

2011 No. 651 (L. 6)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment) Rules 2011

<i>Made</i>	- - - -	<i>7th March 2011</i>
<i>Laid before Parliament</i>		<i>8th March 2011</i>
<i>Coming into force</i>		
	<i>For the purposes of Rules 1, 2, 3, 4, 5 and 8</i>	<i>1st April 2011</i>
	<i>For the purposes of Rules 6 and 7</i>	<i>9th May 2011</i>

After consulting in accordance with paragraph 28(1) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007(a), the Tribunal Procedure Committee has made the following Rules in exercise of the powers conferred by section 22 of, and Schedule 5 to, that Act, and paragraph 3(a) of Schedule 3 to the Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010(b).

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.—(1) These Rules may be cited as the Tribunal Procedure (Amendment) Rules 2011.
- (2) These Rules shall come into force—
- (a) for the purposes of rules 1, 2, 3, 4, 5 and 8, on 1st April 2011; and
 - (b) for the purposes of rules 6 and 7, on 9th May 2011.

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

- 2.—(1) The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(c) are amended as follows.
- (2) In rule 1(3) (interpretation) omit the definition of “General Regulatory Chamber”.
 - (3) In rule 19(2) (transfer of cases to the Upper Tribunal), after “General Regulatory Chamber” insert “of the First-tier Tribunal”.

(a) 2007 c. 15
(b) S.I. 2010/2220
(c) S.I. 2009/1976. Rule 19 has been amended by S.I. 2010/43.

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

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

(2) In rule 1(3) (interpretation)—

- (a) in the definition of “childcare provider”, for “section 79A of the Children Act 1989” substitute “section 19 of the Children and Families (Wales) Measure 2010(b)”;
- (b) omit the definition of “Health, Education and Social Care Chamber”;
- (c) after the definition of “document” insert—

““health service case” means a case under the National Health Service Act 2006(c), the National Health Service (Wales) Act 2006(d), regulations made under either of those Acts, or regulations having effect as if made under either of those Acts by reason of section 4 of and Schedule 2 to the National Health Service (Consequential Provisions) Act 2006(e);”;
- (d) in sub-paragraph (a) of the definition of “respondent”, for “section 79K of the Children Act 1989” substitute “section 34 of the Children and Families (Wales) Measure 2010”;
- (e) in sub-paragraph (db) of the definition of “respondent”, for “application under the National Health Service Act 2006 or regulations having effect as if made under that Act by reason of section 4 of and Schedule 2 to the National Health Service (Consequential Provisions) Act 2006” substitute “health service case”;
- (f) in paragraph (db)(i) of the definition of “respondent”, after “Primary Care Trust” insert “or a Local Health Board”;
- (g) in paragraph (db)(ii) of the definition of “respondent”, after “Primary Care Trust” insert “or Local Health Board”.

(3) In rule 13 (sending and delivery of documents) after paragraph (1) insert—

“(1A) If the Tribunal permits or directs documents to be provided to it by email, the requirement for a signature on applications or references under rules 20(2), 22(4)(a) or 32(1)(b) may be satisfied by a typed instead of a handwritten signature.”

(4) In rule 20 (the application notice)—

(a) for paragraph (1) substitute—

“(1) If rule 19 (application for leave) does not apply, an applicant must start proceedings before the Tribunal by sending or delivering an application notice to the Tribunal so that, unless paragraph (1A) applies, it is received—

- (a) if the time for providing the application notice is specified in another enactment, in accordance with that enactment;
- (b) in a case under the Suspension Regulations, within 10 working days after written notice of the decision being challenged was sent to the applicant;
- (c) in a special educational needs case, within 2 months after written notice of the decision being challenged was sent to the applicant;
- (d) in a case listed in the Schedule, within 3 months after written notice of the decision being challenged was sent to the applicant;
- (e) in any other case, within 28 days after written notice of the decision being challenged was sent to the applicant.”;

(a) S.I. 2008/2699. Rule 1(3) and rule 20 have been amended by S.I 2010/2653. The Schedule has been amended by S.I 2009/1975 and S.I 2010/2653.

(b) 2010 nawm 1

(c) 2006 c. 41

(d) 2006 c. 42

(e) 2006 c. 43

(b) after paragraph (1) insert—

“(1A) Where, in a health service case, the Tribunal has contingently removed a practitioner or performer from a list, an application may be made at any time if it is made under—

- (a) section 158(5)(a) of the National Health Service Act 2006;
- (b) section 114(5)(a) of the National Health Service (Wales) Act 2006;
- (c) regulation 15(6)(a) of the National Health Service (Performers Lists) Regulations 2004^(a); or
- (d) regulation 15(6)(a) of the National Health Service (Performers Lists) (Wales) Regulations 2004^(b).”

(5) In rule 21 (the response), for sub-paragraphs (a) and (b) of paragraph (1) substitute—

- “(a) in a case under the Suspension Regulations, within 3 working days after the respondent received the application notice;
- (b) in a health service case, within 21 days after the respondent received the application notice;
- (c) in a special educational needs case or a disability discrimination in schools case, within 30 working days after the respondent received the application notice;
- (d) in any other case, within 20 working days after the respondent received the application notice.”.

(6) For the Schedule substitute—

“SCHEDULE

Rule 20(1)(d)

Cases in which the time for providing the application notice is within 3 months after written notice of the decision being challenged was sent to the applicant

An appeal under section 65A of the Children Act 1989^(c) (appeal against a refusal to give consent for a person who is disqualified from fostering a child privately to carry on, or be otherwise concerned in the management of, or have any financial interest in, or be employed in, a children’s home)

An appeal, an application for permission to appeal or an application for permission to have an issue determined under section 4 of the Protection of Children Act 1999 (appeal against inclusion of a person on the list of individuals who are considered unsuitable to work with children or a refusal to remove a person from the list)

An appeal under section 68 of the Care Standards Act 2000 against a refusal to register a person as a social worker under section 58 of that Act (grant or refusal of registration)

An appeal, an application for permission to appeal or an application for permission to have an issue determined under section 86 of the Care Standards Act 2000 (appeal against inclusion of a person on the list of individuals who are considered unsuitable to work with vulnerable adults or a refusal to remove a person from the list)

An appeal under section 74(1)(a) of the Childcare Act 2006 (appeal against a refusal of registration as a childcare provider)

(a) S.I.2004/585

(b) S.I.2004/1020

(c) 1989 c. 41. Section 65A was inserted by section 116 of, and paragraph 14(1) and (14) of Schedule 4 to, the Care Standards Act 2000 (c. 14)

An appeal under section 37(1)(a) of the Children and Families (Wales) Measure 2010 (appeal against a refusal of an application for registration for child minding or providing day care for children)

An appeal under regulation 12 of the Education (Prohibition from Teaching or Working with Children) Regulations 2003(a) (appeal against a direction, or a refusal to revoke a direction, prohibiting or restricting a person from working in education or in a job which brings them regularly into contact with children).”.

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(b) are amended as follows.

(2) In rule 1(3) (interpretation)—

- (a) omit the definition of “Social Entitlement Chamber”;
- (b) in the definition of “social security and child support case”, after “Social Entitlement Chamber” insert “of the First-tier Tribunal”.

(3) In rule 24(1)—

- (a) at the end of sub-paragraph (a), omit “and”;
- (b) after sub-paragraph (a) insert—
 - “(aa) in criminal injuries compensation cases, so that it is received within 42 days after the date on which the decision maker received the notice of appeal; and”.

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

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

(2) In rule 1(3) (interpretation) omit the definition of “Tax Chamber”.

(3) In rule 28(1) (transfer of Complex cases to the Upper Tribunal), after “Tax Chamber” insert “of the First-tier Tribunal”.

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

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

(2) For rule 21(1) (notice of appeal) substitute—

“**21.**—(1) An appellant must start proceedings by sending or delivering a notice of appeal to the decision maker so that it is received within 12 months after the date on which written notice of the decision being challenged was sent to the appellant.”

(3) For rule 21(4) substitute—

“(4) No appeal may be made more than 12 months after the end of the 12-month period provided for in paragraph (1).”

(4) In rule 21(6)(b) for “after the time specified in paragraph (1)” substitute “after the end of the 12-month period provided for in paragraph (1)”.

(a) S.I.2003/1184

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

(c) S.I.2009/273. Rule 28 has been amended by S.I.2010/2653.

(d) S.I. 2008/2686. Rule 21(7) was added by S.I. 2009/1975.

Transitional provisions applicable to appeals to the First-tier Tribunal War Pensions and Armed Forces Compensation Chamber

7.—(1) Subject to paragraph (2), the amendments made by rule 6 apply to a notice of appeal where written notice of the decision being challenged was sent to the appellant before 9th May 2011.

(2) The amendments made by rule 6 do not apply to any appeal where written notice of the decision being challenged was sent to the appellant—

- (a) on or before 9 February 2011 in proceedings under section 5(1) of the Pensions Appeal Tribunals Act 1943; or
- (b) on or before 9 November 2010 in any other case.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

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

(2) In rule 1(3)(d) (interpretation) in the definition of “financial services case”—

- (a) at the end of sub-paragraph (d) insert “or”;
- (b) after sub-paragraph (d) insert—

“(e) any determination, calculation or dispute which may be referred to the Upper Tribunal under the Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010(b) (and in these Rules a decision in respect of which a reference has been made to the Upper Tribunal in a financial services case includes any such determination, calculation or, except for the purposes of rule 5(5), dispute relating to the making of payments under the Regulations).”

(3) In rule 29(3) (acknowledgement of service), after “may not take part in the application for permission” insert “unless allowed to do so by the Upper Tribunal”.

(4) In rule 44(3B) (application for permission to appeal), in paragraph (i) of sub-paragraph (a) for “twelve days” substitute “twelve working days”.

We make these Rules,

Paul Walker
Simon Cox
Douglas J. May
Bronwyn McKenna
Michael Reed
Mark Rowland
Nicholas Warren

I allow these Rules

Signed by authority of the Lord Chancellor

7th March 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

(a) S.I. 2008/2698. The definition of “financial services case” in rule 1(3) was inserted by S.I. 2010/747. Rule 29 was amended by S.I. 2009/274. Rule 44(3B) was inserted by S.I. 2010/44.

(b) S.I. 2010/2220

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Tribunal Procedure Rules applied by the First-tier Tribunal and Upper Tribunal. Apart from minor amendments which maintain the commonality of the drafting, the changes are as follows.

Rule 3 is about the Health, Education and Social Care Chamber (HESC). It simplifies the rules and the Schedule about time limits which apply in HESC cases. Rule 3 also makes textual amendments to take account of the coming into force of the Children and Families (Wales) Measure 2010 (2010 nawm 1). Rule 3(3) provides that a typed signature instead of a handwritten signature is permissible where applications or references are filed by email.

Rule 4 is about the Social Entitlement Chamber. In criminal injuries compensation cases the time limit for a response becomes 42 days.

Rule 6 is about the War Pensions and Armed Forces Compensation Chamber. It extends the time limit for all appeals under the Pensions Appeal Tribunals Act 1943 (c. 39) to 12 months.

Rule 8 is about the Upper Tribunal. Rule 8(2) amends the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I 2008/2698) to take account of appeal rights introduced by the Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010 (S.I 2010/2220). Rule 8(3) gives the Upper Tribunal a discretion to allow a respondent to take part in a permission application for judicial review even if they have not filed an acknowledgement of service.

A regulatory impact assessment has not been prepared for these Rules as no impact on the public, private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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