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## STATUTORY INSTRUMENTS

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# 2008 No. 2698

## The Tribunal Procedure (Upper Tribunal) Rules 2008

### PART 7

Correcting, setting aside, reviewing and appealing decisions of the Upper Tribunal

#### Setting aside a decision which disposes of proceedings

**43.**—(1) The Upper Tribunal may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision or the relevant part of it, if—

- (a) the Upper Tribunal considers that it is in the interests of justice to do so; and
- (b) one or more of the conditions in paragraph (2) are satisfied.

(2) The conditions are—

- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;
- (b) a document relating to the proceedings was not sent to the Upper Tribunal at an appropriate time;
- (c) a party, or a party's representative, was not present at a hearing related to the proceedings; or
- (d) there has been some other procedural irregularity in the proceedings.

(3) [<sup>F1</sup>Except where paragraph (4) applies,] a party applying for a decision, or part of a decision, to be set aside under paragraph (1) must make a written application to the Upper Tribunal so that it is received no later than 1 month after the date on which the [<sup>F2</sup>Upper] Tribunal sent notice of the decision to the party.

[<sup>F3</sup>(4) In an asylum case or an immigration case, the written application referred to in paragraph (3) must be sent or delivered so that it is received by the Upper Tribunal—

- (a) where the person who appealed to the First-tier Tribunal is in the United Kingdom at the time that the application is made, no later than twelve days after the date on which the Upper Tribunal or, as the case may be in an asylum case, the Secretary of State for the Home Department, sent notice of the decision to the party making the application; or
- (b) where the person who appealed to the First-tier Tribunal is outside the United Kingdom at the time that the application is made, no later than thirty eight days after the date on which the Upper Tribunal sent notice of the decision to the party making the application.

(5) Where a notice of decision is sent electronically or delivered personally, the time limits in paragraph (4) are ten working days.]

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#### Textual Amendments

- F1** Words in rule 43(3) inserted (15.2.2010) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/44\)](#), rules 1, **21(a)**

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**Changes to legislation:** *The Tribunal Procedure (Upper Tribunal) Rules 2008, Section 43 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- F2** Word in rule 43(3) inserted (1.11.2013) by The Tribunal Procedure (Amendment No. 4) Rules 2013 (S.I. 2013/2067), rules 1, **17**
- F3** Rule 43(4)(5) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **21(b)**

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 5 inserted by [S.I. 2024/588 rule 2\(5\)](#)
- rule 1(2A) inserted by [S.I. 2024/588 rule 2\(2\)\(a\)](#)
- rule 26D inserted by [S.I. 2024/588 rule 2\(4\)](#)