
STATUTORY INSTRUMENTS

2014 No. 2604

The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

PART 2

General Powers and Provisions

Delegation to staff

3.—(1) Anything of a formal or administrative nature which is required or permitted to be done by the Tribunal under these Rules may be done by a member of the Tribunal's staff.

(2) Staff appointed by the Lord Chancellor 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 Tribunal.

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

(4) Within 14 days after the date on which the Tribunal sends notice of a decision made by a member of staff under paragraph (2) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

Case management powers

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

(2) The 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 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;
- (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 Tribunal or a party;
- (e) provide for a particular matter to be dealt with 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;

Status: Point in time view as at 10/04/2020.

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- (k) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and—
 - (i) because of a change of circumstances since the proceedings were started, the Tribunal no longer has jurisdiction in relation to the proceedings; or
 - (ii) the Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case; or
- (l) suspend the effect of its own decision pending the determination by the Tribunal or the Upper Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

[^{F1}Coronavirus temporary rule (decisions without a hearing)

4A.—(1) Notwithstanding anything in rule 25 (consideration of decision with or without a hearing) and rule 39 (bail hearings), the Tribunal may make a decision which disposes of proceedings without a hearing if the Tribunal considers that the conditions in paragraph (2) are satisfied.

(2) The conditions are—

- (a) the matter is urgent;
- (b) it is not reasonably practicable for there to be a hearing (including a hearing where the proceedings would be conducted wholly or partly as video proceedings or audio proceedings); and
- (c) it is in the interests of justice to do so.

(3) This rule does not prejudice any power of the Tribunal to make a decision which disposes of proceedings without a hearing otherwise than under this rule.]

Textual Amendments

- F1** [Rule 4A](#) inserted (temp.) (10.4.2020) by virtue of [The Tribunal Procedure \(Coronavirus\) \(Amendment\) Rules 2020 \(S.I. 2020/416\)](#), [rules 1\(2\)](#), **10(2)** (with [rule 1\(2\)](#))

Procedure for applying for and giving directions

5.—(1) The 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 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 Tribunal considers that there is good reason not to do so, the 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 the direction which the 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

6.—(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 Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied; or
- (c) exercising its power under paragraph (3).

(3) The Tribunal may refer to the Upper Tribunal, and ask the Upper Tribunal to exercise its power under section 25 (supplementary powers of Upper Tribunal) of the 2007 Act in relation to, any failure by a person to comply with a requirement imposed by the 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).

Striking out of an appeal for non-payment of fee and reinstatement

7.—(1) Where the Tribunal is notified by the Lord Chancellor that a certificate of fee satisfaction has been revoked, the appeal shall automatically be struck out without order of the Tribunal and the Tribunal must notify each party that the appeal has been struck out.

(2) Where an appeal has been struck out in accordance with paragraph (1), the appeal may be reinstated if—

- (a) the appellant applies to have the appeal reinstated; and
- (b) the Lord Chancellor has issued a new certificate of fee satisfaction.

(3) An application made under paragraph (2)(a) must be made in writing and received by the Tribunal within 14 days, or if the appellant is outside the United Kingdom within 28 days, of the date on which the Tribunal sent notification of the striking out to the appellant.

Substitution and addition of parties

8.—(1) The Tribunal may give a direction substituting a respondent if—

- (a) the wrong person has been named as a respondent; or
- (b) the substitution has become necessary because of a change in circumstances since the start of proceedings.

(2) The Tribunal may give a direction adding a person to the proceedings as a respondent.

(3) The UNHCR may give notice to the Tribunal that they wish to participate in any proceedings where the appellant has made an asylum claim and on giving such notice becomes a party to the proceedings.

(4) If—

- (a) the Tribunal gives a direction under paragraph (1) or (2); or
- (b) the UNHCR gives notice to the Tribunal under paragraph (3),

the Tribunal may give such consequential directions as it considers appropriate.

Orders for payment of costs and interest on costs (or, in Scotland, expenses)

9.—(1) If the Tribunal allows an appeal, it may order a respondent to pay by way of costs to the appellant an amount no greater than—

- (a) any fee paid under the Fees Order that has not been refunded; and
 - (b) any fee which the appellant is or may be liable to pay under that Order.
- (2) The Tribunal may otherwise make an order in respect of costs only—
- (a) under section 29(4) of the 2007 Act (wasted costs) and costs incurred in applying for such costs; or
 - (b) if a person has acted unreasonably in bringing, defending or conducting proceedings.
- (3) The Tribunal may make an order under this rule on an application or on its own initiative.
- (4) A person making an application for an order for costs—
- (a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and
 - (b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.
- (5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—
- (a) a notice of decision recording the decision which disposes of the proceedings; or
 - (b) notice that a withdrawal has taken effect under rule 17 (withdrawal).
- (6) The Tribunal may not make an order for costs against a person (in this rule called the “paying person”) without first giving that person an opportunity to make representations.
- (7) The amount of costs to be paid under an order under this rule may be determined by—
- (a) summary assessment by the Tribunal;
 - (b) agreement of a specified sum by the paying person and the person entitled to receive the costs (in this rule called the “receiving person”);
 - (c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person, if not agreed.
- (8) Except in relation to paragraph (9), in the application of this rule in relation to Scotland, any reference to costs is to be read as a reference to expenses.
- (9) Following an order for detailed assessment made by the Tribunal under paragraph (7)(c) the paying person or the receiving person may apply—
- (a) in England and Wales, to the county court 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^{M1}, section 74 (interest on judgment debts, etc) of the County Courts Act 1984^{M2} and the County Court (Interest on Judgment Debts) Order 1991^{M3} 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 Sheriff Court or the Court of Session (as specified in the order) 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.

Marginal Citations

- M1 S.I. 1998/3132.
- M2 1984 c. 28
- M3 S.I. 1981/1184

Representatives

10.—(1) A party may be represented by any person not prohibited from representing by section 84 of the 1999 Act.

(2) Where a party is or has been represented by a person prohibited from representing by section 84 of the 1999 Act, that does not of itself render void the proceedings or any step taken in the proceedings.

(3) If a party appoints a representative, that party (or the representative if the representative is a qualified representative) must send or deliver to the Tribunal written notice of the representative's name and address, which may be done at a hearing.

(4) 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.

(5) A person who receives 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.

(6) As from the date on which a person has notified the Tribunal that they are acting as the representative of an appellant and has given an address for service, if any document is provided to the appellant a copy must also at the same time be provided to the appellant's representative.

Calculating time

11.—(1) An act required or permitted to be done on or by a particular day by these Rules, a practice direction or a direction must, unless otherwise directed, be done by midnight on that day.

(2) Subject to the Tribunal directing that this paragraph does not apply, 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.

Sending, delivery and language of documents

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

- (a) delivered, or sent by post, to an address;
- (b) sent via a document exchange to a document exchange number or address;
- (c) sent by fax to a fax number;
- (d) sent by e-mail to an e-mail address; or
- (e) sent or delivered by any other method,

identified for that purpose by the Tribunal or person to whom the document is directed.

(2) A document to be provided to an individual may be provided by leaving it with that individual.

(3) If the respondent believes that the address specified under paragraph (1) for the provision of documents to the appellant is not appropriate for that purpose, the respondent must notify the Tribunal in writing of that fact and, if aware of it, an address which would be appropriate.

(4) If any document is provided to a person who has notified the Tribunal that they are acting as the representative of a party, it shall be deemed to have been provided to that party.

(5) Subject to paragraph (6)—

- (a) any notice of appeal or application notice provided to the Tribunal must be completed in English; and
- (b) if a document provided to the Tribunal is not written in English, it must be accompanied by an English translation.

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

Use of documents and information

13.—(1) The 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 Tribunal considers should not be identified.

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

- (a) the Tribunal is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and
- (b) the 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 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 to be provided to the second party; and
- (b) provide to the Tribunal the excluded document or information, and the reason for its exclusion, so that the 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).

(4) The Tribunal must conduct proceedings as appropriate in order to give effect to a direction given under paragraph (2).

(5) If the Tribunal gives a direction under paragraph (2) which prevents disclosure to a party who has appointed a representative, the Tribunal may give a direction that the documents or information be disclosed to that representative if the 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 Tribunal's consent.

(7) The Tribunal may, on the application of a party or on its own initiative, give a direction that certain documents or information must or may be disclosed to the Tribunal on the basis that the Tribunal will not disclose such documents or information to other persons, or specified other persons.

(8) A party making an application for a direction under paragraph (7) may withhold the relevant documents or information from other parties until the Tribunal has granted or refused the application.

(9) In a case involving matters relating to national security, the Tribunal must ensure that information is not disclosed contrary to the interests of national security.

(10) The 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), (5) or (7) or the duty imposed by paragraph (9).

Evidence and submissions

14.—(1) Without restriction on the general powers in rule 4 (case management powers), the 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;
- (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 witness statement or written submissions; and
- (f) the time at which any evidence or submissions are to be provided.

(2) The Tribunal may admit evidence whether or not—

- (a) the evidence would be admissible in a civil trial in the United Kingdom; or
- (b) subject to section 85A(4) of the 2002 Act, the evidence was available to the decision maker.

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

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

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

- (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 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 to be determined.

(4) A summons, citation or order under this rule must—

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- (a) state that the person on whom the requirement is imposed may apply to the Tribunal to vary or set aside the summons, citation or order, if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons, citation or order.

Appeal treated as abandoned or finally determined

16.—(1) A party 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 2006 Regulations has been issued to the appellant.

[^{F2}(1A) A party to an appeal under the 2020 Regulations must also notify the Tribunal if they are aware that the appeal is to be treated as abandoned under regulation 13 of those Regulations.]

(2) Where an appeal is treated as abandoned pursuant to section 104(4A) of the 2002 Act or paragraph 4(2) of Schedule 2 to 2006 Regulations [^{F3}or regulation 13(3) of the 2020 Regulations], the Tribunal must send the parties a notice informing them that the appeal is being treated as abandoned or finally determined, as the case may be.

(3) Where an appeal would otherwise fall to be treated as abandoned pursuant to section 104(4A) of the 2002 Act [^{F4}or regulation 13(3) of the 2020 Regulations], but the appellant wishes to pursue their appeal, the appellant must provide a notice, which must comply with any relevant practice direction, to the Tribunal and each other party so that it is received within 28 days of the date on which the appellant was sent notice of the grant of leave to enter or remain in the United Kingdom or was sent the document listed in paragraph 4(2) of Schedule 2 to the 2006 Regulations, as the case may be.

Textual Amendments

- F2** Rule 16(1A) inserted (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 4 para. 6\(3\)\(a\)](#)
- F3** Words in rule 16(2) inserted (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 4 para. 6\(3\)\(b\)](#)
- F4** Words in rule 16(3) inserted (31.1.2020) by [The Immigration \(Citizens Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), reg. 1(2), [Sch. 4 para. 6\(3\)\(c\)](#)

Withdrawal

17.—(1) A party may give notice of the withdrawal of their appeal—

- (a) by providing to the Tribunal a written notice of withdrawal of the appeal; or
- (b) orally at a hearing,

and in either case must specify the reasons for that withdrawal.

(2) The Tribunal must (save for good reason) treat an appeal as withdrawn if the respondent notifies the Tribunal and each other party that the decision (or, where the appeal relates to more than one decision, all of the decisions) to which the appeal relates has been withdrawn and specifies the reasons for the withdrawal of the decision.

(3) The Tribunal must notify each party in writing that a withdrawal has taken effect under this rule and that the proceedings are no longer regarded by the Tribunal as pending.

Certification of pending appeal

18.—(1) The Secretary of State must, upon issuing a certificate under section 97 or 98 of the 2002 Act which relates to a pending appeal, provide notice of the certification to the Tribunal.

(2) Where a notice of certification is provided under paragraph (1), the Tribunal must—

- (a) notify the parties; and
- (b) take no further action in relation to the appeal.

Status:

Point in time view as at 10/04/2020.

Changes to legislation:

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