
WELSH STATUTORY INSTRUMENTS

2015 No. 1028

The Welsh Language Tribunal Rules 2015

PART D

PREPARING A CASE FOR HEARING

Applicant's case statement period

18.—(1) The case statement period, in the case of the applicant, is a period of 20 working days, commencing on the date on which notice given under rule 13(1)(b)(iv) is taken, in accordance with rule 63, to have been received.

(2) If the Tribunal makes a direction in relation to an application in accordance with rule 15, the period specified in paragraph (1) does not start, and the Secretary of the Tribunal must not send a notice to the applicant as required by rule 13(1)(b)(iv), nor send any documents as required by rule 13(2), until reasons are received in response to the direction.

(3) Without prejudice to paragraph (2), if the application is one seeking a review by the Tribunal, under section 103 of the Measure, of a decision, or a failure to make a decision, by the Commissioner, the period specified by paragraph (1) does not commence, and the Secretary of the Tribunal must not send a notice to the applicant as required by rule 13(1)(b)(iv), nor send any documents as required by rule 13(2), until the Tribunal has given permission, under rule 16, for the application to be made.

Applicant's case statement and evidence

19.—(1) The applicant must submit to the Secretary of the Tribunal, before the end of the case statement period—

- (a) a case statement, and
- (b) all other evidence to be relied on by the applicant which has not already been submitted.

(2) If the Tribunal has given permission, the applicant may—

- (a) amend the notice of application,
- (b) submit a supplementary statement of reasons in support of the application,
- (c) amend a supplementary statement of reasons in support of the application,
- (d) submit a supplementary case statement,
- (e) amend a supplementary case statement.

(3) The applicant must submit to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission has been given under paragraph (2) within the time period granted.

(4) Where permission is given under paragraph (2), the Tribunal may, if necessary, extend the case statement period, under rule 53 or, if it has expired, grant such further period as the Tribunal considers appropriate.

(5) If, at the time permission is given under paragraph (2), the Commissioner has lost the entitlement to attend or to be represented at the hearing, in accordance with rules 23, 25 or 33, the giving of permission restores that entitlement and, if necessary, the hearing, or the remainder of the hearing, may be postponed or adjourned, as appropriate, so that the Commissioner can be represented.

Commissioner's case statement and evidence

20.—(1) The case statement period, in the case of the Commissioner is a period of 20 working days, commencing on the date on which the applicant's statement of case is taken, in accordance with rule 63, to have been received by the Commissioner.

(2) The Commissioner must submit to the Secretary of the Tribunal, before the end of the case statement period—

- (a) a copy of the disputed decision,
- (b) a case statement, and
- (c) all other evidence to be relied on by the Commissioner which has not already been submitted.

(3) The Commissioner's case statement must be signed by a person who is authorised to sign such documents on the Commissioner's behalf, and must state whether or not the Commissioner intends to oppose the application or not.

(4) If the Commissioner intends to oppose the application, the Commissioner's case statement must state—

- (a) the grounds on which the Commissioner opposes the application, or any part of the application,
- (b) the name and address of the Commissioner's representative and, if available, the representative's telephone number, fax number and email address,
- (c) the address where documents for the Commissioner should be sent or delivered,
- (d) a summary of the facts relating to the disputed decision, and
- (e) the reason or reasons for the disputed decision, if not included in the notice of the decision.

(5) The Commissioner may amend the Commissioner's case statement, submit a supplementary case statement, or amend a supplementary case statement, if permission has been given by the Tribunal.

(6) The Commissioner must submit to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission has been given under paragraph (5) within the time period granted.

(7) If permission is given under paragraph (5) the Tribunal may extend the case statement period under rule 53 or, if it has expired, grant such further period as the Tribunal considers appropriate.

(8) If, at the time permission is given under paragraph (5), the applicant has lost the entitlement to attend or to be represented at the hearing in accordance with rule 25, the giving of permission restores that entitlement and, if necessary, the hearing, or the remainder of the hearing, may be postponed or adjourned, as appropriate, so that the applicant can be represented.

Applicant's case statement in reply

21.—(1) The applicant may, before the end of the period prescribed by paragraph (2), submit to the Secretary of the Tribunal a case statement in reply to that of the Commissioner.

(2) The period prescribed for the purpose of paragraph (1) is 20 working days, commencing on the date on which the Commissioner's case statement is taken, in accordance with rule 62, to have been received by the applicant.

Copy documents for parties

22.—(1) Subject to paragraph (2), the Secretary of the Tribunal must—

- (a) send to the Commissioner a copy of any amendment to the notice of application received during the case statement period,
- (b) send a copy of each party's case statement and written evidence to the other party, and
- (c) immediately send to the other party copies of any amendments or supplementary statements, written representations, written evidence or other documents received from a party after the end of the case statement period.

(2) If a notice of application, a case statement, amendment, supplementary statement, written representation, written evidence or other document is submitted to the Secretary of the Tribunal after the time prescribed by these Rules, the Secretary of the Tribunal must not send a copy of what has been so submitted to the other party unless the Tribunal has extended the time limit under rule 53.

(3) Where the Secretary of the Tribunal sends any copies of documents referred to in paragraph (1) to a party who has already informed the Secretary of the Tribunal, in response to the enquiries made under rule 24(a)(i) and (ii), that the party does not wish to attend or be represented at the hearing, the Secretary of the Tribunal must ask whether the party wishes to amend that response on the basis of those documents.

Commissioner's failure to submit a case statement or absence of opposition

23.—(1) The Tribunal may determine the application, without a hearing or by holding a hearing if—

- (a) the Secretary of the Tribunal does not receive a case statement from the Commissioner within the case statement period,
- (b) the Commissioner has stated in writing an intention not to resist the application, or
- (c) the Commissioner has withdrawn opposition to the application.

(2) Where the Tribunal decides the application without a hearing, it must do so on the basis of the notice of application and any other documents already received.

(3) If the Tribunal decides to hold a hearing in accordance with paragraph (1), it may issue a direction precluding the Commissioner from attending the hearing or being represented at the hearing.

Enquiries by the Secretary of the Tribunal

24. The Secretary of the Tribunal may at any time after receiving the notice of application—

- (a) ask each party—
 - (i) whether or not the party intends to attend the hearing,
 - (ii) whether the party wishes to be represented at the hearing in accordance with rule 45 and if so the name of the representative,
 - (iii) whether the party intends to call witnesses and, if so, the names of the proposed witnesses and whether any of them is an expert witness,
 - (iv) whether the party or a witness requires assistance because of a communication impairment and, if so, details of the type of communication assistance required, and

- (v) whether the party or a witness to be called has any disabilities that may require reasonable adjustments to be made and, if so, details of the type of adjustments required,
- (b) inform each party that where an answer to any of the enquiries under sub-paragraph (a) changes after a party has responded to the enquiries, the party concerned must immediately inform the Secretary of the Tribunal in writing.

Failure to respond to enquiries made by the Secretary of the Tribunal

25.—(1) The Tribunal may order—

- (a) that the notice of application be struck out on the grounds that the applicant’s failure to comply with enquiries made by the Secretary of the Tribunal under rule 24, prejudices, or delays, a fair hearing of the application,
- (b) that the Commissioner may not take any further step in relation to the application nor attend the hearing, nor be represented at the hearing, on the grounds that the Commissioner’s failure to comply with enquiries made by the Secretary of the Tribunal under rule 24, prejudices or delays a fair hearing of the application.

(2) Before an order can be made under paragraph (1), the Secretary of the Tribunal must give the party against whom the Tribunal proposes to make an order a notice inviting representations by that party, and the Tribunal must consider any representations made.

(3) For the purposes of this rule—

- (a) a notice inviting representations must inform the party that within a period (of no less than 5 working days) specified in the notice, that party may either make written representations or request an opportunity to make oral representations,
- (b) representations are made if—
 - (i) in the case of written representations, they are made within the specified period, and
 - (ii) in the case of oral representations, the party proposing to make them has requested an opportunity to do so within the specified period.

(4) If a notice of application is struck out under paragraph (1)(a) the application is to be considered concluded.