

2020 No. 651 (L. 14)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment) Rules 2020

Made - - - - - *25th June 2020*

Laid before Parliament *30th June 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 (Amendment) Rules 2020 and come into force on the twenty-first day after the day on which they are laid.

(2) Rules 2(4), 3(3), 4(3), 5(11), 6(3), 7(3), 8(3), 9(3) and 10(5) 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) In rule 4 (delegation to staff)—

(a) in paragraph (1)—

(i) before “may” insert “or section 2(1) of the Courts Act 2003(d) (court officers, staff and services)”;

(ii) for “with the approval of” substitute “if authorised by”;

(iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;

(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, amended by S.I. 2020/416; there are other amending instruments but none is relevant.

(d) 2003 c. 39.

- (b) omit paragraph (2).
- (3) In rule 12 (calculating time)—
 - (a) in paragraph (3) omit “or a disability discrimination in schools case”;
 - (b) after paragraph (3) insert—
 - “(3A) In a disability discrimination in schools case, the days from 25th December to 1st January inclusive and any day in August must not be counted when calculating the time by which any act must be done, other than the time for starting proceedings by providing the application notice to the Tribunal under rule 20 (the application notice).”;
 - (c) in paragraph (4), for “Paragraph (3)(b) does” substitute “Paragraphs (3)(b) and (3A) do”.
- (4) In rule 26A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—
 - “(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

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

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

- (2) In rule 4 (delegation to staff)—
 - (a) in paragraph (1)—
 - (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
 - (ii) for “with the approval of” substitute “if authorised by”;
 - (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;
 - (b) omit paragraph (2).
- (3) In rule 30A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—
 - “(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

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

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

- (2) In rule 4 (delegation to staff)—
 - (a) in paragraph (1)—
 - (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
 - (ii) for “with the approval of” substitute “if authorised by”;
 - (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;
 - (b) omit paragraph (2).

(a) S.I. 2008/2685, amended by S.I. 2020/416; there are other amending instruments but none is relevant.
 (b) S.I. 2008/2686, amended by S.I. 2020/416; there are other amending instruments but none is relevant.

(3) In rule 28A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

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

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

- (a) omit the definition of “fast-track case”;
- (b) in the definition of “immigration case”—
 - (i) after “2006” insert “, regulation 36 of the Immigration (European Economic Area) Regulations 2016 or the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020”;
 - (ii) omit “, or the Immigration (Citizens’ Rights Appeals) (EU Exit) Regulations 2020”.

(3) In rule 4 (delegation to staff)—

- (a) in paragraph (1)—
 - (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
 - (ii) for “with the approval of” substitute “if authorised by”;
 - (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;
- (b) omit paragraph (2).

(4) In rule 5 (case management powers) omit paragraph (4).

(5) In rule 17A (appeal treated as abandoned or finally determined in an asylum case or an immigration case) in paragraph (2) before “104(4)” insert “92(8)”.

(6) In rule 21 (application to the Upper Tribunal for permission to appeal) for sub-paragraph (aa) of paragraph (3) substitute—

“(aa) in an asylum case or an immigration case where the appellant is in the United Kingdom at the time that the application is made, 14 days after the date on which notice of the First-tier Tribunal’s refusal of permission was sent to the appellant”.

(7) In rule 22A (special procedure for providing notice of a refusal of permission to appeal in an asylum case) in paragraph (1)—

- (a) in sub-paragraph (a) at the end insert “and”;
- (b) in sub-paragraph (b) for “; and” substitute a full stop;
- (c) omit sub-paragraph (c).

(8) In rule 24 (response to the notice of appeal) in paragraph (2)—

- (a) omit sub-paragraph (aa);
- (b) in sub-paragraph (ab), at the end insert “or”.

(9) In rule 25 (appellant’s reply) for paragraph (2A) substitute—

“(2A) In an asylum case or an immigration case, the time limit in paragraph (2) is one month after the date on which the Upper Tribunal sent a copy of the response to the appellant, or five days before the hearing of the appeal, whichever is the earlier.”.

(10) In rule 36 (notice of hearings) in paragraph (2)—

- (a) in sub-paragraph (a) at the end insert “and”;

(a) S.I. 2008/2698; relevant amending instruments are S.I. 2009/274, 1975, 2010/43, 44, 747, 2011/651, 2012/1363, 2013/606, 2067, 2014/514, 2128, 2015/1510, 2017/723, 2018/1053, 2019/925, 2020/61, 416.

- (b) omit sub-paragraph (aa);
- (c) in sub-paragraph (b) omit “in any case other than a fast-track case”.

(11) In rule 37A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Upper Tribunal in such manner as the Upper Tribunal may direct.”.

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) In rule 4 (delegation to staff)—

(a) in paragraph (1)—

- (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
- (ii) for “with the approval of” substitute “if authorised by”;
- (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;

(b) omit paragraph (2);

(c) in paragraph (3) omit “pursuant to an approval”.

(3) In rule 35A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

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

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

(2) In rule 4 (delegation to staff)—

(a) in paragraph (1)—

- (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
- (ii) for “with the approval of” substitute “if authorised by”;
- (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;

(b) omit paragraph (2);

(c) in paragraph (3) omit “pursuant to an approval”.

(3) In rule 32A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

(a) S.I. 2009/1976, amended by S.I. 2020/416; there are other amending instruments but none is relevant.

(b) S.I. 2009/273, amended by S.I. 2020/416; there are other amending instruments but none is relevant.

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 4 (delegation to staff)—

(a) in paragraph (1)—

- (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
- (ii) for “with the approval of” substitute “if authorised by”;
- (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;

(b) omit paragraph (2).

(3) In rule 48A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

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

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

(2) In rule 5 (delegation to staff)—

(a) in paragraph (1)—

- (i) before “may” insert “or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
- (ii) for “with the approval of” substitute “if authorised by”;
- (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;

(b) omit paragraph (2);

(c) in paragraph (3) omit “pursuant to an approval”.

(3) In rule 33A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—

“(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

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(c) are amended as follows.

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

(a) omit paragraph (3);

(b) in paragraph (4) omit the definition of “Fast Track Rules”.

(3) In rule 3 (delegation to staff)—

(a) in paragraph (2)—

(a) S.I. 2010/2600, amended by S.I. 2020/416; there are other amending instruments but none is relevant.
(b) S.I. 2013/1169, amended by S.I. 2020/416; there are other amending instruments but none is relevant.
(c) S.I. 2014/2604; relevant amending instruments are S.I. 2020/61, 416.

- (i) for “by the Lord Chancellor” substitute “under section 40(1) of the 2007 Act (tribunal staff and services) or section 2(1) of the Courts Act 2003 (court officers, staff and services)”;
 - (ii) for “with the approval of” substitute “if authorised by”;
 - (iii) after “Tribunals” insert “under paragraph 3(3) of Schedule 5 to the 2007 Act”;
- (b) omit paragraph (3).
- (4) In rule 16 (appeal treated as abandoned or finally determined)—
- (a) in the heading above that rule, omit “or finally determined”;
 - (b) in paragraph (2)—
 - (i) after “section” insert “92(8) or”;
 - (ii) omit “or finally determined, as the case may be”;
- (5) In rule 27A (coronavirus temporary rule (recording of remote hearings)) after paragraph (3) insert—
- “(4) On the application of any person, any recording made pursuant to a direction under paragraph (1) is to be accessed with the consent of the Tribunal in such manner as the Tribunal may direct.”.

We make these Rules

Mark Loveday
Donald W Ferguson
Tim Fagg
Michael Reed
Peter Roth
 TPC Members

22nd June 2020

I allow these Rules

Chris Philp
 Parliamentary Under Secretary of State
 Ministry of Justice

25th June 2020

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make amendments to the various procedural rules which apply in the First-tier Tribunal and Upper Tribunal. Some of the amendments made by these Rules are temporary, and rule 1(2) provides that that those amendments 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) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685).

Rule 4 amends the Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 (S.I. 2008/2686).

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

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).

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) (“the IAC Rules”).

There are two kinds of amendments that have been made to each set of Rules: the addition of a temporary provision about access to recordings of remote hearings, and amendments to the provisions on the exercise of judicial functions by staff.

A provision in the HESC Rules about the calculation of time has also been amended. The IAC Rules and UT Rules have been amended to update and remove some outdated or redundant references.

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