
STATUTORY INSTRUMENTS

2008 No. 2698

The Tribunal Procedure (Upper Tribunal) Rules 2008

PART 2

General powers and provisions

Delegation to staff

4.—(1) Staff appointed under section 40(1) of the 2007 Act (tribunal staff and services) may, with the approval of the Senior President of Tribunals, carry out functions of a judicial nature permitted or required to be done by the Upper Tribunal.

(2) The approval referred to at paragraph (1) may apply generally to the carrying out of specified functions by members of staff of a specified description in specified circumstances.

(3) Within 14 days after the date on which the Upper Tribunal sends notice of a decision made by a member of staff under paragraph (1) to a party, that party may apply in writing to the Upper Tribunal for that decision to be considered afresh by a judge.

Case management powers

5.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Upper Tribunal may regulate its own procedure.

(2) The Upper Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Upper Tribunal may—

- (a) extend or shorten the time for complying with any rule, practice direction or direction;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat a case as a lead case;
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, information, evidence or submissions to the Upper Tribunal or a party;
- (e) deal with an issue in the proceedings as a preliminary issue;
- (f) hold a hearing to consider any matter, including a case management issue;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay (or, in Scotland, sist) proceedings;
- (k) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and—

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- (i) because of a change of circumstances since the proceedings were started, the Upper Tribunal no longer has jurisdiction in relation to the proceedings; or
- (ii) the Upper Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case;
- (l) suspend the effect of its own decision pending an appeal or review of that decision;
- (m) in an appeal, or an application for permission to appeal, against the decision of another tribunal, suspend the effect of that decision pending the determination of the application for permission to appeal, and any appeal;
- [^{F1}(n) require any person, body or other tribunal whose decision is the subject of proceedings before the Upper Tribunal to provide reasons for the decision, or other information or documents in relation to the decision or any proceedings before that person, body or tribunal.]
- [^{F2}(4) The Upper Tribunal may direct that a fast-track case cease to be treated as a fast-track case if—
 - (a) all the parties consent;
 - (b) the Upper Tribunal is satisfied that there are exceptional circumstances which suggest that the appeal or application could not be justly determined if it were treated as a fast-track case; or
 - (c) the Secretary of State for the Home Department has failed to comply with a provision of these Rules or a direction of the First-tier Tribunal or the Upper Tribunal, and the Upper Tribunal is satisfied that the other party would be prejudiced if the appeal or application were treated as a fast-track case.]
- [^{F3}(5) In a financial services case, the Upper Tribunal may direct that the effect of the decision in respect of which the reference has been made is to be suspended pending the determination of the reference, if it is satisfied that to do so would not prejudice—
 - (a) the interests of any persons (whether consumers, investors or otherwise) intended to be protected by that notice; or
 - (b) the smooth operation or integrity of any market intended to be protected by that notice.
 (6) Paragraph (5) does not apply in the case of a reference in respect of a decision of the Pensions Regulator.]

Textual Amendments

- F1** Rule 5(3)(n) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, 9
- F2** Rule 5(4) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, 4
- F3** Rule 5(5) (6) inserted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, 5

Procedure for applying for and giving directions

- 6.—(1) The Upper Tribunal may give a direction on the application of one or more of the parties or on its own initiative.
- (2) An application for a direction may be made—
- (a) by sending or delivering a written application to the Upper Tribunal; or
 - (b) orally during the course of a hearing.

(3) An application for a direction must include the reason for making that application.

(4) Unless the Upper Tribunal considers that there is good reason not to do so, the Upper Tribunal must send written notice of any direction to every party and to any other person affected by the direction.

(5) If a party or any other person sent notice of the direction under paragraph (4) wishes to challenge a direction which the Upper Tribunal has given, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

Failure to comply with rules etc.

7.—(1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or a direction, does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Upper Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied;
- (c) exercising its power under rule 8 (striking out a party's case); or
- (d) except in [^{F4}a mental health case, an asylum case or an immigration case], restricting a party's participation in the proceedings.

(3) Paragraph (4) applies where the First-tier Tribunal has referred to the Upper Tribunal a failure by a person to comply with a requirement imposed by the First-tier Tribunal—

- (a) to attend at any place for the purpose of giving evidence;
- (b) otherwise to make themselves available to give evidence;
- (c) to swear an oath in connection with the giving of evidence;
- (d) to give evidence as a witness;
- (e) to produce a document; or
- (f) to facilitate the inspection of a document or any other thing (including any premises).

(4) The Upper Tribunal may exercise its power under section 25 of the 2007 Act (supplementary powers of the Upper Tribunal) in relation to such non-compliance as if the requirement had been imposed by the Upper Tribunal.

Textual Amendments

F4 Words in rule 7(2)(d) substituted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, 5

Striking out a party's case

8.—^{F5}(1) The proceedings, or the appropriate part of them, will automatically be struck out—

- (a) if the appellant or applicant has failed to comply with a direction that stated that failure by the appellant or applicant to comply with the direction would lead to the striking out of the proceedings or part of them; or
- (b) when a fee has not been paid upon the grant of permission in fresh claim proceedings as required.]

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[^{F6}(1A) Except for paragraph (2), this rule does not apply to an asylum case or an immigration case.]

(2) The Upper Tribunal must strike out the whole or a part of the proceedings if the Upper Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or that part of them; and
- (b) does not exercise its power under rule 5(3)(k)(i) (transfer to another court or tribunal) in relation to the proceedings or that part of them.

(3) The Upper Tribunal may strike out the whole or a part of the proceedings if—

- (a) the appellant or applicant has failed to comply with a direction which stated that failure by the appellant or applicant to comply with the direction could lead to the striking out of the proceedings or part of them;
- (b) the appellant or applicant has failed to co-operate with the Upper Tribunal to such an extent that the Upper Tribunal cannot deal with the proceedings fairly and justly; or
- (c) in proceedings which are not an appeal from the decision of another tribunal or judicial review proceedings, the Upper Tribunal considers there is no reasonable prospect of the appellant's or the applicant's case, or part of it, succeeding.

(4) The Upper Tribunal may not strike out the whole or a part of the proceedings under paragraph (2) or (3)(b) or (c) without first giving the appellant or applicant an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings have been struck out under paragraph (1) or (3)(a), the appellant or applicant may apply for the proceedings, or part of them, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the Upper Tribunal within 1 month after the date on which the Upper Tribunal sent notification of the striking out to the appellant or applicant.

(7) This rule applies to a respondent [^{F7}or an interested party] as it applies to an appellant or applicant except that—

- (a) a reference to the striking out of the proceedings is to be read as a reference to the barring of the respondent [^{F8}or interested party] from taking further part in the proceedings; and
- (b) a reference to an application for the reinstatement of proceedings which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent [^{F8}or interested party]^{F9}... taking further part in the proceedings.

(8) If a respondent [^{F10}or an interested party] has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Upper Tribunal need not consider any response or other submission made by that respondent [^{F11}or interested party, and may summarily determine any or all issues against that respondent or interested party].

Textual Amendments

F5 Rule 8(1) substituted (17.10.2011) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2011 \(S.I. 2011/2343\)](#), rules 1, 5

F6 Rule 8(1A) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, 6

F7 Words in rule 8(7) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 6(2)(a)

F8 Words in rule 8(7)(a)(b) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 6(2)(b)

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- F9** Word in rule 8(7)(b) omitted (1.4.2009) by virtue of [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **6(2)(c)**
- F10** Words in rule 8(8) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **6(3)(a)**
- F11** Words in rule 8(8) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules. 1, **6(3)(b)**

[^{F12} **Addition, substitution and removal of parties**

9.—(1) The Upper Tribunal may give a direction adding, substituting or removing a party as an appellant, a respondent or an interested party.

(2) If the Upper Tribunal gives a direction under paragraph (1) it may give such consequential directions as it considers appropriate.

(3) A person who is not a party may apply to the Upper Tribunal to be added or substituted as a party.

(4) If a person who is entitled to be a party to proceedings by virtue of another enactment applies to be added as a party, and any conditions applicable to that entitlement have been satisfied, the Upper Tribunal must give a direction adding that person as a respondent or, if appropriate, as an appellant.]

(5) [^{F13}In an asylum case, the United Kingdom Representative of the United Nations High Commissioner for Refugees (“the United Kingdom Representative”) may give notice to the Upper Tribunal that the United Kingdom Representative wishes to participate in the proceedings.

(6) If the United Kingdom Representative gives notice under paragraph (5)—

- (i) the United Kingdom Representative is entitled to participate in any hearing; and
- (ii) all documents which are required to be sent or delivered to parties must be sent or delivered to the United Kingdom Representative.]

Textual Amendments

- F12** Rule 9 substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **10**
- F13** Rules 9(5)(6) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **7**

[^{F14} **Orders for costs**

10.—(1) The Upper Tribunal may not make an order in respect of costs (or, in Scotland, expenses) in proceedings [^{F15}transferred or referred by, or on appeal from,] another tribunal except—

- (aa) [^{F16}in a national security certificate appeal, to the extent permitted by paragraph (1A);]
- (a) in proceedings [^{F17}transferred by, or on appeal from,] the Tax Chamber of the First-tier Tribunal; or
- (b) to the extent and in the circumstances that the other tribunal had the power to make an order in respect of costs (or, in Scotland, expenses).

[^{F18}(1A) In a national security certificate appeal—

- (a) the Upper Tribunal may make an order in respect of costs or expenses in the circumstances described at paragraph (3)(c) and (d);

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- (b) if the appeal is against a certificate, the Upper Tribunal may make an order in respect of costs or expenses against the relevant Minister and in favour of the appellant if the Upper Tribunal allows the appeal and quashes the certificate to any extent or the Minister withdraws the certificate;
- (c) if the appeal is against the application of a certificate, the Upper Tribunal may make an order in respect of costs or expenses—
 - (i) against the appellant and in favour of any other party if the Upper Tribunal dismisses the appeal to any extent; or
 - (ii) in favour of the appellant and against any other party if the Upper Tribunal allows the appeal to any extent.]
- (2) The Upper Tribunal may not make an order in respect of costs or expenses under section 4 of the Forfeiture Act 1982 ^{M1} .
- (3) In other proceedings, the Upper Tribunal may not make an order in respect of costs or expenses except—
 - (a) in judicial review proceedings;
 - ^{F19}(b)
 - (c) under section 29(4) of the 2007 Act (wasted costs); ^{F20} ...
 - (d) if the Upper Tribunal considers that a party or its representative has acted unreasonably in bringing, defending or conducting the proceedings; [^{F21}or
 - (e) if, in a financial services case, the Upper Tribunal considers that the decision in respect of which the reference was made was unreasonable.]
- (4) The Upper Tribunal may make an order for costs (or, in Scotland, expenses) on an application or on its own initiative.
- (5) A person making an application for an order for costs or expenses must—
 - (a) send or deliver a written application to the Upper Tribunal and to the person against whom it is proposed that the order be made; and
 - (b) send or deliver with the application a schedule of the costs or expenses claimed sufficient to allow summary assessment of such costs or expenses by the Upper Tribunal.
- (6) An application for an order for costs or expenses may be made at any time during the proceedings but may not be made later than 1 month after the date on which the Upper Tribunal sends—
 - (a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or
 - (b) notice of a withdrawal under rule 17 which ends the proceedings.
- (7) The Upper Tribunal may not make an order for costs or expenses against a person (the “paying person”) without first—
 - (a) giving that person an opportunity to make representations; and
 - (b) if the paying person is an individual and the order is to be made under paragraph (3)(a), (b) or (d), considering that person’s financial means.
- (8) The amount of costs or expenses to be paid under an order under this rule may be ascertained by—
 - (a) summary assessment by the Upper Tribunal;
 - (b) agreement of a specified sum by the paying person and the person entitled to receive the costs or expenses (“the receiving person”); or

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- (c) assessment of the whole or a specified part of the costs or expenses incurred by the receiving person, if not agreed.
- (9) Following an order for assessment under paragraph (8)(c), the paying person or the receiving person may apply—
- (a) in England and Wales, to the High Court or the Costs Office of the Supreme Court (as specified in the order) for a detailed assessment of the costs on the standard basis or, if specified in the order, on the indemnity basis; and the Civil Procedure Rules 1998 ^{M2} shall apply, with necessary modifications, to that application and assessment as if the proceedings in the tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply;
 - (b) in Scotland, to the Auditor of the Court of Session for the taxation of the expenses according to the fees payable in that court; or
 - (c) in Northern Ireland, to the Taxing Office of the High Court of Northern Ireland for taxation on the standard basis or, if specified in the order, on the indemnity basis.]

Textual Amendments

- F14** Rule 10 substituted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 7
- F15** Words in rule 10(1) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **11(a)(i)**
- F16** Rule 10(1)(aa) inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **7(a)**
- F17** Words in rule 10(1)(a) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **11(a)(ii)**
- F18** Rule 10(1A) inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **rule 7(b)**
- F19** Rule 10(3)(b) omitted (1.9.2009) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **11(b)**
- F20** Word in rule 10(3) omitted (6.4.2010) by virtue of [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, **6(a)**
- F21** Rule 10(3)(e) and word inserted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, **6(b)**

Marginal Citations

- M1** 1982 c.34.
- M2** S.I. 1998/3132.

Representatives

11.—(1) [^{F22}Subject to paragraph (5A),] a party may appoint a representative (whether a legal representative or not) to represent that party in the proceedings [^{F23}save that a party in an asylum or immigration case may not be represented by any person prohibited from representing by section 84 of the Immigration and Asylum Act 1999].

(2) If a party appoints a representative, that party (or the representative if the representative is a legal representative) must send or deliver to the Upper Tribunal ^{F24}... written notice of the representative's name and address.

[^{F25}(2A) If the Upper Tribunal receives notice that a party has appointed a representative under paragraph (2), it must send a copy of that notice to each other party.]

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(3) Anything permitted or required to be done by a party under these Rules, a practice direction or a direction may be done by the representative of that party, except signing a witness statement.

(4) A person who receives due notice of the appointment of a representative—

- (a) must provide to the representative any document which is required to be provided to the represented party, and need not provide that document to the represented party; and
- (b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or the represented party.

(5) [^{F26}Subject to paragraph (5B),] at a hearing a party may be accompanied by another person whose name and address has not been notified under paragraph (2) but who, subject to paragraph (8) and with the permission of the Upper Tribunal, may act as a representative or otherwise assist in presenting the party's case at the hearing.

[^{F27}(5A) In fresh claim proceedings, a party may appoint as a representative only a person authorised under the Legal Services Act 2007 to undertake the conduct of litigation in the High Court.

(5B) At a hearing of fresh claim proceedings, rights of audience before the Upper Tribunal are restricted to persons authorised to exercise those rights in the High Court under the Legal Services Act 2007.]

(6) Paragraphs (2) to (4) do not apply to a person who accompanies a party under paragraph (5).

(7) In a mental health case if the patient has not appointed a representative the Upper Tribunal may appoint a legal representative for the patient where—

- (a) the patient has stated that they do not wish to conduct their own case or that they wish to be represented; or
- (b) the patient lacks the capacity to appoint a representative but the Upper Tribunal believes that it is in the patient's best interests for the patient to be represented.

(8) In a mental health case a party may not appoint as a representative, or be represented or assisted at a hearing by—

- (a) a person liable to be detained or subject to guardianship or after-care under supervision, or who is a community patient, under the Mental Health Act 1983; or
- (b) a person receiving treatment for mental disorder at the same hospital [^{F28}or] home as the patient.

[^{F29}(9) In this rule “legal representative” means [^{F30}a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act], [^{F31}a qualified person as defined in section 84(2) of the Immigration and Asylum Act 1999,] an advocate or solicitor in Scotland or a barrister or solicitor in Northern Ireland.]

[^{F32}(10) In an asylum case or an immigration case, an appellant’s representative before the First-tier Tribunal will be treated as that party’s representative before the Upper Tribunal, unless the Upper Tribunal receives notice—

- (a) of a new representative under paragraph (2) of this rule; or
- (b) from the appellant stating that they are no longer represented.]

Textual Amendments

F22 Words in rule 11(1) inserted (17.10.2011) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2011 \(S.I. 2011/2343\)](#), rules 1, **6(a)**

F23 Words in rule 11(1) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **8(a)**

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- F24** Words in rule 11(2) omitted (1.4.2009) by virtue of Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **8(a)**
- F25** Words in rule 11(2A) inserted (1.4.2009) by Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **8(b)**
- F26** Words in rule 11(5) inserted (17.10.2011) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2011 (S.I. 2011/2343), rules 1, **6(b)**
- F27** Rule 11(5A)(5B) inserted (17.10.2011) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2011 (S.I. 2011/2343), rules 1, **6(c)**
- F28** Word in rule 11(8)(b) inserted (1.9.2009) by The Tribunal Procedure (Amendment No. 2) Rules 2009 (S.I. 2009/1975), rules 1, **12**
- F29** Rule 11(9) inserted (1.4.2009) by Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **8(c)**
- F30** Words in rule 11(9) substituted (18.1.2010) by The Tribunal Procedure (Amendment) Rules 2010 (S.I. 2010/43), rules 1, **8**
- F31** Words in rule 11(9) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **8(b)**
- F32** Rule 11(10) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **8(c)**

Calculating time

12.—(1) An act required by these Rules, a practice direction or a direction to be done on or by a particular day must be done by 5pm on that day.

(2) If the time specified by these Rules, a practice direction or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In a special educational needs case or a disability discrimination in schools case, the following days must not be counted when calculating the time by which an act must be done—

- (a) 25th December to 1st January inclusive; and
- (b) any day in August.

[^{F33}(3A) In an asylum case or an immigration case, when calculating the time by which an act must be done, in addition to the days specified in the definition of “working days” in rule 1 (interpretation), the following days must also not be counted as working days—

- (a) 27th to 31st December inclusive; and
- (b) in a fast-track case, 24th December, Maundy Thursday, or the Tuesday after the last Monday in May.]

(4) Paragraph (3) [^{F34}or (3A)] does not apply where the Upper Tribunal directs that an act must be done by or on a specified date.

[^{F35}(5) In this rule—

“disability discrimination in schools case” means proceedings concerning disability discrimination in the education of a child or related matters; and

“special educational needs case” means proceedings concerning the education of a child who has or may have special educational needs.]

Textual Amendments

- F33** Rule 12(3A) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **9(a)**

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- F34** Words in rule 12(4) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **9(b)**
- F35** Rule 12(5) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **9**

Sending and delivery of documents

13.—(1) Any document to be provided to the Upper Tribunal under these Rules, a practice direction or a direction must be—

- (a) sent by pre-paid post or [^{F36}by document exchange, or delivered by hand,] to the address specified for the proceedings;
- (b) sent by fax to the number specified for the proceedings; or
- (c) sent or delivered by such other method as the Upper Tribunal may permit or direct.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.

(3) If a party informs the Upper Tribunal and all other parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party, that form of communication must not be so used.

(4) If the Upper Tribunal or a party sends a document to a party or the Upper Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.

(5) The Upper Tribunal and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

[^{F37}(6) Subject to paragraph (7), if a document submitted to the Upper Tribunal is not written in English, it must be accompanied by an English translation.

(7) In proceedings that are in Wales or have a connection with Wales, a document or translation may be submitted to the Tribunal in Welsh.]

Textual Amendments

- F36** Words in rule 13(1)(a) substituted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **10**
- F37** Rule 13(6)(7) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **10**

Use of documents and information

14.—(1) The Upper Tribunal may make an order prohibiting the disclosure or publication of—

- (a) specified documents or information relating to the proceedings; or
- (b) any matter likely to lead members of the public to identify any person whom the Upper Tribunal considers should not be identified.

(2) The Upper Tribunal may give a direction prohibiting the disclosure of a document or information to a person if—

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- (a) the Upper Tribunal is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and
 - (b) the Upper Tribunal is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.
- (3) If a party (“the first party”) considers that the Upper Tribunal should give a direction under paragraph (2) prohibiting the disclosure of a document or information to another party (“the second party”), the first party must—
- (a) exclude the relevant document or information from any documents that will be provided to the second party; and
 - (b) provide to the Upper Tribunal the excluded document or information, and the reason for its exclusion, so that the Upper Tribunal may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).
- ^{F38}(4)
- (5) If the Upper Tribunal gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the Upper Tribunal may give a direction that the documents or information be disclosed to that representative if the Upper Tribunal is satisfied that—
- (a) disclosure to the representative would be in the interests of the party; and
 - (b) the representative will act in accordance with paragraph (6).
- (6) Documents or information disclosed to a representative in accordance with a direction under paragraph (5) must not be disclosed either directly or indirectly to any other person without the Upper Tribunal's consent.
- (7) Unless the Upper Tribunal gives a direction to the contrary, information about mental health cases and the names of any persons concerned in such cases must not be made public.
- [^{F39}(8) The Upper Tribunal may, on its own initiative or on the application of a party, give a direction that certain documents or information must or may be disclosed to the Upper Tribunal on the basis that the Upper Tribunal will not disclose such documents or information to other persons, or specified other persons.
- (9) A party making an application for a direction under paragraph (8) may withhold the relevant documents or information from other parties until the Upper Tribunal has granted or refused the application.
- (10) In a case involving matters relating to national security, the Upper Tribunal must ensure that information is not disclosed contrary to the interests of national security.
- (11) The Upper Tribunal must conduct proceedings and record its decision and reasons appropriately so as not to undermine the effect of an order made under paragraph (1), a direction given under paragraph (2) or (8) or the duty imposed by paragraph (10).]

Textual Amendments

F38 Rule 14(4) omitted (1.9.2009) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **13(a)**

F39 Rule 14(8)-(11) inserted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **13(b)**

Status: Point in time view as at 17/10/2011.

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Evidence and submissions

15.—(1) Without restriction on the general powers in rule 5(1) and (2) (case management powers), the Upper Tribunal may give directions as to—

- (a) issues on which it requires evidence or submissions;
- (b) the nature of the evidence or submissions it requires;
- (c) whether the parties are permitted or required to provide expert evidence, and if so whether the parties must jointly appoint a single expert to provide such evidence;
- (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
- (e) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
 - (i) orally at a hearing; or
 - (ii) by written submissions or witness statement; and
- (f) the time at which any evidence or submissions are to be provided.

(2) The Upper Tribunal may—

- (a) admit evidence whether or not—
 - (i) the evidence would be admissible in a civil trial in the United Kingdom; or
 - (ii) the evidence was available to a previous decision maker; or
- (b) exclude evidence that would otherwise be admissible where—
 - (i) the evidence was not provided within the time allowed by a direction or a practice direction;
 - (ii) the evidence was otherwise provided in a manner that did not comply with a direction or a practice direction; or
 - (iii) it would otherwise be unfair to admit the evidence.

[^{F40}(2A) In an asylum case or an immigration case—

- (a) if a party wishes the Upper Tribunal to consider evidence that was not before the First-tier Tribunal, that party must send or deliver a notice to the Upper Tribunal and any other party—
 - (i) indicating the nature of the evidence; and
 - (ii) explaining why it was not submitted to the First-tier Tribunal; and
- (b) when considering whether to admit evidence that was not before the First-tier Tribunal, the Upper Tribunal must have regard to whether there has been unreasonable delay in producing that evidence.]

(3) The Upper Tribunal may consent to a witness giving, or require any witness to give, evidence on oath, and may administer an oath for that purpose.

Textual Amendments

F40 Rule 15(2A) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), [rules 1, 11](#)

Summoning or citation of witnesses and orders to answer questions or produce documents

16.—(1) On the application of a party or on its own initiative, the Upper Tribunal may—

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- (a) by summons (or, in Scotland, citation) require any person to attend as a witness at a hearing at the time and place specified in the summons or citation; or
 - (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.
- (2) A summons or citation under paragraph (1)(a) must—
- (a) give the person required to attend 14 days' notice of the hearing or such shorter period as the Upper Tribunal may direct; and
 - (b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.
- (3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in the part of the United Kingdom where the proceedings are due to be determined.
- [^{F41}(4) A person who receives a summons, citation or order may apply to the Upper Tribunal for it to be varied or set aside if they did not have an opportunity to object to it before it was made or issued.
- (5) A person making an application under paragraph (4) must do so as soon as reasonably practicable after receiving notice of the summons, citation or order.
- (6) A summons, citation or order under this rule must—
- (a) state that the person on whom the requirement is imposed may apply to the Upper Tribunal to vary or set aside the summons, citation or order, if they did not have an opportunity to object to it before it was made or issued; and
 - (b) state the consequences of failure to comply with the summons, citation or order.]

Textual Amendments

F41 Rule 16(4)(5)(6) substituted for rule 16(4) (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 11

Withdrawal

17.—(1) Subject to paragraph (2), a party may give notice of the withdrawal of its case, or any part of it—

- (a) at any time before a hearing to consider the disposal of the proceedings (or, if the Upper Tribunal disposes of the proceedings without a hearing, before that disposal), by sending or delivering to the Upper Tribunal a written notice of withdrawal; or
- (b) orally at a hearing.

(2) Notice of withdrawal will not take effect unless the Upper Tribunal consents to the withdrawal except in relation to an application for permission to appeal.

(3) A party which has withdrawn its case may apply to the Upper Tribunal for the case to be reinstated.

(4) An application under paragraph (3) must be made in writing and be received by the Upper Tribunal within 1 month after—

- (a) the date on which the Upper Tribunal received the notice under paragraph (1)(a); or
- (b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b).

(5) The Upper Tribunal must notify each party in writing of a withdrawal under this rule.

[^{F42}(6) Paragraph (3) does not apply to a financial services case other than a reference against a penalty.]

Status: Point in time view as at 17/10/2011.

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Textual Amendments

F42 Rule 17(6) inserted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, 7

[^{F43} **Appeal treated as abandoned or finally determined in an asylum case or an immigration case**

17A.—(1) A party to an asylum case or an immigration case before the Upper Tribunal must notify the Tribunal if they are aware that—

- (a) the appellant has left the United Kingdom;
- (b) the appellant has been granted leave to enter or remain in the United Kingdom;
- (c) a deportation order has been made against the appellant; or
- (d) a document listed in paragraph 4(2) of Schedule 2 to the Immigration (European Economic Area) Regulations 2006 has been issued to the appellant.

(2) Where an appeal is treated as abandoned pursuant to section 104(4) or (4A) of the Nationality, Immigration and Asylum Act 2002 or paragraph 4(2) of Schedule 2 to the Immigration (European Economic Area) Regulations 2006, or as finally determined pursuant to section 104(5) of the Nationality, Immigration and Asylum Act 2002, the Upper Tribunal must send the parties a notice informing them that the appeal is being treated as abandoned or finally determined.

(3) Where an appeal would otherwise fall to be treated as abandoned pursuant to section 104(4A) of the Nationality, Immigration and Asylum Act 2002, but the appellant wishes to pursue their appeal, the appellant must send or deliver a notice, which must comply with any relevant practice directions, to the Upper Tribunal and the respondent so that it is received within thirty days of the date on which the notice of the grant of leave to enter or remain in the United Kingdom was sent to the appellant.

(4) Where a notice of grant of leave to enter or remain is sent electronically or delivered personally, the time limit in paragraph (3) is twenty eight days.

(5) Notwithstanding rule 5(3)(a) (case management powers) and rule 7(2) (failure to comply with rules etc.), the Upper Tribunal must not extend the time limits in paragraph (3) and (4).]

Textual Amendments

F43 Rule 17A inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, 12

Notice of funding of legal services

18. If a party is granted funding of legal services at any time, that party must as soon as practicable—

- (a) (i) if funding is granted by the Legal Services Commission or the Northern Ireland Legal Services Commission, send a copy of the funding notice to the Upper Tribunal; or
- (ii) if funding is granted by the Scottish Legal Aid Board, send a copy of the legal aid certificate to the Upper Tribunal; and
- (b) notify every other party in writing that funding has been granted.

Confidentiality in child support or child trust fund cases

19.—(1) Paragraph (3) applies to an appeal against a decision of the First-tier Tribunal in proceedings under the Child Support Act 1991 ^{M3} in the circumstances described in paragraph (2), other than an appeal against a reduced benefit decision (as defined in section 46(10)(b) of the Child Support Act 1991, as that section had effect prior to the commencement of section 15(b) of the Child Maintenance and Other Payments Act 2008 ^{M4}).

(2) The circumstances referred to in paragraph (1) are that—

- (a) in the proceedings in the First-tier Tribunal in respect of which the appeal has been brought, there was an obligation to keep a person's address confidential; or
- (b) a person whose circumstances are relevant to the proceedings would like their address (or, in the case of the person with care of the child, the child's address) to be kept confidential and has given notice to that effect—
 - (i) to the Upper Tribunal in an application for permission to appeal or notice of appeal;
 - (ii) to the Upper Tribunal within 1 month after an enquiry by the Upper Tribunal; or
 - (iii) to the Secretary of State, the Child Maintenance and Enforcement Commission or the Upper Tribunal when notifying a change of address after proceedings have been started.

(3) Where this paragraph applies, the Secretary of State, the Child Maintenance and Enforcement Commission and the Upper Tribunal must take appropriate steps to secure the confidentiality of the address, and of any information which could reasonably be expected to enable a person to identify the address, to the extent that the address or that information is not already known to each other party.

(4) Paragraph (6) applies to an appeal against a decision of the First-tier Tribunal in proceedings under the Child Trust Funds Act 2004 ^{M5} in the circumstances described in paragraph (5).

(5) The circumstances referred to in paragraph (4) are that—

- (a) in the proceedings in the First-tier Tribunal in respect of which the appeal has been brought, there was an obligation to keep a person's address confidential; or
- (b) a person whose circumstances are relevant to the proceedings would like their address (or, in the case of the person with care of the eligible child, the child's address) to be kept confidential and has given notice to that effect—
 - (i) to the Upper Tribunal in an application for permission to appeal or notice of appeal;
 - (ii) to the Upper Tribunal within 1 month after an enquiry by the Upper Tribunal; or
 - (iii) to HMRC or the Upper Tribunal when notifying a change of address after proceedings have been started.

(6) Where this paragraph applies, HMRC and the Upper Tribunal must take appropriate steps to secure the confidentiality of the address, and of any information which could reasonably be expected to enable a person to identify the address, to the extent that the address or that information is not already known to each other party.

(7) In this rule—

- “eligible child” has the meaning set out in section 2 of the Child Trust Funds Act 2004; and
- “HMRC” means Her Majesty's Revenue and Customs.

Marginal Citations

M3 1991 c.48.

M4 2008 c.6.

Status: Point in time view as at 17/10/2011.

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M5 2004 c.6.

Power to pay expenses and allowances

20.—(1) In proceedings brought under section 4 of the Safeguarding Vulnerable Groups Act 2006 ^{M6F44} ..., the Secretary of State may pay such allowances for the purpose of or in connection with the attendance of persons at hearings as the Secretary of State may, with the consent of the Treasury, determine.

(2) Paragraph (3) applies to proceedings on appeal from a decision of—

- (a) the First-tier Tribunal in proceedings under the Child Support Act 1991, section 12 of the Social Security Act 1998 ^{M7} or paragraph 6 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 ^{M8};
- (b) the First-tier Tribunal in a war pensions and armed forces case (as defined in the Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 ^{M9}); or
- (c) a Pensions Appeal Tribunal for Scotland or Northern Ireland.

(3) The Lord Chancellor (or, in Scotland, the Secretary of State) may pay to any person who attends any hearing such travelling and other allowances, including compensation for loss of remunerative time, as the Lord Chancellor (or, in Scotland, the Secretary of State) may determine.

Textual Amendments

F44 Words in rule 20(1) omitted (1.4.2009) by virtue of [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 12

Marginal Citations

M6 2006 c.47.
M7 1998 c.14.
M8 2000 c.19.
M9 [S.I. 2008/2686](#) (L. 14).

[^{F45}Procedure for applying for a stay of a decision pending an appeal

20A.—(1) This rule applies where another enactment provides in any terms for the Upper Tribunal to stay or suspend, or to lift a stay or suspension of, a decision which is or may be the subject of an appeal to the Upper Tribunal (“the substantive decision”) pending such appeal.

(2) A person who wishes the Upper Tribunal to decide whether the substantive decision should be stayed or suspended must make a written application to the Upper Tribunal which must include—

- (a) the name and address of the person making the application;
- (b) the name and address of any representative of that person;
- (c) the address to which documents for that person should be sent or delivered;
- (d) the name and address of any person who will be a respondent to the appeal;
- (e) details of the substantive decision and any decision as to when that decision is to take effect, and copies of any written record of, or reasons for, those decisions; and
- (f) the grounds on which the person making the application relies.

(3) In the case of an application under paragraph (2) for a stay of a decision of a traffic commissioner—

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- (a) the person making the application must notify the traffic commissioner when making the application;
- (b) within 7 days of receiving notification of the application the traffic commissioner must send or deliver written reasons for refusing or withdrawing the stay—
 - (i) to the Upper Tribunal; and
 - (ii) to the person making the application, if the traffic commissioner has not already done so.
- (4) If the Upper Tribunal grants a stay or suspension following an application under this rule—
 - (a) the Upper Tribunal may give directions as to the conduct of the appeal of the substantive decision; and
 - (b) the Upper Tribunal may, where appropriate, grant the stay or suspension subject to conditions.
- (5) Unless the Upper Tribunal considers that there is good reason not to do so, the Upper Tribunal must send written notice of any decision made under this rule to each party.]

Textual Amendments

F45 Rule 20A inserted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **14**

Status:

Point in time view as at 17/10/2011.

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