

**EXPLANATORY MEMORANDUM TO  
THE TRIBUNAL PROCEDURE (AMENDMENT) RULES 2011**

**2011 No. 651 (L. 6)**

**1.** This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Tribunal Procedure (Amendment) Rules 2011 make changes to the rules that apply in different chambers of the First-tier Tribunal and Upper Tribunal.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Part 1 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”) created a two-tier tribunal system into which existing tribunals can be transferred, or new appeal rights directed. Section 3 of the 2007 Act establishes the First-tier Tribunal and the Upper Tribunal, which together make up this two-tier system. Both tribunals are divided into chambers which deal with different areas of jurisdiction eg health, education and social care, or war pensions. The different chambers have their own sets of rules, based on a common core but with variations to fit their specialist business.

4.2 Section 22 of the 2007 Act provides for Tribunal Procedure Rules to be made, governing the practice and procedure to be followed in the First-tier Tribunal and Upper Tribunal. It also provides for the rules to be made by the Tribunal Procedure Committee.

4.3 Schedule 5 to the 2007 Act makes provision for the process of making the rules, and the content of those rules.

**5. Territorial Extent and Application**

5.1 This instrument extends to the UK.

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

These Rules make technical amendments to most of the sets of rules which apply in the different Chambers of the First-tier Tribunal, and to the Upper Tribunal rules. The reasons why these amendments are being made are broadly: to take account of other legislative changes; to simplify the rules; to increase the efficiency or flexibility of Tribunal procedure; and to rectify minor errors in the rules.

**8. Consultation outcome**

8.3 All rule amendments were made in consultation with the relevant judiciary and stakeholders in other government departments, and agreement was reached on final drafts of the amendments.

## **9. Guidance**

9.1 The Tribunals Service produces guidance for all tribunal jurisdictions which are routinely issued to appellants at key stages of the appeals process and available on the Tribunals Service website. The guidance is updated to reflect changes to procedure.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An impact assessment has not been prepared for these instruments. A Regulatory Impact Assessment (RIA) was prepared for the Tribunals, Courts and Enforcement Act. This can be found at:

<http://www.justice.gov.uk/publications/tribunalscourtsandenforcementact.htm>

10.4 The RIA confirmed that the legislation would create a new flexible overarching statutory framework for tribunals, bringing tribunals together in one organisation. No additional costs have been identified from the setting up of the First-tier Tribunal and Upper Tribunal in the first 3 years and no further costs have been identified to change this assumption.

## **11. Regulating small business**

11.1 The legislation does not impact on small businesses.

## **12. Monitoring & review**

12.1 MoJ will keep the tribunal rules continually under review.

## **13. Contact**

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