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STATUTORY INSTRUMENTS

2023 No. 327 (L. 5)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment) Rules 2023

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|-------------------------------|---------|------------------------|
| <i>Made</i> | - - - - | <i>14th March 2023</i> |
| <i>Laid before Parliament</i> | | <i>15th March 2023</i> |
| <i>Coming into force</i> | - - | <i>6th April 2023</i> |

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) Rules 2023 and come into force on 6th April 2023.

Amendments 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 22 (cases in which the notice of appeal is to be sent to the Tribunal)—

- (a) in paragraph (7A) for “Her Majesty’s” substitute “His Majesty’s”;
- (b) in paragraph (9)(b) for “Her Majesty’s” substitute “His Majesty’s”.

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

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

(2) In rule 1(3) (citation, commencement, application and interpretation) in the definition of “HMRC” for “Her Majesty’s” substitute “His Majesty’s”.

(a) 2007 c. 15. There are amendments to the Act but none is relevant to this instrument.
(b) S.I. 2008/2685; relevant amending instruments are S.I. 2013/477 and S.I. 2015/1510.
(c) S.I. 2009/273; relevant amending instrument is S.I. 2010/2653.

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(a) are amended as follows.

(2) In rule 6 (procedure for applying for and giving directions) after paragraph (3) insert—

“(3A) A party making a written application must send a copy of the application to every other party to the proceedings and to any other person that may be affected by the direction applied for, and request that any comments on the application should be sent to the Tribunal within 7 days or such earlier period as the Tribunal directs.”.

(3) In rule 21 (notice of appeal)—

(a) in paragraph (1) for “decision maker” substitute “Tribunal”;

(b) after paragraph (5) insert—

“(5A) The Tribunal must send a copy of the notice of appeal and any accompanying documents to the decision maker as soon as reasonably practicable.”;

(c) in paragraph (6) for “The decision maker must refer the case to the Tribunal immediately” substitute “Upon receipt of a copy of the notice of appeal the decision maker must notify the Tribunal within 28 days”.

(4) In rule 22 (lapse of cases)—

(a) in paragraph (1)—

(i) for “If the” substitute “If after receiving the notice of appeal the”;

(ii) at the end of sub-paragraph (a) omit “and”;

(iii) at the end of sub-paragraph (b) insert—

“; and

(c) the decision maker must send a copy of the revised decision to the Tribunal.”;

(b) in paragraph (2) for “decision maker” substitute “Tribunal”;

(c) after paragraph (2) insert—

“(2A) The Tribunal must send a copy of the appellant’s representations or written statement provided under paragraph (2) (if any) to the decision maker.”;

(d) omit paragraph (3);

(e) after paragraph (3) insert—

“(4) If an appeal lapses under paragraph (2), the Tribunal must give both parties notice that it has done so.”.

(5) In rule 23 (responses and replies)—

(a) for paragraph (1) substitute—

“(1) When a decision maker receives a copy of the notice of appeal, the decision maker must send or deliver a response to the Tribunal—

(a) where the decision being challenged on appeal is subject to mandatory reconsideration, within 28 days after—

(i) if following reconsideration, the decision maker maintains the decision being challenged, the date on which the decision maker sends the appellant notice that the decision under challenge has been maintained; or

(ii) if following reconsideration, the decision maker revises the decision being challenged, the date on which the decision maker receives a copy of the appellant’s representations or written statement provided under rule 22(2A) (lapse of cases); or

(a) S.I. 2008/2686; relevant amending instruments are S.I. 2010/2653 and S.I. 2011/651.

- (b) in any other case, within 56 days after the date that the decision maker receives a copy of the notice of appeal or, if rule 21(3) (notice of appeal) applies, a copy of the Tribunal’s decision to admit the appeal.”;
- (b) after paragraph (7) insert—
 - “(8) In this rule, a decision is “subject to mandatory reconsideration” where—
 - (a) an application for reconsideration has been made under Article 53(1) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (the 2011 Order) and the application has not yet been determined; or
 - (b) the decision maker is required under Article 53(5) of the 2011 Order to reconsider the decision being challenged.”.
- (6) In rule 24 (medical examinations and commission of medical evidence etc.)—
 - (a) omit paragraphs (1) and (2);
 - (b) in paragraph (5) omit “arranges a medical examination under paragraph (2) or”.

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 13 (sending and delivery of documents)—

- (a) in paragraph (1)—
 - (i) at the beginning insert “Subject to paragraph (1A),”;
 - (ii) at the end of sub-paragraph (b) omit “or”;
 - (iii) after sub-paragraph (b) insert—
 - “(ba) uploaded to the Upper Tribunal’s secure portal; or”;
- (b) after paragraph (1) insert—
 - “(1A) A practice direction may specify for any document subject to paragraph (1)—
 - (a) the requirements that must be fulfilled for it to be uploaded to the Upper Tribunal’s secure portal; and
 - (b) for any specified category of party in any specified category of case, that it must be so uploaded to the Upper Tribunal’s secure portal.”;
- (c) in paragraph (2)—
 - (i) for “paragraph (3)” substitute “paragraphs (2A) and (3)”;
 - (ii) after “them” insert “(including transmission through the Upper Tribunal’s secure portal)”;
- (d) after paragraph (2) insert—
 - “(2A) A party is required to accept delivery of documents through the Upper Tribunal’s secure portal only if the document is sent through that portal to that party by the Upper Tribunal.”;
- (e) in paragraph (4) after “communication” insert “(including transmission through the Upper Tribunal’s secure portal)”.

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

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

(2) In rule 13 (sending and delivery of documents)—

(a) S.I. 2008/2698; relevant amending instrument is S.I. 2009/274.
 (b) S.I. 2010/2600; relevant amending instrument is S.I. 2022/1030.

- (a) in paragraph (1)—
 - (i) at the beginning insert “Subject to paragraph (1A),”;
 - (ii) at the end of sub-paragraph (b) omit “or”;
 - (iii) after sub-paragraph (b) insert—
 - “(ba) uploaded to the Tribunal’s secure portal; or”;
 - (b) after paragraph (1) insert—
 - “(1A) A practice direction may specify for any document subject to paragraph (1)—
 - (a) the requirements that must be fulfilled for it to be uploaded to the Tribunal’s secure portal; and
 - (b) for any specified category of party in any specified category of case, that it must be so uploaded to the Tribunal’s secure portal.”;
 - (c) in paragraph (2)—
 - (i) for “paragraph (3)” substitute “paragraphs (2A) and (3)”;
 - (ii) after “them” insert “(including transmission through the Tribunal’s secure portal)”;
 - (d) after paragraph (2) insert—
 - “(2A) A party is required to accept delivery of documents through the Tribunal’s secure portal only if the document is sent through that portal to that party by the Tribunal.”;
 - (e) in paragraph (4) after “communication” insert “(including transmission through the Tribunal’s secure portal)”.
- (3) In rule 39B (method of making application)—
- (a) in paragraph (3)(b) after “application” insert “and”;
 - (b) in paragraph (4) after “a landowner” insert “or as”.

Saving provision applicable to appeals to the First-tier Tribunal (War Pensions and Armed Forces Compensation Chamber)

7. The amendments made by rule 4 of these Rules do not apply to any appeals where written notice of the decision being challenged was sent to the appellant before 6th April 2023.

We make these Rules

Susan Humble
Donald Ferguson
Joanna Smith
Gabriella Bettiga
Philip Brook Smith
Jeremy Rintoul
Michael Reed
Stephen Smith
Mark Loveday
 TPC Members

2nd March 2023

I allow these Rules

Bellamy
 Parliamentary Under Secretary of State
 Ministry of Justice

14th March 2023

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the tribunal procedure Rules applied by the First-tier Tribunal and the Upper Tribunal.

Rule 2 amends the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685) and rule 3 amends the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (S.I. 2009/273), so that references to “Her Majesty” are replaced with “His Majesty”.

Rule 4 amends the Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008 (S.I. 2008/2686) to allow appeals to be directly lodged with the Tribunal. Rule 4 also amends the procedure for applying for directions and removes the power for a Tribunal member to undertake a medical examination.

Rule 5 amends the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698) and rule 6(2) amends the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (S.I. 2010/2600) (“Lands Chamber Rules”) which provides that practice directions may make provision for the mandatory filing of documents to the Upper Tribunal’s secure online portal for specified users in any specified categories of case.

Rule 6(3) amends rule 39B (method of making application) of the Lands Chamber Rules to correct a drafting error.

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.

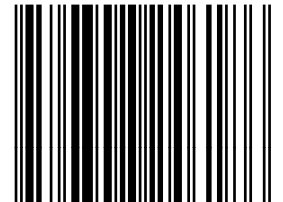
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