
STATUTORY INSTRUMENTS

2019 No. 925

The Tribunal Procedure (Amendment) Rules 2019

Amendment to the Tribunal Procedure (Upper Tribunal) Rules 2008

2.—(1) Subject to rule 6 (transitional provision), the Tribunal Procedure (Upper Tribunal) Rules 2008⁽¹⁾ are amended as follows.

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

(a) in the definition of “interested party”—

(i) at the end of sub-paragraph (b) omit “and”;

(ii) at the end of sub-paragraph (d) insert “and”;

(iii) after sub-paragraph (d) insert—

“(e) in a trade remedies case, any person other than the appellant who could have appealed to the Upper Tribunal and who has been added or substituted as an interested party under rule 9 (addition, substitution and removal of parties);”;

(b) for the definition of “road transport case”, substitute—

““road transport case” means an appeal against a decision of—

(a) a traffic commissioner, other than an appeal pursuant to—

(i) section 6F of the Transport Act 1985⁽²⁾, or

(ii) section 123T of the Transport Act 2000⁽³⁾, or

(b) the Department of the Environment in Northern Ireland;”, and

(c) after the definition of “special educational needs case”, insert—

““TRA” means the Trade Remedies Authority;

“trade remedies case” means an appeal pursuant to the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019⁽⁴⁾ against a decision made by the TRA or a determination of the Secretary of State;”.

(3) In rule 14 (use of documents and information), after paragraph (8), insert—

“(8A) In a trade remedies case, the Upper Tribunal may give a direction under paragraph (8) if the Upper Tribunal is satisfied that—

(a) where such documents or information have been supplied to the TRA, the TRA is treating such documents or information as confidential in accordance with—

(1) [S.I. 2008/2698](#). In rule 1(3), the definition of “interested party” was amended by section 59(5) of, and paragraph 1(2) of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and by [S.I. 2010/747](#), [2014/514](#) and [2017/723](#), the definition of “road transport case” was inserted by [S.I. 2012/1363](#) and the definition of “special educational needs case” was inserted by [S.I. 2014/2128](#) and amended by [S.I. 2015/1510](#). There are other amendments to rule 1(3) that are not relevant. Rule 14 was amended by [S.I. 2009/1975](#). Rule 23 was amended by [S.I. 2009/1975](#), [2010/44](#), [2012/1363](#), [2015/1510](#) and [2017/723](#). Rule 26A was inserted by [S.I. 2009/274](#) and amended by [S.I. 2009/1975](#), [2010/43](#) and [2012/500](#).

(2) [1985 c. 67](#). Section 6F was inserted by section 13 of the Bus Services Act 2017 (c. 21).

(3) [2000 c. 38](#). Section 123T was inserted by section 4 of the Bus Services Act 2017.

(4) [S.I. 2019/910](#).

- (i) regulation 45 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019⁽⁵⁾;
- (ii) regulation 16 of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019⁽⁶⁾; or
- (iii) regulation 5 of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019; or

- (b) where such documents or information have not been supplied to the TRA, if such documents or information were to be supplied to the TRA in accordance with regulation 5 of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, the TRA would be entitled to treat such documents or information as confidential in accordance with that regulation,

and the Upper Tribunal is not precluded from considering such documents or information in making its decision in the case.”.

(4) In rule 23 (notice of appeal)—

(a) in paragraph (2)(b)—

- (i) at the end of paragraph (i), omit “or”;
- (ii) at the end of paragraph (ii), for the full stop substitute “, or”;
- (iii) after paragraph (ii), insert—

“(iii) in a trade remedies case—

- (aa) where the appeal is against a decision made by the TRA and notice is required to be published in accordance with the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, the date of such publication or (if later) when the notice comes into effect;
- (bb) where the appeal is against a decision made by the TRA and no notice is required to be published in accordance with the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, the date on which the appellant is notified of the decision, or
- (cc) where the appeal is against a determination of the Secretary of State under the Taxation (Cross-border Trade) Act 2018⁽⁷⁾, the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 or the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (as the case may be), the date on which the notice is published in accordance with the relevant provision or (if later) when the notice comes into effect;”;

(b) in paragraph (6)—

- (i) at the end of sub-paragraph (a), omit “or”;
 - (ii) at the end of sub-paragraph (b), insert—
- “; or

(5) S.I. 2019/450.

(6) S.I. 2019/449.

(7) 2018 c. 22. The effect of the Act is modified by S.I. 2019/429.

- (c) in an appeal against a decision of a traffic commissioner pursuant to section 6F of the Transport Act 1985 or section 123T of the Transport Act 2000, to—
 - (i) the respondent, and
 - (ii) the traffic commissioner who was the decision maker.
- (6A) In a case to which paragraph (6)(c) applies, the Upper Tribunal must at the same time require such commissioner to—
 - (a) send or deliver to the Upper Tribunal (within such time as the Upper Tribunal may specify)—
 - (i) a copy of any written record of the decision under challenge, and any statement of reasons for that decision, and
 - (ii) copies of all documents relevant to the case in such commissioner’s possession, and
 - (b) provide copies of such documents to each other party at the same time as they are provided to the Upper Tribunal.”.
- (5) In rule 26A (cases transferred or referred to the Upper Tribunal, applications made directly to the Upper Tribunal and proceedings without notice to a respondent)—
 - (a) in the heading above that rule, after “directly to the Upper Tribunal”, insert “, cases where an offence has been certified”;
 - (b) in paragraph (1)—
 - (i) at the end of sub-paragraph (a), omit “or”;
 - (ii) at the end of sub-paragraph (b), for the full stop substitute “; or”;
 - (iii) after sub-paragraph (b), insert—
 - “(c) a case where an offence has been certified to the Upper Tribunal.”.