
DRAFT STATUTORY INSTRUMENTS

2018 No.

The Investigatory Powers Tribunal Rules 2018

PART 3

Applications for leave to appeal from the Tribunal

Application for leave to appeal

16.—(1) An applicant for leave to appeal must file an application in accordance with this rule with the Tribunal, in writing, not later than 21 days after the date on which the Tribunal gave notice under section 68(4), (4A) or (4C) of the Act or (if later) provided to the person making the application a summary of their determination or decision in accordance with rule 15.

(2) The Tribunal may accept an application filed after the expiry of the relevant period in paragraph (1) if they are satisfied that, by reason of special circumstances, it would be unjust not to do so.

(3) The application must—

- (a) identify the decision or determination of the Tribunal to which it relates;
- (b) in the case of an application for leave to appeal against a decision of the Tribunal, confirm that the decision does not relate to a procedural matter;
- (c) state the grounds of appeal, identifying the alleged error or errors of law in the decision or determination and identifying the important point of principle or practice or compelling reason for granting leave, and
- (d) be signed by the applicant or his representative, and dated.

(4) An application need not comply with the requirement in paragraph (3)(c) where—

- (a) Counsel to the Tribunal has notified the Tribunal of an arguable error of law, and
- (b) the Tribunal has not disclosed to the complainant the arguable error of law.

(5) The applicant must serve a copy of the application on every other complainant or respondent to the section 7 proceedings or complaint to which the appeal relates.

Tribunal's consideration of application for leave to appeal

17.—(1) On receipt of an application for leave to appeal, the Tribunal may decide without a hearing whether or not to grant leave, unless they consider that special circumstances make a hearing necessary or desirable.

(2) The Tribunal must as soon as practicable provide a record of their decision to the complainant and respondent.

(3) If the Tribunal refuses leave to appeal they must as soon as practicable provide to the parties with the record of the Tribunal's decision—

- (a) a statement of their reasons for such refusal; and

(b) notification of the right to make an application to the relevant appellate court for leave to appeal.

(4) The Tribunal may give leave to appeal on limited grounds, but must comply with paragraph (3) in relation to any grounds on which they have refused leave.

Relevant appellate court

18.—(1) In making decisions under section 67A(2) of the Act as to the identity of the relevant appellate court⁽¹⁾, the Tribunal must apply the criteria set out in paragraphs (2) and (3).

(2) Subject to paragraph (3), the relevant appellate court is the appellate court in the jurisdiction with the closest and most substantial connection to the section 7 proceedings or complaint.

(3) The Tribunal may specify a different appellate court if the Tribunal considers it appropriate due to—

- (a) the public interest, and in particular any risk that the identity of a particular appellate court could be prejudicial to the interests of national security;
- (b) any other compelling factors the Tribunal considers relevant.

(1) “Relevant appellate court” is defined in section 67A(2) of the Act.