

**2018 No. 1053 (L. 10)**

**TRIBUNALS AND INQUIRIES**

**The Tribunal Procedure (Amendment No. 2) Rules 2018**

*Made* - - - - *4th October 2018*

*Laid before Parliament* *9th October 2018*

*Coming into force* - - *30th October 2018*

The Tribunal Procedure Committee makes the following Rules, in exercise of the powers conferred by section 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007(a), having consulted in accordance with paragraph 28(1) of Schedule 5 to that Act.

The Lord Chancellor has allowed the Rules in accordance with paragraph 28(3) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.

**Citation and commencement**

1. These Rules may be cited as the Tribunal Procedure (Amendment No. 2) Rules 2018 and come into force on the twenty-first day after the day on which they are laid.

**Amendment to the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008**

2.—(1) The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008(b) are amended as follows.

(2) In rule 23 (cases in which the notice of appeal is to be sent to the decision maker)—

- (a) in paragraph (2), after “so that it is received” omit “no later than the latest of”,
- (b) in sub-paragraph (2)(a), after “in a housing benefit or council tax benefit case” insert “, no later than the latest of”.

**Amendment to the Tribunal Procedure (Upper Tribunal) Rules 2008**

3.—(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(c) are amended as follows.

(2) In rule 1(3) (citation, commencement, application and interpretation)—

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(a) 2007 c. 15.

(b) S.I. 2008/2685. Rule 23(2) was substituted by S.I. 2015/1510.

(c) S.I. 2008/2698. Rule 1 was amended by S.I. 2009/274, 2009/1975, 2010/43, 2010/44, 2010/747, 2011/651, 2012/1363, 2013/606, 2013/2067, 2014/514, 2014/2128, 2015/1510, 2017/723 and by section 59(5) of and paragraph 1(2) of Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Schedule 2 was inserted by S.I. 1010/43. There are other amendments to these rules that are not relevant.

- (a) in the definition of “national security certificate appeal”, after “Data Protection Act 1998(a)” insert “, sections 27, 79 or 111 of the Data Protection Act 2018(b)”,
- (b) in the definition of “respondent”, for sub-paragraph (b), substitute—
  - “(b) in any other any other application for permission to appeal, or any other appeal except a road transport case, the person who made the decision that has been challenged;”.
- (3) In Schedule 2 (additional procedure in national security certificate cases)—
  - (a) in paragraph 4, after “Data Protection Act 1998”, insert “, sections 27(3), 79(5) or 111(3) of the Data Protection Act 2018”,
  - (b) in paragraph 5, after “Data Protection Act 1998”, insert “, sections 27(5), 79(7) or 111(5) of the Data Protection Act 2018”.

**Amendment to the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009**

4.—(1) The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(c) are amended as follows.

- (2) In rule 19 (transfer of cases to the Upper Tribunal)—
  - (a) in paragraph (1), after “Data Protection Act 1998” insert “, the Data Protection Act 2018”,
  - (b) in paragraph (1A), after “Data Protection Act 1998” insert “, sections 27, 79 or 111 of the Data Protection Act 2018”.
- (3) In rule 22 (the notice of appeal)—
  - (a) in paragraph (5), for “subject to rule 19(2) (national security appeals)” substitute “subject to rule 19(1A) (national security appeals)”,
  - (b) in paragraph (6)—
    - (i) in sub-paragraph (b), after “Data Protection Act 1998” insert “, sections 27(3), 79(5) or 111(3) of the Data Protection Act 2018”,
    - (ii) in sub-paragraph (c), after “Data Protection Act 1998” insert “, sections 27(5), 79(7) or 111(5) of the Data Protection Act 2018”,
    - (iii) at the end of sub-paragraph (d), omit “or”,
    - (iv) at the end of sub-paragraph (e), for the full stop substitute “; or”,
    - (v) after sub-paragraph (e), insert—
      - “(f) in the case of an application under section 166(2) of the Data Protection Act 2018 (orders to progress complaints), within 28 days of the expiry of six months from the date on which the Commissioner received the complaint.”.

**Amendment to the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014**

5.—(1) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014(d) are amended as follows.

- (2) In rule 41(5), omit “or under paragraph 4”.

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(a) 1998 c. 29. There are amendments to this Act that are not relevant.  
 (b) 2018 c. 12.  
 (c) S.I. 2009/1976. Rule 19 was amended by S.I. 2010/43 (which inserted paragraph (1A)) and by S.I. 2011/651. Rule 22 was amended by S.I. 2010/43, 2010/2653, 2014/2128, 2017/1168. There are other amendments that are not relevant.  
 (d) S.I. 2014/2604. Rule 41 was amended by S.I. 2017/1168. There are other amendments that are not relevant.

We make these Rules

*Christine Martin*  
*Philip Brook Smith QC*  
*Jane Shillaker*  
*Peter Roth*  
*Donald Ferguson*  
*Gabriella Bettiga*

28th September 2018

I allow these Rules

*Lucy Frazer*  
Parliamentary Under Secretary of State  
Ministry of Justice

4th October 2018

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

Rule 2 amends the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685) to correct a drafting error in rule 23(2) of those Rules. The amendment clarifies that the time period for an appeal is calculated separately under sub-paragraphs (a) and (b), and the wording “no later than the latest of” should relate to sub-paragraph (a) only.

Rule 3 amends the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698). Rules 3(2)(a) and 3(3) make amendments to those Rules that are consequential on changes made by the Data Protection Act 2018 (c. 12) in respect of national security certificate cases. Rule 3(2)(b) amends the definition of “respondent” in those Rules to clarify that in the case of an application for permission to appeal other than an appeal against a tribunal decision, the respondent is the person who made the decision that has been challenged.

Rule 4 amends the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009. The amendments are consequential on changes made by the Data Protection Act 2018 in respect of national security certificate cases, with the exception of Rule 4(3)(a), which corrects an incorrect cross-reference in Rule 22(5). Rule 4(3)(b)(v) prescribes a new time limit for an application to be brought under section 166(2) of the Data Protection Act 2018 (orders to progress complaints).

Rule 5 amends the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 (S.I. 2014/2604). The amendment deletes an obsolete cross-reference to rule 41(4).

No impact assessment has been carried out for these amendments as no, or no significant, impact on the private, voluntary, or public sectors is foreseen.

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