
STATUTORY INSTRUMENTS

2008 No. 2685

**The Tribunal Procedure (First-tier Tribunal)
(Social Entitlement Chamber) Rules 2008**

PART 3

Proceedings before the Tribunal

CHAPTER 1

Before the hearing

Cases in which the notice of appeal is to be sent to the Tribunal

22.—(1) This rule applies to asylum support cases and criminal injuries compensation cases.

(2) An appellant must start proceedings by sending or delivering a notice of appeal to the Tribunal so that it is received—

- (a) in asylum support cases, within 3 days after the date on which the appellant received written notice of the decision being challenged;
- (b) in criminal injuries compensation cases, within 90 days after the date of the decision being challenged.

(3) The notice of appeal must be in English or Welsh, must be signed by the appellant and must state—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant's representative (if any);
- (c) an address where documents for the appellant may be sent or delivered;
- (d) the name and address of any respondent;
- (e) details (including the full reference) of the decision being appealed; and
- (f) the grounds on which the appellant relies.

(4) The appellant must provide with the notice of appeal—

- (a) a copy of any written record of the decision being challenged;
- (b) any statement of reasons for that decision that the appellant has or can reasonably obtain;
- (c) any documents in support of the appellant's case which have not been supplied to the respondent; and
- (d) any further information or documents required by an applicable practice direction.

(5) In asylum support cases the notice of appeal must also—

- (a) state whether the appellant will require an interpreter at any hearing, and if so for which language or dialect; and
- (b) state whether the appellant intends to attend or be represented at any hearing.

(6) If the appellant provides the notice of appeal to the 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 of appeal was not provided in time; and
- (b) unless the Tribunal extends time for the notice of appeal under rule 5(3)(a) (power to extend time) the Tribunal must not admit the notice of appeal.

(7) The Tribunal must send a copy of the notice of appeal and any accompanying documents to each other party—

- (a) in asylum support cases, on the day that the Tribunal receives the notice of appeal, or (if that is not reasonably practicable) as soon as reasonably practicable on the following day;
- (b) in criminal injuries compensation cases, as soon as reasonably practicable after the Tribunal receives the notice of appeal.

Cases in which the notice of appeal is to be sent to the decision maker

23.—(1) This rule applies to social security and child support cases (except references under the Child Support Act 1991 and proceedings under paragraph 3 of Schedule 2 to the Tax Credits Act 2002).

(2) An appellant must start proceedings by sending or delivering a notice of appeal to the decision maker so that it is received within the time specified in Schedule 1 to these Rules (time limits for providing notices of appeal to the decision maker).

(3) If the appellant provides the notice of appeal to the decision maker later than the time required by paragraph (2) the notice of appeal must include the reason why the notice of appeal was not provided in time.

(4) Subject to paragraph (5), where an appeal is not made within the time specified in Schedule 1, it will be treated as having been made in time if the decision maker does not object.

(5) No appeal may be made more than 12 months after the time specified in Schedule 1.

(6) The notice of appeal must be in English or Welsh, must be signed by the appellant and must state—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant's representative (if any);
- (c) an address where documents for the appellant may be sent or delivered;
- (d) details of the decision being appealed; and
- (e) the grounds on which the appellant relies.

(7) The decision maker must refer the case to the Tribunal immediately if—

- (a) the appeal has been made after the time specified in Schedule 1 and the decision maker objects to it being treated as having been made in time; or
- (b) the decision maker considers that the appeal has been made more than 12 months after the time specified in Schedule 1.

Responses and replies

24.—(1) When a decision maker receives the notice of appeal or a copy of it, the decision maker must send or deliver a response to the Tribunal—

- (a) in asylum support cases, so that it is received within 3 days after the date on which the Tribunal received the notice of appeal; and

- (b) in other cases, as soon as reasonably practicable after the decision maker received the notice of appeal.
- (2) The response must state—
 - (a) the name and address of the decision maker;
 - (b) the name and address of the decision maker's representative (if any);
 - (c) an address where documents for the decision maker may be sent or delivered;
 - (d) the names and addresses of any other respondents and their representatives (if any);
 - (e) whether the decision maker opposes the appellant's case and, if so, any grounds for such opposition which are not set out in any documents which are before the Tribunal; and
 - (f) any further information or documents required by a practice direction or direction.
- (3) The response may include a submission as to whether it would be appropriate for the case to be disposed of without a hearing.
- (4) The decision maker must provide with the response—
 - (a) a copy of any written record of the decision under challenge, and any statement of reasons for that decision, if they were not sent with the notice of appeal;
 - (b) copies of all documents relevant to the case in the decision maker's possession, unless a practice direction or direction states otherwise; and
 - (c) in cases to which rule 23 (cases in which the notice of appeal is to be sent to the decision maker) applies, a copy of the notice of appeal, any documents provided by the appellant with the notice of appeal and (if they have not otherwise been provided to the Tribunal) the name and address of the appellant's representative (if any).
- (5) The decision maker must provide a copy of the response and any accompanying documents to each other party at the same time as it provides the response to the Tribunal.
- (6) The appellant and any other respondent may make a written submission and supply further documents in reply to the decision maker's response.
- (7) Any submission or further documents under paragraph (6) must be provided to the Tribunal within 1 month after the date on which the decision maker sent the response to the party providing the reply, and the Tribunal must send a copy to each other party.

Medical and physical examination in appeals under section 12 of the Social Security Act 1998

- 25.—**(1) This rule applies only to appeals under section 12 of the Social Security Act 1998.
- (2) At a hearing an appropriate member of the Tribunal may carry out a physical examination of a person if the case relates to—
- (a) the extent of that person's disablement and its assessment in accordance with section 68(6) of and Schedule 6 to, or section 103 of, the Social Security Contributions and Benefits Act 1992(1); or
 - (b) diseases or injuries prescribed for the purpose of section 108 of that Act.
- (3) If an issue which falls within Schedule 2 to these Rules (issues in relation to which the Tribunal may refer a person for medical examination) is raised in an appeal, the Tribunal may exercise its power under section 20 of the Social Security Act 1998 to refer a person to a health care professional approved by the Secretary of State for—
- (a) the examination of that person; and

(1) 1992 c.4.

(b) the production of a report on the condition of that person.

(4) Neither paragraph (2) nor paragraph (3) entitles the Tribunal to require a person to undergo a physical test for the purpose of determining whether that person is unable to walk or virtually unable to do so.

Social security and child support cases started by reference or information in writing

26.—(1) This rule applies to proceedings under section 28D of the Child Support Act 1991 and paragraph 3 of Schedule 2 to the Tax Credits Act 2002.

(2) A person starting proceedings under section 28D of the Child Support Act 1991 must send or deliver a written reference to the Tribunal.

(3) A person starting proceedings under paragraph 3 of Schedule 2 to the Tax Credits Act 2002 must send or deliver an information in writing to the Tribunal.

(4) The reference or the information in writing must include—

- (a) an address where documents for the person starting proceedings may be sent or delivered;
- (b) the names and addresses of the respondents and their representatives (if any); and
- (c) a submission on the issues that arise for determination by the Tribunal.

(5) Unless a practice direction or direction states otherwise, the person starting proceedings must also provide a copy of each document in their possession which is relevant to the proceedings.

(6) Subject to any obligation under rule 19(3) (confidentiality in child support cases), the person starting proceedings must provide a copy of the written reference or the information in writing and any accompanying documents to each respondent at the same time as they provide the written reference or the information in writing to the Tribunal.

(7) Each respondent may send or deliver to the Tribunal a written submission and any further relevant documents within one month of the date on which the person starting proceedings sent a copy of the written reference or the information in writing to that respondent.

CHAPTER 2

Hearings

Decision with or without a hearing

27.—(1) Subject to the following paragraphs, the Tribunal must hold a hearing before making a decision which disposes of proceedings unless—

- (a) each party has consented to, or has not objected to, the matter being decided without a hearing; and
- (b) the Tribunal considers that it is able to decide the matter without a hearing.

(2) This rule does not apply to decisions under Part 4.

(3) The Tribunal may in any event dispose of proceedings without a hearing under rule 8 (striking out a party's case).

(4) In a criminal injuries compensation case—

- (a) the Tribunal may make a decision which disposes of proceedings without a hearing; and
- (b) subject to paragraph (5), if the Tribunal makes a decision which disposes of proceedings without a hearing, any party may make a written application to the Tribunal for the decision to be reconsidered at a hearing.

(5) An application under paragraph (4)(b) may not be made in relation to a decision—

- (a) not to extend a time limit;

- (b) not to set aside a previous decision;
- (c) not to allow an appeal against a decision not to extend a time limit; or
- (d) not to allow an appeal against a decision not to reopen a case.

(6) An application under paragraph (4)(b) must be received within 1 month after the date on which the Tribunal sent notice of the decision to the party making the application.

Entitlement to attend a hearing

28. Subject to rule 30(5) (exclusion of a person from a hearing), each party to proceedings is entitled to attend a hearing.

Notice of hearings

29.—(1) The Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any changes to the time and place of the hearing.

- (2) The period of notice under paragraph (1) must be at least 14 days except that—
 - (a) in an asylum support case the Tribunal must give at least 1 day's and not more than 5 days' notice; and
 - (b) the Tribunal may give shorter notice—
 - (i) with the parties' consent; or
 - (ii) in urgent or exceptional circumstances.

Public and private hearings

- 30.**—(1) Subject to the following paragraphs, all hearings must be held in public.
- (2) A hearing in a criminal injuries compensation case must be held in private unless—
 - (a) the appellant has consented to the hearing being held in public; and
 - (b) the Tribunal considers that it is in the interests of justice for the hearing to be held in public.
 - (3) The Tribunal may give a direction that a hearing, or part of it, is to be held in private.
 - (4) Where a hearing, or part of it, is to be held in private, the Tribunal may determine who is permitted to attend the hearing or part of it.
 - (5) The Tribunal may give a direction excluding from any hearing, or part of it—
 - (a) any person whose conduct the Tribunal considers is disrupting or is likely to disrupt the hearing;
 - (b) any person whose presence the Tribunal considers is likely to prevent another person from giving evidence or making submissions freely;
 - (c) any person who the Tribunal considers should be excluded in order to give effect to a direction under rule 14(2) (withholding information likely to cause harm); or
 - (d) any person where the purpose of the hearing would be defeated by the attendance of that person.
 - (6) The Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

Hearings in a party's absence

- 31.** If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
- (b) considers that it is in the interests of justice to proceed with the hearing.

CHAPTER 3

Decisions

Consent orders

32.—(1) The Tribunal may, at the request of the parties but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.

(2) Notwithstanding any other provision of these Rules, the Tribunal need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

Notice of decisions

33.—(1) The Tribunal may give a decision orally at a hearing.

(2) Subject to rule 14(2) (withholding information likely to cause harm), the Tribunal must provide to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings (except a decision under Part 4)—

- (a) a decision notice stating the Tribunal's decision;
- (b) where appropriate, notification of the right to apply for a written statement of reasons under rule 34(3); and
- (c) notification of any right of appeal against the decision and the time within which, and the manner in which, such right of appeal may be exercised.

(3) In asylum support cases the notice and notifications required by paragraph (2) must be provided at the hearing or sent on the day that the decision is made.

Reasons for decisions

34.—(1) In asylum support cases the Tribunal must send a written statement of reasons for a decision which disposes of proceedings (except a decision under Part 4) to each party—

- (a) if the case is decided at a hearing, within 3 days after the hearing; or
- (b) if the case is decided without a hearing, on the day that the decision is made.

(2) In all other cases the Tribunal may give reasons for a decision which disposes of proceedings (except a decision under Part 4)—

- (a) orally at a hearing; or
- (b) in a written statement of reasons to each party.

(3) Unless the Tribunal has already provided a written statement of reasons under paragraph (2) (b), a party may make a written application to the Tribunal for such statement following a decision which finally disposes of all issues in the proceedings.

(4) An application under paragraph (3) must be received within 1 month of the date on which the Tribunal sent or otherwise provided to the party a decision notice relating to the decision which finally disposes of all issues in the proceedings.

(5) If a party makes an application in accordance with paragraphs (3) and (4) the Tribunal must, subject to rule 14(2) (withholding information likely to cause harm), send a written statement of

reasons to each party within 1 month of the date on which it received the application or as soon as reasonably practicable after the end of that period.