

STATUTORY INSTRUMENTS

**2008 No. 2698**

The Tribunal Procedure (Upper Tribunal) Rules 2008

**PART 3**

[<sup>F1</sup>Procedure for cases in] the Upper Tribunal

**Textual Amendments**

**F1** Words in Pt. 3 substituted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, 13

**Application to the Upper Tribunal for permission to appeal**

21.—<sup>F2</sup>(1) .....

[<sup>F3</sup>(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).]

(2) A person may apply to the Upper Tribunal for permission to appeal to the Upper Tribunal against a decision of another tribunal only if—

- (a) they have made an application for permission to appeal to the tribunal which made the decision challenged; and
- (b) that application has been refused or has not been admitted [<sup>F4</sup>or has been granted only on limited grounds].

(3) An application for permission to appeal must be made in writing and received by the Upper Tribunal no later than—

- (a) in the case of an application under section 4 of the Safeguarding Vulnerable Groups Act 2006, 3 months after the date on which written notice of the decision being challenged was sent to the appellant; <sup>F5</sup>...
- [<sup>F6</sup>(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;]

<sup>F7</sup>(ab) .....

- (b) otherwise, a month after the date on which the tribunal that made the decision under challenge sent notice of its refusal of permission to appeal, or refusal to admit the application for permission to appeal, to the appellant.

<sup>F8</sup>(3A) .....

(4) The application must state—

- (a) the name and address of the appellant;
- (b) the name and address of the representative (if any) of the appellant;

- (c) an address where documents for the appellant may be sent or delivered;
  - (d) details (including the full reference) of the decision challenged;
  - (e) the grounds on which the appellant relies; and
  - (f) whether the appellant wants the application to be dealt with at a hearing.
- (5) The appellant must provide with the application a copy of—
- (a) any written record of the decision being challenged;
  - (b) any separate written statement of reasons for that decision; and
  - (c) if the application is for permission to appeal against a decision of another tribunal, the notice of refusal of permission to appeal, or notice of refusal to admit the application for permission to appeal, from that other tribunal.
- (6) If the appellant provides the application to the Upper Tribunal later than the time required by paragraph (3) or by an extension of time allowed under rule 5(3)(a) (power to extend time)—
- (a) the application must include a request for an extension of time and the reason why the application was not provided in time; and
  - (b) unless the Upper Tribunal extends time for the application under rule 5(3)(a) (power to extend time) the Upper Tribunal must not admit the application.
- (7) If the appellant makes an application to the Upper Tribunal for permission to appeal against the decision of another tribunal, and that other tribunal refused to admit the appellant's application for permission to appeal because the application for permission or for a written statement of reasons was not made in time—
- (a) the application to the Upper Tribunal for permission to appeal must include the reason why the application to the other tribunal for permission to appeal or for a written statement of reasons, as the case may be, was not made in time; and
  - (b) the Upper Tribunal must only admit the application if the Upper Tribunal considers that it is in the interests of justice for it to do so.
- [<sup>F9</sup>(8) In this rule, a reference to notice of a refusal of permission to appeal is to be taken to include a reference to notice of a grant of permission to appeal on limited grounds.]

#### Textual Amendments

- F2** Rule 21(1) omitted (1.9.2009) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **15**
- F3** Rule 21(1A) inserted (6.4.2022) by [The Tribunal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/312\)](#), rules 1, **3(3)**
- F4** Words in rule 21(2)(b) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **7(a)**
- F5** Word in rule 21(3)(a) omitted (15.2.2010) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **13(a)(i)**
- F6** Rule 21(3)(aa) substituted (21.7.2020) by [The Tribunal Procedure \(Amendment\) Rules 2020 \(S.I. 2020/651\)](#), rules 1(1), **5(6)**
- F7** Rule 21(3)(ab) omitted (20.10.2014) by virtue of [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), **8(c)**
- F8** Rule 21(3A) omitted (20.10.2014) by virtue of [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), **8(d)**
- F9** Rule 21(8) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **7(b)**

## Decision in relation to permission to appeal

**22.**—(1) <sup>F10</sup>... If the Upper Tribunal refuses permission to appeal [<sup>F11</sup>or refuses to admit a late application for permission], it must send written notice of the refusal and of the reasons for the refusal to the appellant.

(2) If the Upper Tribunal gives permission to appeal—

- (a) the Upper Tribunal must send written notice of the permission, and of the reasons for any limitations or conditions on such permission, to each party;
- (b) subject to any direction by the Upper Tribunal, the application for permission to appeal stands as the notice of appeal and the Upper Tribunal must send to each respondent a copy of the application for permission to appeal and any documents provided with it by the appellant; and
- (c) the Upper Tribunal may, with the consent of the appellant and each respondent, determine the appeal without obtaining any further response.

[<sup>F12</sup>(3) Paragraph (4) applies where the Upper Tribunal, without a hearing, determines an application for permission to appeal—

(a) against a decision of—

(i) the Tax Chamber of the First-tier Tribunal;

(ii) the Health, Education and Social Care Chamber of the First-tier Tribunal <sup>M1</sup>;

[<sup>F13</sup>(*ia*) the General Regulatory Chamber of the First-tier Tribunal;]

<sup>F14</sup>(*ib*) . . . . .

(iii) the Mental Health Review Tribunal for Wales; or

(iv) the Special Educational Needs Tribunal for Wales; or

(b) under section 4 of the Safeguarding Vulnerable Groups Act 2006.]

(4) [<sup>F15</sup>Subject to paragraph (4A),] in the circumstances set out at paragraph (3) the appellant may apply for the decision to be reconsidered at a hearing if the Upper Tribunal—

- (a) refuses permission to appeal [<sup>F16</sup>or refuses to admit a late application for permission]; or
- (b) gives permission to appeal on limited grounds or subject to conditions.

[<sup>F17</sup>(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) An application under paragraph (4) must be made in writing and received by the Upper Tribunal within 14 days after the date on which the Upper Tribunal sent written notice of its decision regarding the application to the appellant.

### Textual Amendments

- F10** Words in [art. 22\(1\)](#) omitted (25.12.2023) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), [rules 1, 3\(2\)](#)
- F11** Words in [rule 22\(1\)](#) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), [rules 1, 8\(a\)](#)
- F12** [Rule 22\(3\)](#) substituted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), [rules 1, 14](#)
- F13** [Rule 22\(3\)\(a\)\(ia\)](#) inserted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), [rules 1, 16](#)

- F14** Rule 22(3)(a)(iib) omitted (14.5.2018) by virtue of The Tribunal Procedure (Amendment) Rules 2018 (S.I. 2018/511), rules 1, **3**
- F15** Words in rule 22(4) inserted (6.4.2022) by The Tribunal Procedure (Amendment) Rules 2022 (S.I. 2022/312), rules 1, **3(4)(a)**
- F16** Words in rule 22(4)(a) inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **8(c)**
- F17** Rule 22(4A) inserted (6.4.2022) by The Tribunal Procedure (Amendment) Rules 2022 (S.I. 2022/312), rules 1, **3(4)(b)**

**Marginal Citations**

- M1** The Health, Education and Social Care Chamber of the First-tier Tribunal is established by the First-tier Tribunal and Upper Tribunal (Chambers) Order 2008 (S.I. 2008/2684).

**Special procedure for providing notice of a refusal of permission to appeal in an asylum case**

**F18** 22A. ....

**Textual Amendments**

- F18** Art. 22A omitted (25.12.2023) by virtue of The Tribunal Procedure (Amendment No. 2) Rules 2023 (S.I. 2023/1280), rules 1, **3(3)**

**Notice of appeal**

**23.**—<sup>F19</sup>(1) This rule applies—

- (a) to proceedings on appeal to the Upper Tribunal for which permission to appeal is not required, except proceedings to which rule 26A<sup>F20</sup>, 26B or 26C] applies;
- (b) if another tribunal has given permission for a party to appeal to the Upper Tribunal; or
- (c) subject to any other direction by the Upper Tribunal, if the Upper Tribunal has given permission to appeal and has given a direction that the application for permission to appeal does not stand as the notice of appeal.

<sup>F21</sup>(1A) In an asylum case or an immigration case in which the First-tier Tribunal has given permission to appeal, subject to any direction of the First-tier Tribunal or the Upper Tribunal, the application for permission to appeal sent or delivered to the First-tier Tribunal stands as the notice of appeal and accordingly paragraphs (2) to (6) of this rule do not apply.]

(2) The appellant must provide a notice of appeal to the Upper Tribunal so that it is received within 1 month after—

- (a) the date that the tribunal that gave permission to appeal sent notice of such permission to the appellant; or
- (b) <sup>F22</sup>if permission to appeal is not required, the date on which notice of decision to which the appeal relates—
  - (i) was sent to the appellant; <sup>F23</sup>...
  - (ii) in a quality contracts scheme case, if the notice was not sent to the appellant, the date on which the notice was published in a newspaper in accordance with the requirement of section 125 (notice and consultation requirements) of the Transport Act 2000 <sup>F24</sup>, or]]

<sup>F25</sup>(iii) in a trade remedies case—

- (aa) where the appeal is against a decision made by the TRA and notice is required to be published in accordance with the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, the date of such publication or (if later) when the notice comes into effect;
- (bb) where the appeal is against a decision made by the TRA and no notice is required to be published in accordance with the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, the date on which the appellant is notified of the decision, or
- (cc) where the appeal is against a determination of the Secretary of State under the Taxation (Cross-border Trade) Act 2018, the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 or the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (as the case may be), the date on which the notice is published in accordance with the relevant provision or (if later) when the notice comes into effect;]

(3) The notice of appeal must include the information listed in rule 21(4)(a) to (e) (content of the application for permission to appeal) and, where the Upper Tribunal has given permission to appeal, the Upper Tribunal's case reference.

(4) If another tribunal has granted permission to appeal, the appellant must provide with the notice of appeal a copy of—

- (a) any written record of the decision being challenged;
- (b) any separate written statement of reasons for that decision; and
- (c) the notice of permission to appeal.

(5) If the appellant provides the notice of appeal to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 5(3)(a) (power to extend time)—

- (a) the notice of appeal must include a request for an extension of time and the reason why the notice was not provided in time; and
- (b) unless the Upper Tribunal extends time for the notice of appeal under rule 5(3)(a) (power to extend time) the Upper Tribunal must not admit the notice of appeal.

[<sup>F26</sup>(6) When the Upper Tribunal receives the notice of appeal it must send a copy of the notice and any accompanying documents—

- (a) to each respondent; <sup>F27</sup>...
- (b) [<sup>F28</sup>in a road transport case, to—
  - (i) the decision maker;
  - (ii) the appropriate national authority; and
  - (iii) in a case relating to the detention of a vehicle, the authorised person]] [<sup>F29</sup>; or]

[<sup>F29</sup>(c) in an appeal against a decision of a traffic commissioner pursuant to section 6F of the Transport Act 1985 or section 123T of the Transport Act 2000, to—

- (i) the respondent, and
- (ii) the traffic commissioner who was the decision maker.]

[<sup>F29</sup>(6A) In a case to which paragraph (6)(c) applies, the Upper Tribunal must at the same time require such commissioner to—

- (a) send or deliver to the Upper Tribunal (within such time as the Upper Tribunal may specify)

- (i) a copy of any written record of the decision under challenge, and any statement of reasons for that decision, and
  - (ii) copies of all documents relevant to the case in such commissioner's possession, and
- (b) provide copies of such documents to each other party at the same time as they are provided to the Upper Tribunal.]

[<sup>F30</sup>(7) Paragraph (6)(a) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.]

#### Textual Amendments

- F19** Rule 23(1)(2) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **17(a)**
- F20** Words in rule 23(1)(a) substituted (27.7.2017) by [The Tribunal Procedure \(Amendment\) Rules 2017 \(S.I. 2017/723\)](#), rules 1, **10**
- F21** Rule 23(1A) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **14**
- F22** Rule 23(2)(b) substituted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **4(a)**
- F23** Word in rule 23(2)(b)(i) omitted (3.6.2019) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2019 \(S.I. 2019/925\)](#), rules 1(2), **2(4)(a)(i)** (with rule 6)
- F24** Word in rule 23(2)(b)(ii) substituted for full stop (3.6.2019) by [The Tribunal Procedure \(Amendment\) Rules 2019 \(S.I. 2019/925\)](#), rules 1(2), **2(4)(a)(ii)** (with rule 6)
- F25** Rule 23(2)(b)(iii) inserted (3.6.2019) by [The Tribunal Procedure \(Amendment\) Rules 2019 \(S.I. 2019/925\)](#), rules 1(2), **2(4)(a)(iii)** (with rule 6)
- F26** Rule 23(6) substituted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **17(b)**
- F27** Word in rule 23(6)(a) omitted (3.6.2019) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2019 \(S.I. 2019/925\)](#), rules 1(2), **2(4)(b)(i)** (with rule 6)
- F28** Rule 23(6)(b) substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **7**
- F29** Rule 23(6)(c)(6A) and word inserted (3.6.2019) by [The Tribunal Procedure \(Amendment\) Rules 2019 \(S.I. 2019/925\)](#), rules 1(2), **2(4)(b)(ii)** (with rule 6)
- F30** Rule 23(7) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **4(b)**

#### Response to the notice of appeal

24.—[<sup>F31</sup>(1) [<sup>F32</sup>This rule and rule 25 do not apply to—

- (a) a road transport case, in respect of which Schedule 1 makes alternative provision; or
- (b) a financial sanctions case in respect of which Schedule 4 makes alternative provision.]

(1A) Subject to any direction given by the Upper Tribunal, a respondent may [<sup>F33</sup>, and if paragraph (1B) applies must,] provide a response to a notice of appeal.]

[<sup>F34</sup>(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.]

[<sup>F34</sup>(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.]

(2) Any response provided under paragraph [<sup>F35</sup>(1A)] must be in writing and must be sent or delivered to the Upper Tribunal so that it is received—

(a) [<sup>F36</sup>if an application for permission to appeal stands as the notice of appeal, no later than one month after the date on which the respondent was sent notice that permission to appeal had been granted;]<sup>F37</sup> ...

<sup>F38</sup>(aa) .....

[<sup>F39</sup>(ab) in a quality contracts scheme case, no later than 1 month after the date on which a copy of the notice of appeal is sent to the respondent;][<sup>F40</sup>or]

(b) in any other case, no later than 1 month after the date on which the Upper Tribunal sent a copy of the notice of appeal to the respondent.

(3) The response must state—

(a) the name and address of the respondent;

(b) the name and address of the representative (if any) of the respondent;

(c) an address where documents for the respondent may be sent or delivered;

(d) whether the respondent opposes the appeal;

(e) the grounds [<sup>F41</sup>—

(i) to uphold the decision for reasons other than those given by the tribunal; or

(ii) on which the respondent was unsuccessful in the proceedings which are the subject of the appeal;]

[<sup>F42</sup>(ea) the reasons why any permission applied for under paragraph (1C) should be given; and]

(f) whether the respondent wants the case to be dealt with at a hearing.

(4) If the respondent provides the response to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 5(3)(a) (power to extend time), the response must include a request for an extension of time and the reason why the [<sup>F43</sup>response] was not provided in time.

(5) When the Upper Tribunal receives the response it must send a copy of the response and any accompanying documents to the appellant and each other party.

[<sup>F44</sup>(6) Paragraph (5) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.]

#### Textual Amendments

**F31** Rule 24(1)(1A) substituted for rule 24(1) (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **18(a)**

**F32** Rule 24(1) substituted (27.7.2017) by [The Tribunal Procedure \(Amendment\) Rules 2017 \(S.I. 2017/723\)](#), rules 1, **11**

**F33** Words in rule 24(1A) inserted (6.4.2022) by [The Tribunal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/312\)](#), rules 1, **3(5)(a)**

**F34** Rule 24(1B)(1C) inserted (6.4.2022) by [The Tribunal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/312\)](#), rules 1, **3(5)(b)**

**F35** Word in rule 24(2) substituted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **9**

- F36** Rule 24(2)(a) substituted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **15(a)**
- F37** Word in rule 24(2) omitted (15.2.2010) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **15(b)**
- F38** Rule 24(2)(aa) omitted (21.7.2020) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2020 \(S.I. 2020/651\)](#), rules 1(1), **5(8)(a)**
- F39** Rule 24(2)(ab) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **5(a)**
- F40** Word in rule 24(2)(ab) inserted (21.7.2020) by [The Tribunal Procedure \(Amendment\) Rules 2020 \(S.I. 2020/651\)](#), rules 1(1), **5(8)(b)**
- F41** Rule 24(3)(e)(i)(ii) substituted for words in rule 24(3)(e) (6.4.2022) by [The Tribunal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/312\)](#), rules 1, **3(5)(c)(i)**
- F42** Rule 24(3)(ea) inserted (6.4.2022) by [The Tribunal Procedure \(Amendment\) Rules 2022 \(S.I. 2022/312\)](#), rules 1, **3(5)(c)(ii)**
- F43** Word in rule 24(4) substituted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), rules 1, **15**
- F44** Rule 24(6) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **5(b)**

### Appellant's reply

**25.**—(1) Subject to any direction given by the Upper Tribunal, the appellant may provide a reply to any response provided under rule 24 (response to the notice of appeal).

(2) [<sup>F45</sup>Subject to paragraph (2A), any] reply provided under paragraph (1) must be in writing and must be sent or delivered to the Upper Tribunal so that it is received within one month after the date on which the Upper Tribunal sent a copy of the response to the appellant.

[<sup>F46</sup>(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.]

[<sup>F47</sup>(2B) In a quality contracts scheme case, the time limit in paragraph (2) is 1 month from the date on which the respondent sent a copy of the response to the appellant.]

(3) When the Upper Tribunal receives the reply it must send a copy of the reply and any accompanying documents to each respondent.

[<sup>F48</sup>(4) Paragraph (3) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.]

### Textual Amendments

- F45** Words in rule 25(2) substituted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **16(a)**
- F46** Rule 25(2A) substituted (21.7.2020) by [The Tribunal Procedure \(Amendment\) Rules 2020 \(S.I. 2020/651\)](#), rules 1(1), **5(9)**
- F47** Rule 25(2B) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **6(a)**
- F48** Rule 25(4) inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, **6(b)**



## References under the Forfeiture Act 1982

26.—(1) If a question arises which is required to be determined by the Upper Tribunal under section 4 of the Forfeiture Act 1982, the person to whom the application for the relevant benefit or advantage has been made must refer the question to the Upper Tribunal.

(2) The reference must be in writing and must include—

- (a) a statement of the question for determination;
- (b) a statement of the relevant facts;
- (c) the grounds upon which the reference is made; and
- (d) an address for sending documents to the person making the reference and each respondent.

(3) When the Upper Tribunal receives the reference it must send a copy of the reference and any accompanying documents to each respondent.

(4) Rules 24 (response to the notice of appeal) and 25 (appellant's reply) apply to a reference made under this rule as if it were a notice of appeal.

## **[<sup>F49</sup>Cases transferred or referred to the Upper Tribunal, applications made directly to the Upper Tribunal [<sup>F50</sup>, cases where an offence has been certified] and proceedings without notice to a respondent**

26A.—[<sup>F51</sup>(1) Paragraphs (2) and (3) apply to—

- (a) a case transferred or referred to the Upper Tribunal from the First-tier Tribunal; <sup>F52</sup> ...
- (b) a case, other than an appeal or a case to which rule 26 (references under the Forfeiture Act 1982) applies, which is started by an application made directly to the Upper Tribunal [<sup>F53</sup>, or]]

[ a case where an offence has been certified to the Upper Tribunal.]

<sup>F54</sup>(c)

(2) In a case to which this paragraph applies—

- (a) the Upper Tribunal must give directions as to the procedure to be followed in the consideration and disposal of the proceedings; <sup>F55</sup> ...

<sup>F56</sup>(aa) [ in a reference under [<sup>F57</sup>section 325 or 326 of the Charities Act 2011], the Upper Tribunal may give directions providing for an application to join the proceedings as a party and the time within which it may be made; and]

- (b) the preceding rules in this Part will only apply to the proceedings to the extent provided for by such directions.

(3) If a case or matter to which this paragraph applies is to be determined without notice to or the involvement of a respondent—

- (a) any provision in these Rules requiring a document to be provided by or to a respondent; and
- (b) any other provision in these Rules permitting a respondent to participate in the proceedings

does not apply to that case or matter.]

[<sup>F58</sup>(4) Schedule 2 makes further provision for national security certificate appeals transferred to the Upper Tribunal.]

### Textual Amendments

**F49** Rule 26A inserted (1.4.2009) by [Tribunal Procedure \(Amendment\) Rules 2009 \(S.I. 2009/274\)](#), [rules 1](#), [16](#)

- F50** Words in rule 26A heading inserted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(5)(a)** (with rule 6)
- F51** Rule 26A(1) substituted (1.9.2009) by The Tribunal Procedure (Amendment No. 2) Rules 2009 (S.I. 2009/1975), rules 1, **19**
- F52** Word in rule 26A(1)(a) omitted (3.6.2019) by virtue of The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(5)(b)(i)** (with rule 6)
- F53** Word in rule 26A(1)(b) substituted for full stop (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(5)(b)(ii)** (with rule 6)
- F54** Rule 26A(1)(c) inserted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(5)(b)(iii)** (with rule 6)
- F55** Word in rule 26A(2)(a) omitted (6.4.2012) by virtue of The Tribunal Procedure (Amendment) Rules 2012 (S.I. 2012/500), rules 1(2), **5(2)(a)**
- F56** Rule 26A(2)(aa) inserted (6.4.2012) by The Tribunal Procedure (Amendment) Rules 2012 (S.I. 2012/500), rules 1(2), **5(2)(b)**
- F57** Words in rule 26A(2)(aa) substituted (1.11.2022) by The Tribunal Procedure (Amendment No. 2) Rules 2022 (S.I. 2022/1030), rules 1, **5(3)**
- F58** Rule 26A(4) inserted (18.1.2010) by The Tribunal Procedure (Amendment) Rules 2010 (S.I. 2010/43), rules 1, **10**

**[<sup>F59</sup>Financial services cases [<sup>F60</sup>and wholesale energy cases]**

**26B.** Schedule 3 makes provision for financial services cases [<sup>F61</sup>and wholesale energy cases].]

**Textual Amendments**

- F59** Rule 26B and words inserted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **9**
- F60** Words in rule 26B heading inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **9**
- F61** Words in rule 26B inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **10**

**[<sup>F62</sup>Financial sanctions cases**

**26C** Schedule 4 makes provision for financial sanctions cases.]

**Textual Amendments**

- F62** Rule 26C inserted (27.7.2017) by The Tribunal Procedure (Amendment) Rules 2017 (S.I. 2017/723), rules 1, **12**

**Changes to legislation:**

There are currently no known outstanding effects for the The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 3.