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## STATUTORY INSTRUMENTS

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# 2014 No. 2604

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

### PART 5

#### Bail

##### Scope of this Part and interpretation

**37.**—(1) This Part applies to bail proceedings, meaning bail applications and any matter relating to bail which the Tribunal is considering on its own initiative.

[<sup>F1</sup>(2) In this Part—

“the 2016 Act” means the Immigration Act 2016;

“bail application” includes a reference to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act;

“bail party” means—

- (a) a person released on bail or applying to the Tribunal to be released on bail; or
- (b) a person in respect of whom a reference has been made to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act; and

“financial condition” has the meaning given in paragraph 5 of Schedule 10 to the 2016 Act.]

(3) Except where paragraph (4) applies, the parties to bail proceedings are the bail party and the Secretary of State.

[<sup>F2</sup>(4) Where the proceedings concern payment of a sum under a financial condition, the parties are the Secretary of State, the bail party and any other person who is liable to make payment under the financial condition.]

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##### Textual Amendments

**F1** Rule 37(2) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/1168), [rules 2, 13\(a\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**F2** Rule 37(4) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017](#) (S.I. 2017/1168), [rules 2, 13\(b\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

##### Bail applications

**38.**—(1) A bail application must be made by sending or delivering to the Tribunal an application notice containing the information specified below.

(2) A bail application must specify whether it is for—

- (a) the bail party to be released on bail;

*Status: Point in time view as at 15/01/2018.*

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- (b) variation of bail conditions;
- <sup>F3</sup>(c) . . . . .
- <sup>F4</sup>(d) payment of a sum under a financial condition; or
- (e) a reference for consideration under paragraph 11 of Schedule 10 to the 2016 Act.]
- (3) Subject to <sup>F5</sup>paragraphs (4) and (4A)], a bail application must contain the following details—
  - (a) the bail party's—
    - (i) full name;
    - (ii) date of birth; and
    - (iii) date of their most recent arrival in the United Kingdom;
  - (b) the address of any place where the bail party is detained;
  - (c) the address where the bail party will reside if the bail application is granted, or, if unable to give such an address, the reason why an address is not given;
  - <sup>F6</sup>(d) the terms of the financial condition to which the bail party is, or is proposed to be, subject;]
  - (e) whether the bail party has a pending appeal to the Tribunal or any pending application for further appeal relating to such an appeal;
  - <sup>F7</sup>(f) the full name, address, date of birth and any occupation of any person other than the bail party who is, or is proposed to be, subject to a financial condition.]
  - (g) where the bail party is aged 18 or over, whether the bail party will, if required, agree <sup>F8</sup>to co-operate with an electronic monitoring condition under paragraph 2 of Schedule 10 to the 2016 Act.];
  - (h) the grounds on which the application is made and, where a previous application has been refused, when it was refused and details of any material change in circumstances since the refusal; and
  - (i) whether an interpreter will be required at the hearing, and in respect of what language and dialect.
- (4) Where the application is for <sup>F9</sup>payment of a sum under a financial condition], paragraph (3) applies except for sub-paragraphs (a)(iii), (b), (c), (e) and (g) of that paragraph.
- <sup>F10</sup>(4A) Where the application is a reference under paragraph 11 of Schedule 10 to the 2016 Act—
  - (a) paragraph (3) applies except for sub-paragraph (h); and
  - (b) the application must also contain—
    - (i) details of the provision or provisions under which the bail party is detained;
    - (ii) a copy of any previous Secretary of State decision on whether to grant bail; and
    - (iii) any documents relevant to (i) or (ii).]
- (5) An application made by the bail party must be signed by the bail party or their representative.
- <sup>F11</sup>(6) On receipt of a bail application, the Tribunal must record the date on which it was received and provide a copy of the application as soon as reasonably practicable to—
  - (a) the Secretary of State, the bail party and any other person subject to a financial condition, in the case of an application to vary a financial condition;
  - (b) the bail party, in the case of a reference under paragraph 11 of Schedule 10 to the 2016 Act; and
  - (c) the Secretary of State, in the case of other bail applications.]

**Textual Amendments**

- F3** Rule 38(2)(c) omitted (15.1.2018) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(a\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F4** Rule 38(2)(d)(e) substituted for rule 38(2)(d) (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(b\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F5** Words in rule 38(3) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(c\)\(i\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F6** Rule 38(3)(d) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(c\)\(ii\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F7** Rule 38(3)(f) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(c\)\(iii\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F8** Words in rule 38(3)(g) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(c\)\(iv\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F9** Words in rule 38(4) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(d\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F10** Rule 38(4A) inserted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(e\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F11** Rule 38(6) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 14\(f\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**Bail hearings**

**39.**—(1) Subject to paragraph (3), where a bail application is for the bail party to be released on bail [<sup>F12</sup>or is a reference under paragraph 11 of Schedule 10], the Tribunal must, as soon as reasonably practicable, hold a hearing of the application.

(2) In all other bail proceedings, the Tribunal may determine the matter without a hearing if it considers it can justly do so.

(3) Where an application for release on bail is received by the Tribunal within 28 days after a Tribunal decision made at a hearing under paragraph (1) not to release the bail party on bail, the Tribunal—

- (a) must determine whether the bail party has demonstrated that there has been a material change in circumstances since the decision;
- (b) if the Tribunal so determines, must apply paragraph (1);
- (c) otherwise, must dismiss the application without a hearing.

<sup>F13</sup>(4) .....

**Textual Amendments**

- F12** Words in rule 39(1) inserted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 15\(a\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)
- F13** Rule 39(4) omitted (15.1.2018) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 15\(b\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**Response to a bail application**

**40.**—(1) If the Secretary of State opposes a bail application, the Secretary of State must provide the Tribunal and the bail party with a written statement of the reasons for doing so—

- (a) not later than 2.00 pm on the working day before the hearing; or

*Status: Point in time view as at 15/01/2018.*

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(b) if the Secretary of State was provided with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.

(2) Where the Secretary of State's reasons for opposition include that directions are in force for the removal of the bail party from the United Kingdom, the Secretary of State must provide a copy of the notice of those directions.

[<sup>F14</sup>(3) If the bail party intends to respond to a reference under paragraph 11 of Schedule 10 to the 2016 Act, the bail party must provide the Tribunal and the Secretary of State with a written statement—

- (a) not later than 2.00 pm on the working day before the hearing; or
- (b) if the bail party was provided with notice of the hearing less than 24 hours before that time, as soon as reasonably practicable.]

**Textual Amendments**

**F14** Rule 40(3) inserted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 16](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**Decision in bail proceedings**

**41.—**(1) The Tribunal must provide written notice of its decision to—

- (a) the parties; and
- (b) if the bail application is for the bail party to be released on bail, the person having custody of the bail party.

[<sup>F15</sup>(2) Where bail is granted or varied, the notice must state—

- (a) when the grant of bail commences;
- (b) any bail conditions, including any amounts payable under a financial condition; and
- (c) the information required under rule 42.]

(3) Where bail is refused or where the Tribunal orders [<sup>F16</sup>payment of a sum under a financial condition], the notice must include reasons for the decision.

<sup>F17</sup>(4) .....

(5) Paragraph (6) applies where the Tribunal determines that directions for the removal of the bail party from the United Kingdom are for the time being in force and the directions require the bail party to be removed from the United Kingdom within 14 days of the date of the decision to release the bail party on bail or under paragraph (4).

(6) The notice provided under paragraph (1) must state—

- (a) the determination of the Tribunal under paragraph (5);
- (b) whether the Secretary of State has consented to the release of the bail party;
- (c) where the Secretary of State has not consented to that release, that the bail party must therefore not be released on bail.

**Textual Amendments**

**F15** Rule 41(2) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 17\(a\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**F16** Words in rule 41(3) substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 17\(b\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**F17** Rule 41(4) omitted (15.1.2018) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2](#), 17(c); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**[<sup>F18</sup>Power to vary bail conditions**

**41A.**—(1) Subject to paragraph (2), where bail is granted by the Tribunal, the Tribunal may direct that the Secretary of State has the power to amend or remove bail conditions or impose new bail conditions.

(2) The Tribunal may not give a direction under paragraph (1) without first giving the bail party and any other person subject to a financial condition an opportunity to make representations.

(3) Where the Tribunal has made a direction under paragraph (1), it may not amend or remove bail conditions or impose new bail conditions in relation to the bail party.]

**Textual Amendments**

**F18** Rule 41A inserted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2](#), 18; S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**[<sup>F19</sup>Financial conditions**

**42.**—(1) Any financial condition must be in writing and must state—

- (a) the bail conditions, including the sum of money to be paid under the financial condition;
- (b) when it is to be paid;
- (c) the form and manner in which it is to be paid; and
- (d) that the bail party, and any other person who is liable to make payment under it, understand the bail conditions and that, if the bail party fails to comply with those conditions, they may be liable to make payment under it.

(2) The financial condition must be signed by the bail party and any other person who is liable to make payment under it and provided to the Tribunal, and a copy provided to—

- (a) the parties, and
- (b) any person having custody of the bail party.]

**Textual Amendments**

**F19** Rule 42 substituted (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2](#), 19; S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**Release of bail party**

**43.** The person having custody of the bail party must release the bail party upon—

- (a) being provided with a notice of decision to grant bail; or
- (b) being—
  - <sup>F20</sup>(...) provided with a notice of decision fixing the amount and conditions of the bail, and
  - <sup>F21</sup>(ii) .....

**Status:** Point in time view as at 15/01/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014, PART 5. (See end of Document for details)

**Textual Amendments**

**F20** Rule 43(b)(ii) omitted (15.1.2018) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 20\(a\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**F21** Rule 43(b)(i) renumbered as rule 43(b) (15.1.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 20\(b\)](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

**Application of this Part to Scotland**

<sup>F22</sup> **44.** . . . . .

**Textual Amendments**

**F22** Rule 44 omitted (15.1.2018) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/1168\)](#), [rules 2, 21](#); S.I. 2017/1241, [reg. 2\(a\)\(c\)](#)

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There are currently no known outstanding effects for the The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014, PART 5.