevention of disclosure or publication of documents and information)]; ^{F12} ...
- (d) any person where the purpose of the hearing would be defeated by the attendance of that person [^{F13}; or
- (e) a person under [^{F14}18, other than a young person who is a party in a special educational needs case or a disability discrimination in schools case].]

(5) The Upper Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

Textual Amendments

- F10** Rule 37(2A) inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **12**
- F11** Words in rule 37(4)(c) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **20**
- F12** Word in rule 37(4)(c) omitted (1.4.2009) by virtue of [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **19(a)**
- F13** Rule 37(4)(e) and word inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **19(b)**
- F14** Words in rule 37(4)(e) substituted (1.9.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(a), **13**

Hearings in a party's absence

38. If a party fails to attend a hearing, the Upper Tribunal may proceed with the hearing if the Upper Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) considers that it is in the interests of justice to proceed with the hearing.

Status:

Point in time view as at 20/10/2014.

Changes to legislation:

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