
STATUTORY INSTRUMENTS

2008 No. 2698

The Tribunal Procedure (Upper Tribunal) Rules 2008

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Rules may be cited as the Tribunal Procedure (Upper Tribunal) Rules 2008 and come into force on 3rd November 2008.

(2) These Rules apply to proceedings before the Upper Tribunal.

(3) In these Rules—

“the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;

“appellant” means a person who makes an appeal, or applies for permission to appeal, to the Upper Tribunal, or a person substituted as an appellant under rule 9(1) (substitution and addition of parties);

“applicant” means a person who applies for permission to bring, or does bring, judicial review proceedings before the Upper Tribunal and, in judicial review proceedings transferred to the Upper Tribunal from a court, includes a person who was a claimant or petitioner in the proceedings immediately before they were transferred;

“disability discrimination in schools case” means proceedings before the Upper Tribunal concerning disability discrimination in the education of a child or related matters;

“dispose of proceedings” includes, unless indicated otherwise, disposing of a part of the proceedings;

“document” means anything in which information is recorded in any form, and an obligation under these Rules or any practice direction or direction to provide or allow access to a document or a copy of a document for any purpose means, unless the Upper Tribunal directs otherwise, an obligation to provide or allow access to such document or copy in a legible form or in a form which can be readily made into a legible form;

“hearing” means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication;

“interested party” means—

(a) a person who is directly affected by the outcome sought in judicial review proceedings, and has been named as an interested party under rule 28 or 29 (judicial review), or has been substituted or added as an interested party under rule 9 (substitution and addition of parties); and

(b) in judicial review proceedings transferred to the Upper Tribunal under section 25A(2) or (3) of the Judicature (Northern Ireland) Act 1978 ^{M1} or section 31A(2) or (3) of the Supreme Court Act 1981 ^{M2}, a person who was an interested party in the proceedings immediately before they were transferred to the Upper Tribunal;

Status: Point in time view as at 03/11/2008.

Changes to legislation: The Tribunal Procedure (Upper Tribunal) Rules 2008, PART 1 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)

“judicial review proceedings” means proceedings within the jurisdiction of the Upper Tribunal pursuant to section 15 or 21 of the 2007 Act, whether such proceedings are started in the Upper Tribunal or transferred to the Upper Tribunal;

“legal representative” means an authorised advocate or authorised litigator as defined by section 119(1) of the Courts and Legal Services Act 1990 ^{M3}, an advocate or solicitor in Scotland or a barrister or solicitor in Northern Ireland;

“mental health case” means proceedings before the Upper Tribunal on appeal against a decision in proceedings under the Mental Health Act 1983 ^{M4} or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984 ^{M5};

“party” means a person who is an appellant, an applicant, a respondent or an interested party in proceedings before the Upper Tribunal, a person who has referred a question to the Upper Tribunal or, if the proceedings have been concluded, a person who was an appellant, an applicant, a respondent or an interested party when the Tribunal finally disposed of all issues in the proceedings;

“permission” includes leave in cases arising under the law of Northern Ireland;

“practice direction” means a direction given under section 23 of the 2007 Act;

“respondent” means—

- (a) in an appeal, or application for permission to appeal, against a decision of another tribunal, any person other than the appellant who—
 - (i) was a party before that other tribunal;
 - (ii) could (if they had been notified of the proceedings) have been a party before that other tribunal; or
 - (iii) otherwise has a right of appeal against the decision of the other tribunal and has given notice to the Upper Tribunal that they wish to be a party to the appeal;
- (b) in an appeal against any other decision, the person who made the decision;
- (c) in judicial review proceedings—
 - (i) in proceedings started in the Upper Tribunal, the person named by the applicant as the respondent;
 - (ii) in proceedings transferred to the Upper Tribunal under section 25A(2) or (3) of the Judicature (Northern Ireland) Act 1978 or section 31A(2) or (3) of the Supreme Court Act 1981, a person who was a defendant in the proceedings immediately before they were transferred;
 - (iii) in proceedings transferred to the Upper Tribunal under section 20(1) of the 2007 Act, a person to whom intimation of the petition was made before the proceedings were transferred, or to whom the Upper Tribunal has required intimation to be made.
- (d) in a reference under the Forfeiture Act 1982 ^{M6}, the person whose eligibility for a benefit or advantage is in issue; or
- (e) a person substituted or added as a respondent under rule 9 (substitution and addition of parties);

“special educational needs case” means proceedings before the Upper Tribunal concerning the education of a child who has or may have special educational needs;

“working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 ^{M7}.

Marginal Citations

- M1** 1978 c.23. Section 25A was inserted by section 19(2) of the 2007 Act.
- M2** 1981 c.54. Section 31A was inserted by section 19(1) of the 2007 Act.
- M3** 1990 c.41.
- M4** 1983 c.20.
- M5** 1984 c.47.
- M6** 1982 c.34.
- M7** 1971 c.80.

Overriding objective and parties' obligation to co-operate with the Upper Tribunal

2.—(1) The overriding objective of these Rules is to enable the Upper Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

- (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
- (d) using any special expertise of the Upper Tribunal effectively; and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Upper Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules; or
- (b) interprets any rule or practice direction.

(4) Parties must—

- (a) help the Upper Tribunal to further the overriding objective; and
- (b) co-operate with the Upper Tribunal generally.

Alternative dispute resolution and arbitration

3.—(1) The Upper Tribunal should seek, where appropriate—

- (a) to bring to the attention of the parties the availability of any appropriate alternative procedure for the resolution of the dispute; and
- (b) if the parties wish and provided that it is compatible with the overriding objective, to facilitate the use of the procedure.

(2) Part 1 of the Arbitration Act 1996^{M8} does not apply to proceedings before the Upper Tribunal.

Marginal Citations

- M8** 1996 c.23.

Status:

Point in time view as at 03/11/2008.

Changes to legislation:

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