

---

## STATUTORY INSTRUMENTS

---

# 2008 No. 2698

## The Tribunal Procedure (Upper Tribunal) Rules 2008

### PART 6

#### Decisions

##### Consent orders

**39.**—(1) The Upper Tribunal may, at the request of the parties but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.

(2) Notwithstanding any other provision of these Rules, the [<sup>F1</sup>Upper] Tribunal need not hold a hearing before making an order under paragraph (1)<sup>F2</sup>....

##### Textual Amendments

**F1** Word in rule 39(2) inserted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **15**

**F2** Words in rule 39(2) omitted (1.4.2009) by virtue of [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **20**

##### Decisions

**40.**—(1) The Upper Tribunal may give a decision orally at a hearing.

[<sup>F3</sup>(1A) Subject to paragraph (1B), in immigration judicial review proceedings, a decision which disposes of proceedings shall be given at a hearing.

(1B) Paragraph (1A) 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.]

(2) [<sup>F4</sup>Except where [<sup>F5</sup>rule 22 (decision in relation to permission to appeal) <sup>F6</sup>...] applies,]<sup>F7</sup>... the Upper Tribunal must provide to each party as soon as reasonably practicable after making [<sup>F8</sup>a decision (other than a decision under Part 7) which finally disposes of all issues in the proceedings or of a preliminary issue dealt with following a direction under rule 5(3)(e)]—

- (a) a decision notice stating the [<sup>F9</sup>Upper] Tribunal's decision; and

**Changes to legislation:** The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 6 is up to date with all changes known to be in force on or before 09 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) View outstanding changes

- (b) notification of any rights of review or appeal against the decision and the time and manner in which such rights of review or appeal may be exercised.
- (3) <sup>F10</sup>Subject to rule <sup>F11</sup>14(11) (prevention of disclosure or publication of documents and information)],] the Upper Tribunal must provide written reasons for its decision with a decision notice provided under paragraph (2)(a) unless—
  - (a) the decision was made with the consent of the parties; or
  - (b) the parties have consented to the Upper Tribunal not giving written reasons.
- (4) The <sup>F12</sup>Upper] Tribunal may provide written reasons for any decision to which paragraph (2) does not apply.
- <sup>F13</sup>(5) In a national security certificate appeal, when the Upper Tribunal provides a notice or reasons to the parties under this rule, it must also provide the notice or reasons to the relevant Minister and the Information Commissioner, if they are not parties.]

**Textual Amendments**

- F3** Rule 40(1A)(1B) inserted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **16**
- F4** Words in rule 40(2) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **19**
- F5** Words in rule 40(2) substituted (20.10.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), **14**
- F6** Words in art. 40(2) omitted (25.12.2023) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), rules 1, **3(4)**
- F7** Words in rule 40(2) omitted (1.4.2009) by virtue of [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **21(a)**
- F8** Words in rule 40(2) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **56(a)**
- F9** Word in rule 40(2)(a) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **56(b)**
- F10** Words in rule 40(3) inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **21(b)**
- F11** Words in rule 40(3) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **21(a)**
- F12** Word in rule 40(4) inserted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **21(b)**
- F13** Rule 40(5) inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **13**

<sup>F14</sup>**Special procedure for providing notice of a decision relating to an asylum case**

<sup>F15</sup>**40A.** . . . . .]

**Textual Amendments**

- F14** Rule 40A inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **20**
- F15** Rule 40A omitted (20.10.2014) by virtue of [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), **15**

**Changes to legislation:**

The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 6 is up to date with all changes known to be in force on or before 09 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.

[View outstanding changes](#)

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

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

- Sch. 5 inserted by [S.I. 2024/588 rule 2\(5\)](#)
- rule 1(2A) inserted by [S.I. 2024/588 rule 2\(2\)\(a\)](#)
- rule 26D inserted by [S.I. 2024/588 rule 2\(4\)](#)