

2020 No. 416 (L. 11)

TRIBUNALS AND INQUIRIES

**The Tribunal Procedure (Coronavirus) (Amendment) Rules
2020**

Made - - - - *8th April 2020*

Laid before Parliament *9th April 2020*

Coming into force in accordance with rule 1

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, commencement and expiry

1.—(1) These Rules may be cited as the Tribunal Procedure (Coronavirus) (Amendment) Rules 2020.

(2) These Rules come into force on the day after the day on which they are laid, and shall cease to have effect on the same day that, and immediately after, section 55(b) (public participation in proceedings conducted by video or audio) of the Coronavirus Act 2020(b) expires for all purposes.

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

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

(2) After rule 5 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 22 (order that a school be regarded as not registered pending determination of an appeal), rule 23 (decision with or without a hearing), rule 35 (restrictions on disposal of proceedings without a hearing) or rule 37 (time and

(a) 2007 c. 15. Paragraph 12(2)(b) of Schedule 5 was amended by paragraph 52(1)(b) of Schedule 9 to the Crime and Courts Act 2013 (c. 22); paragraph 14 of Schedule 5 was amended by S.I. 2010/220; paragraph 21 of Schedule 5 was amended by S.I. 2013/2042; paragraph 3 of Schedule 5 was amended, and paragraph 28A was inserted, by Part 2 of Schedule 1 to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(b) 2020 c. 7. Section 89 of the Act makes provision about the expiry of the Act. Section 90 provides powers to alter the expiry dates of provisions of the Act.

(c) S.I. 2008/2699; relevant amending instruments are S.I. 2014/514 and S.I. 2014/2128.

place of 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.”.

(3) In rule 26 (public and private hearings), after paragraph (3), insert—

“(3A) Without prejudice to paragraph (3), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 26 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

26A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 26(3A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

(5) In rule 37 (time and place of hearings)—

(a) in paragraph (1)—

- (i) at the beginning, insert “Subject to paragraph (1A),”; and
- (ii) for “7”, substitute “10”;

(b) after paragraph (1), insert—

“(1A) If the Tribunal considers that it is not reasonably practicable for a hearing to start within the period specified in paragraph (1), the hearing must start within such time as the Tribunal may direct.”.

Amendments to the Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008

3.—(1) The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008(a) are amended as follows.

(a) S.I. 2008/2686, to which there are amendments not relevant to these Rules.

(2) After rule 5 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 25 (decision with or without a hearing), 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.”.

(3) In rule 28 (public and private hearings), after paragraph (2), insert—

“(2A) Without prejudice to paragraph (2), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 28 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

28A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 28(2A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

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

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

(2) After rule 5 (case management powers), insert—

(a) S.I. 2008/2685, to which there are amendments not relevant to these Rules.

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 27 (decision with or without a hearing), 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.”.

(3) In rule 30 (public and private hearings), after paragraph (3), insert—

“(3A) Without prejudice to paragraph (3), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 30 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

30A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 30(3A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

5.—(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(a) are amended as follows.

(2) After rule 5 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 34 (decision with or without a hearing), the Upper Tribunal may make a decision which disposes of proceedings without a hearing if the Upper Tribunal considers that the conditions in paragraph (2) are satisfied.

(2) The conditions are—

(a) S.I. 2008/2698; relevant amending instruments are S.I. 2009/274, S.I. 2009/1975, S.I. 2010/43 and S.I. 2014/2128.

- (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 Upper Tribunal to make a decision which disposes of proceedings without a hearing other than under this rule.”.

(3) In rule 37 (public and private hearings), after paragraph (2), insert—

“(2ZA) Without prejudice to paragraph (2), the Upper Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Upper Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 37 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

37A.—(1) In the circumstances set out in paragraph (3), the Upper Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Upper Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 37(2ZA); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

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

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

(2) After rule 5 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 32 (decision with or without a hearing), 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

(a) S.I. 2009/1976, to which there are amendments not relevant to these Rules.

(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.”.

(3) In rule 35 (public and private hearings), after paragraph (2), insert—

“(2A) Without prejudice to paragraph (2), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 35 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

35A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 35(2A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

Amendments to the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009

7.—(1) The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009(a) are amended as follows.

(2) After rule 5 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

5A.—(1) Notwithstanding anything in rule 24(2) (basic cases), rule 26(7) (further steps in a default paper case) and rule 29 (determination with or without a hearing), 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.”.

(3) In rule 32 (public and private hearings), after paragraph (2), insert—

(a) S.I. 2009/273, to which there are amendments not relevant to these Rules.

- “(2A) The Tribunal may direct that a hearing, or part of it, is to be held in private if—
- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
 - (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
 - (c) a media representative is not able to access the proceedings remotely while they are taking place; and
 - (d) such a direction is necessary to secure the proper administration of justice.”.
- (4) After rule 32 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

32A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 32(2A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

Amendments to the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010

8.—(1) The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010(a) are amended as follows.

(2) In rule 48 (public and private hearings), after paragraph (3), insert—

“(3A) In particular, the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(3) After rule 48 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

48A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 48(3A); or

(a) S.I. 2010/2600, to which there are amendments not relevant to these Rules.

- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

Amendments to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

9.—(1) The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013(a) are amended as follows.

- (2) After rule 6 (case management powers), insert—

“Coronavirus temporary rule (decisions without a hearing)

6A.—(1) Notwithstanding anything in rule 31 (decision with or without a hearing), rule 44 (urgent IMO authorisation applications) and rule 46 (procedure in urgent cases) 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.”.

- (3) In rule 33 (public and private hearings), after paragraph (2), insert—

“(2A) Without prejudice to paragraph (2), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

- (4) After rule 33 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

33A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 33(2A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

(a) S.I. 2013/1169, to which there are amendments not relevant to these Rules.

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

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

(2) After rule 4 (case management powers), insert—

“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.”.

(3) In rule 27 (public and private hearings), after paragraph (2), insert—

“(2A) Without prejudice to paragraph (2), the Tribunal may direct that a hearing, or part of it, is to be held in private if—

- (a) the Tribunal directs that the proceedings are to be conducted wholly or partly as video proceedings or audio proceedings;
- (b) it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing;
- (c) a media representative is not able to access the proceedings remotely while they are taking place; and
- (d) such a direction is necessary to secure the proper administration of justice.”.

(4) After rule 27 (public and private hearings), insert—

“Coronavirus temporary rule (recording of remote hearings)

27A.—(1) In the circumstances set out in paragraph (3), the Tribunal must direct that the hearing be recorded, if practicable.

(2) Where the Tribunal has made a direction under paragraph (1), it may direct the manner in which the hearing must be recorded.

(3) The circumstances referred to in paragraph (1) are that the hearing, or part of it, is—

- (a) held in private under rule 27(2A); or
- (b) only treated as held in public by virtue of a media representative being able to access the proceedings remotely while they are taking place.”.

We make these Rules

Tim Fagg
Donald W Ferguson
Jayam Dalal

(a) S.I. 2014/2604, to which there are amendments not relevant to these Rules.

*Mark Loveday
Michael Reed*
TPC Members

6th April 2020

I allow these Rules

Chris Philp
Parliamentary Under Secretary of State
Ministry of Justice

8th April 2020

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make temporary amendments to the various rules which apply in the First-tier Tribunal and Upper Tribunal. Rule 1 provides that the amendments made by the Rules will expire on the same day as section 55(b) of the Coronavirus Act 2020.

Rule 2 amends the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (S.I. 2008/2699) (“the HESC Rules”).

Rule 3 amends the Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 (S.I. 2008/2686).

Rule 4 amends the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685).

Rule 5 amends the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698).

Rule 6 amends the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (S.I. 2009/1976).

Rule 7 amends the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (S.I. 2009/273)

Rule 8 amends the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (S.I. 2010/2600) (“the Lands Chamber Rules”).

Rule 9 amends the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013/1169).

Rule 10 amends the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 (S.I. 2014/2604).

There are three kinds of amendments made:

A rule which makes provision about when hearings are heard in private or public is amended, and a new rule on recording of remote hearings is inserted, in each set of Rules mentioned above.

A new rule which provides additional powers to decide a case without a hearing is inserted into each set of Rules mentioned above, other than the UT LC Rules.

Rule 37 of the HESC Rules is amended to extend the time limit within which the hearing of an appeal under 66(1)(a) of the Mental Health Act 1983 must be started, and to provide the Tribunal with the discretion to extend that time limit when it is not reasonably practicable for it to be complied with.

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