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STATUTORY INSTRUMENTS

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**2022 No. 312**

**The Tribunal Procedure (Amendment) Rules 2022**

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

- 3.—(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(1) are amended as follows.
- (2) In rule 13 (sending and delivery of documents), after paragraph (7) insert—
- “(8) In judicial review proceedings, unless the contrary is proved, a document sent by first class post will be deemed to be provided or received on the second working day after it was posted.”.
- (3) In rule 21 (application to the Upper Tribunal for permission to appeal), before paragraph (2) insert—
- “(1A) This rule does not apply to an application for permission to appeal to the Upper Tribunal if such application is made under rule 24 (response to notice of appeal).”.
- (4) In rule 22 (decision in relation to permission to appeal)—
- (a) at the beginning of paragraph (4), insert “Subject to paragraph (4A),”;
- (b) after paragraph (4) insert—
- “(4A) Where the Upper Tribunal considers the whole or part of an application to be totally without merit, it shall record that fact in its decision notice and, in those circumstances, the person seeking permission may not request the decision or part of the decision (as the case may be) to be reconsidered at a hearing.”.
- (5) In rule 24 (response to the notice of appeal)—
- (a) in paragraph (1A) after “a respondent may” insert “, and if paragraph (1B) applies must,”;
- (b) after paragraph (1A) insert—
- “(1B) In the case of an appeal against the decision of another tribunal, a respondent must provide a response to a notice of appeal if the respondent—
- (a) wishes the Upper Tribunal to uphold the decision for reasons other than those given by the tribunal; or
- (b) relies on any grounds on which the respondent was unsuccessful in the proceedings which are the subject of the appeal.
- (1C) If paragraph (1B) applies, to the extent that the respondent needs any permission, including permission to appeal to the Upper Tribunal, the response must include an application to the Upper Tribunal for such permission.”.
- (c) in paragraph (3)—
- (i) in sub-paragraph (e) from “on which the respondent” to the end of that sub-paragraph substitute—
- “(i) to uphold the decision for reasons other than those given by the tribunal; or

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- (ii) on which the respondent was unsuccessful in the proceedings which are the subject of the appeal;”;
- (ii) after sub-paragraph (e) insert—
  - “(ea) the reasons why any permission applied for under paragraph (1C) should be given; and”.