

EXPLANATORY MEMORANDUM TO
THE TRIBUNAL PROCEDURE (AMENDMENT) RULES 2018

2018 No. 511 (L. 7)

1. Introduction

- 1.1 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 2018 (“Amendment Rules”) make amendments to the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

3. Matters of special interest to Parliament

Matters of Special Interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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 e.g. health, immigration and asylum and education. In addition to statutory appeals, the Upper Tribunal also deals with certain kinds of judicial reviews.
- 4.2 The 2007 Act provides for tribunal procedure rules to be made by the Tribunal Procedure Committee, and deals with the process of making, and the content of, those rules.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

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

What is being done and why

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

7.1 These changes are consequential on changes made by the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2018 (S.I 2018/xxxx) (“the Order”) in respect of allocation of proceedings between chambers of the Upper Tribunal so as to provide that appeals from decisions of the First-tier Tribunal Property Chamber relating to a reference by the Chief Land Registrar or any other application, matter or appeal under the Land Registration Act 2002 are determined by the Upper Tribunal Lands Chamber rather than by the Upper Tribunal Tax and Chancery Chamber.

7.2 The Amendment Rules amend the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2008 (“the Land Rules”) to provide changes to the costs provisions for land registration cases now falling under the remit of the Lands Chamber.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

7.3 The Amendment Rules amend the Tribunal Procedure (Upper Tribunal) Rules 2008 (the UT Rules), so as to remove references to land registration cases, as they are now determined by the Upper Tribunal Lands Chamber and are therefore covered by the appeal provision in rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010

Amendments to the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum) Rules 2014

7.4 The Amendment Rules amend the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 in respect of applications for permission to appeal, in order to clarify that the time period for an application to be sent to the tribunal is calculated by reference to the date on which the written reasons for the decision are sent to the party making the application.

Consolidation

7.5 Informally consolidated versions of these rules will be updated onto the Justice website when the instruments come into force. They will be found at: [https://www.gov.uk/government/publications?departments\[\]=tribunal-procedure-committee](https://www.gov.uk/government/publications?departments[]=tribunal-procedure-committee)

8. Consultation outcome

8.1 No public consultation was undertaken on these Rules. However, in accordance with paragraph 28(1)(a) of Schedule 5 to the 2007 Act, the Tribunal Procedure Committee has consulted such persons as it considers appropriate which includes individually with all relevant government departments and stakeholders. This includes the Tribunal Chamber Presidents, legal and policy colleagues in the Home Office and Her Majesty’s Courts and Tribunals Service.

9. Guidance

- 9.1 Her Majesty's Courts and Tribunals Service produces guidance for all tribunal jurisdictions which is issued to parties at key stages of the appeals process and is available on the website at: <http://www.justice.gov.uk/tribunals>.

10. Impact

- 10.1 The instrument does not impose regulatory burdens on business, charities or voluntary bodies.
- 10.2 There is no significant impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument as its impact is expected to be minimal and well below the threshold of £5 million per annum at which an assessment must be prepared.

11. Regulating small business

- 11.1 The legislation does not apply to activities undertaken by small businesses, save to the extent that they may bring a relevant appeal. Any impact is expected to be minimal.

12. Monitoring & review

- 12.1 The impact of any changes to the tribunal procedure rules is monitored by the Tribunal Procedure Committee by way of feedback from the tribunal and users.

13. Contact

- 13.1 Vijay Parkash at the Ministry of Justice Telephone: 0203 334 4471 or email: Vijay.Parkash@justice.gov.uk can answer any queries regarding the instrument.