
STATUTORY INSTRUMENTS

2011 No. 651

The Tribunal Procedure (Amendment) Rules 2011

Amendments to the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008

3.—(1) The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(1) are amended as follows.

(2) In rule 1(3) (interpretation)—

- (a) in the definition of “childcare provider”, for “section 79A of the Children Act 1989” substitute “section 19 of the Children and Families (Wales) Measure 2010(2)”;
- (b) omit the definition of “Health, Education and Social Care Chamber”;
- (c) after the definition of “document” insert—

““health service case” means a case under the National Health Service Act 2006(3), the National Health Service (Wales) Act 2006(4), regulations made under either of those Acts, or regulations having effect as if made under either of those Acts by reason of section 4 of and Schedule 2 to the National Health Service (Consequential Provisions) Act 2006(5);”;

- (d) in sub-paragraph (a) of the definition of “respondent”, for “section 79K of the Children Act 1989” substitute “section 34 of the Children and Families (Wales) Measure 2010”;
 - (e) in sub-paragraph (db) of the definition of “respondent”, for “application under the National Health Service Act 2006 or regulations having effect as if made under that Act by reason of section 4 of and Schedule 2 to the National Health Service (Consequential Provisions) Act 2006” substitute “health service case”;
 - (f) in paragraph (db)(i) of the definition of “respondent”, after “Primary Care Trust” insert “or a Local Health Board”;
 - (g) in paragraph (db)(ii) of the definition of “respondent”, after “Primary Care Trust” insert “or Local Health Board”.
- (3) In rule 13 (sending and delivery of documents) after paragraph (1) insert—
- “(1A) If the Tribunal permits or directs documents to be provided to it by email, the requirement for a signature on applications or references under rules 20(2), 22(4)(a) or 32(1) (b) may be satisfied by a typed instead of a handwritten signature.”
- (4) In rule 20 (the application notice)—
- (a) for paragraph (1) substitute—

(1) [S.I. 2008/2699](#). Rule 1(3) and rule 20 have been amended by [S.I 2010/2653](#). The Schedule has been amended by [S.I 2009/1975](#) and [S.I 2010/2653](#).

(2) [2010 nawm 1](#)

(3) [2006 c. 41](#)

(4) [2006 c. 42](#)

(5) [2006 c. 43](#)

“(1) If rule 19 (application for leave) does not apply, an applicant must start proceedings before the Tribunal by sending or delivering an application notice to the Tribunal so that, unless paragraph (1A) applies, it is received—

- (a) if the time for providing the application notice is specified in another enactment, in accordance with that enactment;
- (b) in a case under the Suspension Regulations, within 10 working days after written notice of the decision being challenged was sent to the applicant;
- (c) in a special educational needs case, within 2 months after written notice of the decision being challenged was sent to the applicant;
- (d) in a case listed in the Schedule, within 3 months after written notice of the decision being challenged was sent to the applicant;
- (e) in any other case, within 28 days after written notice of the decision being challenged was sent to the applicant.”;

(b) after paragraph (1) insert—

“(1A) Where, in a health service case, the Tribunal has contingently removed a practitioner or performer from a list, an application may be made at any time if it is made under—

- (a) section 158(5)(a) of the National Health Service Act 2006;
- (b) section 114(5)(a) of the National Health Service (Wales) Act 2006;
- (c) regulation 15(6)(a) of the National Health Service (Performers Lists) Regulations 2004⁽⁶⁾; or
- (d) regulation 15(6)(a) of the National Health Service (Performers Lists) (Wales) Regulations 2004⁽⁷⁾.”

(5) In rule 21 (the response), for sub-paragraphs (a) and (b) of paragraph (1) substitute—

- “(a) in a case under the Suspension Regulations, within 3 working days after the respondent received the application notice;
- (b) in a health service case, within 21 days after the respondent received the application notice;
- (c) in a special educational needs case or a disability discrimination in schools case, within 30 working days after the respondent received the application notice;
- (d) in any other case, within 20 working days after the respondent received the application notice.”.

(6) For the Schedule substitute—

“SCHEDULE

Rule 20(1)(d)

Cases in which the time for providing the application notice is within 3 months after written notice of the decision being challenged was sent to the applicant

An appeal under section 65A of the Children Act 1989⁽⁸⁾ (appeal against a refusal to give consent for a person who is disqualified from fostering a child privately to carry on, or be otherwise concerned in the management of, or have any financial interest in, or be employed in, a children’s home)

⁽⁶⁾ S.I 2004/585

⁽⁷⁾ S.I 2004/1020

⁽⁸⁾ 1989 c. 41. Section 65A was inserted by section 116 of, and paragraph 14(1) and (14) of Schedule 4 to, the Care Standards Act 2000 (c. 14)

An appeal, an application for permission to appeal or an application for permission to have an issue determined under section 4 of the Protection of Children Act 1999 (appeal against inclusion of a person on the list of individuals who are considered unsuitable to work with children or a refusal to remove a person from the list)

An appeal under section 68 of the Care Standards Act 2000 against a refusal to register a person as a social worker under section 58 of that Act (grant or refusal of registration)

An appeal, an application for permission to appeal or an application for permission to have an issue determined under section 86 of the Care Standards Act 2000 (appeal against inclusion of a person on the list of individuals who are considered unsuitable to work with vulnerable adults or a refusal to remove a person from the list)

An appeal under section 74(1)(a) of the Childcare Act 2006 (appeal against a refusal of registration as a childcare provider)

An appeal under section 37(1)(a) of the Children and Families (Wales) Measure 2010 (appeal against a refusal of an application for registration for child minding or providing day care for children)

An appeal under regulation 12 of the Education (Prohibition from Teaching or Working with Children) Regulations 2003⁽⁹⁾ (appeal against a direction, or a refusal to revoke a direction, prohibiting or restricting a person from working in education or in a job which brings them regularly into contact with children).”.