

**EXPLANATORY MEMORANDUM TO  
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) (LANDS CHAMBER)  
RULES 2010**

**2010 No.2600 (L.15)**

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The instrument governs the practice and procedure to be followed in the Upper Tribunal (Lands Chamber). These Rules come into force on 29 November 2010.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 Section 3 of the Tribunals, Courts and Enforcement Act 2007 (“the Act”) establishes the First-tier Tribunal and the Upper Tribunal. Section 30 of the Act allows the Lord Chancellor to transfer functions of tribunals listed in Schedule 6 of the Act to either or both of these two Tribunals. The Lands Tribunal was transferred into the Upper Tribunal by the Transfer of Tribunal Functions Order (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). It provided that the Lands Tribunal Rules 1996 have effect as if they were Tribunal Procedure Rules. Section 31(7) of the Act provides that such rules may be varied or revoked by the Tribunal Procedure Committee.
  - 4.2 Section 7 of the Act provides that the Lord Chancellor may, with the concurrence of the Senior President of Tribunals, organise the two Tribunals into Chambers and specify the allocation of functions within each Chamber.
  - 4.3 Section 22(1) of the Act provides for Tribunal Procedure Rules to govern the practice and procedure to be followed by the First-tier Tribunal and the Upper Tribunal.
  - 4.4 Section 22(2) provides that those rules are made by the Tribunal Procedure Committee. Section 22(4) provides that the power to make rules must be exercised with a view to securing, among other requirements, that rules are simple and simply expressed.
  - 4.5 The approach of the Tribunal Procedure Committee so far is to have a separate set of rules for each chamber of the First-tier Tribunal but to have a common set of rules, applying to all chambers, for the Upper Tribunal. However, in developing rules for the Lands Chamber, because of the number of additional,

specific provisions needed it was felt it would be beneficial to have a set of rules specifically for the Lands Chamber. These rules have been drafted to correspond as closely as possible to the Tribunal Procedure (Upper Tribunal) Rules 2008 that apply in the other chambers of the Upper Tribunal, so as to maintain consistency wherever possible.

- 4.5 Schedule 5 to the Act makes provision for the Committee's membership. The Lord Chancellor, the Lord Chief Justice, the Senior President of Tribunals and the Lord President are given roles in relation to the appointment of members.
- 4.6 Paragraph 28 of Schedule 5 to the Act requires the Committee to consult before it makes rules and for rules made by the committee to be signed by a majority of its members. They are then submitted to the Lord Chancellor for him to allow them. Rules made and allowed are required to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c.36) applies as if the instrument contained rules made by a Minister of the Crown.
- 4.7 Paragraph 24(2) of Schedule 7 to the Act disapplies the requirement to consult with the Administrative Justice and Tribunals Council prior to making or approving rules where the rules were made by the Tribunal Procedure Committee. The Administrative Justice and Tribunals Council has a member appointed to the Tribunal Procedure Committee.

## **5. Territorial Extent and Application**

- 5.1 The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 apply to England and Wales.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The Tribunals, Courts and Enforcement Act 2007 created two new, generic tribunals, the First-tier Tribunal and the Upper Tribunal, into which existing tribunal jurisdictions can be transferred. The establishment of the Tribunals follows the Government's acceptance of the recommendations in Sir Andrew Leggatt's Review of Tribunals, *Tribunals for Users – One System, One Service*, published in August 2001. He recommended that tribunals should be brought together in a single system and that they should become separate from their current sponsoring departments.
- 7.2 The Lands Tribunal was established in 1949 as an independent and specialist judicial body set up to resolve certain disputes concerning land. It has power to hear cases under many different Acts of Parliament and statutory instruments. It hears appeals from the Valuation Tribunal for England, valuation tribunals in Wales, Leasehold Valuation Tribunals and Residential

Property Tribunals. It determines disputed compensation in compulsory purchase and certain other types of land compensation cases. The Tribunal also considers applications to discharge or modify restrictions on the use of land and deals with a range of other types of cases.

- 7.4 The Lands Tribunal was incorporated into the two-tier tribunal system and became the Lands Chamber of the Upper Tribunal in June 2009.

## **8. Consultation Outcome**

- 8.1 The Tribunal Procedure Committee carried out a sixteen week consultation exercise on the proposed rules. The consultation ran from 30 March 2010 until 20 July 2010. Sixteen responses were received from professional bodies, legal practitioners and public bodies.
- 8.2 It was intended that the rules should be simple, flexible and easy to understand. The purpose of the rules was not to radically overhaul the existing processes, but to allow best current practices to be maintained. In the consultation paper the Committee asked respondents for views on draft rules and for any additions and amendments. The respondents put forward a number of suggestions which were considered by the Committee.
- 8.3 After consideration the Committee agreed to include some of the suggested additions and amendments in the rules. Others suggested amendments were not accepted or were regarded as best dealt with by Practice Directions, case management and guidance.
- 8.3 The Committee published its response to the consultation in November 2010. It can be found at:  
<http://www.tribunalsservice.gov.uk/Tribunals/Rules/tribunalprocedurecommittee.htm>

## **9. Guidance**

- 9.1 The Tribunals Service produces guidance for all tribunal jurisdictions which are routinely issued to appellants at key stages of the appeals process and available on the Tribunals Service website. The guidance covered by this instrument is being updated to reflect changes to procedure as a result of this instrument.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is unlikely to lead to additional costs or savings.
- 10.2 The public sector is not likely to be particularly affected.

## **11. Regulating small business**

11.1 The legislation applies to small business in so far as they may be parties in proceedings before the Upper Tribunal (Lands Chamber.)

11.2 The impact is unlikely to lead to additional costs or savings.

## **12. Monitoring and Review**

12.1 MoJ will keep the Rules of the Lands Chamber of the Upper Tribunal under review.

## **13. Contact**

13.1 Mary Dallas, New Jurisdictions, Tax, Lands and Legislation Policy, [mary.dallas3@tribunals.gsi.gov.uk](mailto:mary.dallas3@tribunals.gsi.gov.uk), telephone: 0161 833 6315, can answer any queries regarding this instrument.