
STATUTORY INSTRUMENTS

2008 No. 2698

The Tribunal Procedure (Upper Tribunal) Rules 2008

PART 4

Judicial review proceedings in the Upper Tribunal

Application of this Part to judicial review proceedings transferred to the Upper Tribunal

27.—(1) When a court transfers judicial review proceedings to the Upper Tribunal, the Upper Tribunal—

- (a) must notify each party in writing that the proceedings have been transferred to the Upper Tribunal; and
- (b) must give directions as to the future conduct of the proceedings.

(2) The directions given under paragraph (1)(b) may modify or disapply for the purposes of the proceedings any of the provisions of the following rules in this Part.

(3) In proceedings transferred from the Court of Session under section 20(1) of the 2007 Act, the directions given under paragraph (1)(b) must—

- (a) if the Court of Session did not make a first order specifying the required intimation, service and advertisement of the petition, state the Upper Tribunal's requirements in relation to those matters;
- (b) state whether the Upper Tribunal will consider summary dismissal of the proceedings; and
- (c) where necessary, modify or disapply provisions relating to permission in the following rules in this Part.

Applications for permission to bring judicial review proceedings

28.—(1) A person seeking permission to bring judicial review proceedings before the Upper Tribunal under section 16 of the 2007 Act must make a written application to the Upper Tribunal for such permission.

(2) Subject to paragraph (3), an application under paragraph (1) must be made promptly and, unless any other enactment specifies a shorter time limit, must be sent or delivered to the Upper Tribunal so that it is received no later than 3 months after the date of the decision to which the application relates.

(3) An application for permission to bring judicial review proceedings challenging a decision of the First-tier Tribunal may be made later than the time required by paragraph (2) if it is made within 1 month after the date on which the First-tier Tribunal sent—

- (a) written reasons for the decision; or
 - (b) notification that an application for the decision to be set aside has been unsuccessful, provided that that application was made in time.
- (4) The application must state—

Status: Point in time view as at 03/11/2008.

Changes to legislation: The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 4 is up to date with all changes known to be in force on or before 16 July 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)

- (a) the name and address of the applicant, the respondent and any other person whom the applicant considers to be an interested party;
 - (b) the name and address of the applicant's representative (if any);
 - (c) an address where documents for the applicant may be sent or delivered;
 - (d) details of the decision challenged (including the date, the full reference and the identity of the decision maker);
 - (e) that the application is for permission to bring judicial review proceedings;
 - (f) the outcome that the applicant is seeking; and
 - (g) the facts and grounds on which the applicant relies.
- (5) If the application relates to proceedings in a court or tribunal, the application must name as an interested party each party to those proceedings who is not the applicant or a respondent.
- (6) The applicant must send with the application—
- (a) a copy of any written record of the decision in the applicant's possession or control; and
 - (b) copies of any other documents in the applicant's possession or control on which the applicant intends to rely.
- (7) If the applicant provides the application to the Upper Tribunal later than the time required by paragraph (2) or (3) or by an extension of time allowed under rule 5(3)(a) (power to extend time)—
- (a) the application must include a request for an extension of time and the reason why the application was not provided in time; and
 - (b) unless the Upper Tribunal extends time for the application under rule 5(3)(a) (power to extend time) the Upper Tribunal must not admit the application.
- (8) When the Upper Tribunal receives the application it must send a copy of the application and any accompanying documents to each person named in the application as a respondent or interested party.

Acknowledgment of service

29.—(1) A person who is sent a copy of an application for permission under rule 28(8) (application for permission to bring judicial review proceedings) and wishes to take part in the proceedings must send or deliver to the Upper Tribunal an acknowledgment of service so that it is received no later than 21 days after the date on which the Upper Tribunal sent a copy of the application to that person.

- (2) An acknowledgment of service under paragraph (1) must be in writing and state—
 - (a) whether the person intends to oppose the application for permission;
 - (b) their grounds for any opposition under sub-paragraph (a), or any other submission or information which they consider may assist the Upper Tribunal; and
 - (c) the name and address of any other person not named in the application as a respondent or interested party whom the person providing the acknowledgment considers to be an interested party.
- (3) A person who is sent a copy of an application for permission under rule 28(8) but does not provide an acknowledgment of service may not take part in the application for permission, but may take part in the subsequent proceedings if the application is successful.

Decision on permission or summary dismissal, and reconsideration of permission or summary dismissal at a hearing

30.—(1) The Upper Tribunal must send to the applicant, each respondent and any other person who provided an acknowledgment of service to the Upper Tribunal, and may send to any other person who may have an interest in the proceedings, written notice of—

- (a) its decision in relation to the application for permission; and
- (b) the reasons for any refusal of the application, or any limitations or conditions on permission.

(2) In proceedings transferred from the Court of Session under section 20(1) of the 2007 Act, where the Upper Tribunal has considered whether summarily to dismiss of the proceedings, the Upper Tribunal must send to the applicant and each respondent, and may send to any other person who may have an interest in the proceedings, written notice of—

- (a) its decision in relation to the summary dismissal of proceedings; and
- (b) the reasons for any decision summarily to dismiss part or all of the proceedings, or any limitations or conditions on the continuation of such proceedings.

(3) Paragraph (4) applies where the Upper Tribunal, without a hearing—

- (a) determines an application for permission to bring judicial review proceedings and either refuses permission, or gives permission on limited grounds or subject to conditions; or
- (b) in proceedings transferred from the Court of Session, summarily dismisses part or all of the proceedings, or imposes any limitations or conditions on the continuation of such proceedings.

(4) In the circumstances specified in paragraph (3) the applicant may apply for the decision to be reconsidered at a hearing.

(5) An application under paragraph (4) must be made in writing and must be sent or delivered to the Upper Tribunal so that it is received within 14 days after the date on which the Upper Tribunal sent written notice of its decision regarding the application to the applicant.

Responses

31.—(1) Any person to whom the Upper Tribunal has sent notice of the grant of permission under rule 30(1) (notification of decision on permission), and who wishes to contest the application or support it on additional grounds, must provide detailed grounds for contesting or supporting the application to the Upper Tribunal.

(2) Any detailed grounds must be provided in writing and must be sent or delivered to the Upper Tribunal so that they are received not more than 35 days after the Upper Tribunal sent notice of the grant of permission under rule 30(1).

Applicant seeking to rely on additional grounds

32. The applicant may not rely on any grounds, other than those grounds on which the applicant obtained permission for the judicial review proceedings, without the consent of the Upper Tribunal.

Right to make representations

33. Each party and, with the permission of the Upper Tribunal, any other person, may—

- (a) submit evidence, except at the hearing of an application for permission;
- (b) make representations at any hearing which they are entitled to attend; and
- (c) make written representations in relation to a decision to be made without a hearing.

Status:

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