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 **[**[F1]except proceedings in the Lands Chamber**]**.

(3) In these Rules—

"the 2007 Act" means the Tribunals, Courts and Enforcement Act 2007;

[[F2]appellant means—

(a) a person who makes an appeal, or applies for permission to appeal, to the Upper Tribunal;

(b) in proceedings transferred or referred to the Upper Tribunal from the First-tier Tribunal, a person who started the proceedings in the First-tier Tribunal; or

(c) a person substituted as an appellant under rule 9(1) (substitution and addition of parties);**]**

[[F3]"applicant" means—

(a) 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; or

(b) a person who refers a financial services case **[**[F4]or a wholesale energy case**]** to the Upper Tribunal;**]**

[[F5]"appropriate national authority" means, in relation to an appeal, the Secretary of State, the Scottish Ministers**[**[F6], the Department of the Environment in Northern Ireland**]** or the Welsh Ministers, as the case may be;**]**

[[F7]"asylum case" means proceedings before the Upper Tribunal on appeal against a decision in proceedings under section 82, 83 or 83A of the Nationality, Immigration and Asylum Act 2002 in which a person claims that removal from, or a requirement to leave, the United Kingdom would breach the United Kingdom's obligations under the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention;**]**

[[F8]"authorised person" means—

(a) an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988;

(b) an examiner appointed by the Department of the Environment in Northern Ireland under Article 74 of the Road Traffic (Northern Ireland) Order 1995; or

(c) any person authorised in writing by the Department of the Environment in Northern Ireland for the purposes of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010;

and includes a person acting under the direction of such an examiner or other authorised person, who has detained the vehicle to which an appeal relates;**]**

[[F9]"disability discrimination in schools case" means proceedings concerning discrimination in the education of a child or young person or related matters;**]**

[F10]…

"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;

[F11]…

[[F12]"financial sanctions case" means an appeal to the Upper Tribunal under section 147(6) of the Policing and Crime Act 2017.**]**

[[F13]"financial services case" means a reference to the Upper Tribunal in respect of—

(a) **[**[F14]a decision of the Financial Conduct Authority;**]**

(aa) **[**[F14]a decision of the Prudential Regulation Authority;**]**

(c) a decision of the Bank of England;

(d) a decision of the Pensions Regulator; [F15]...

(e) a decision of a person relating to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008 or the Banking Act 2009; **[**[F16]or**]]**

(f) **[**[F17]any determination, calculation or dispute which may be referred to the Upper Tribunal under the Financial Services and Markets Act 2000 (Contribution to Costs of Special Resolution Regime) Regulations 2010 (and in these Rules a decision in respect of which a reference has been made to the Upper Tribunal in a financial services case includes any such determination, calculation or, except for the purposes of rule 5(5), dispute relating to the making of payments under the Regulations).**]**

[F18]…

"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;

[[F19]"immigration case" means proceedings before the Upper Tribunal on appeal against a decision in proceedings under section 40A of the British Nationality Act 1981, section 82 of the Nationality, Immigration and Asylum Act 2002 [F20]... **[**[F21]... or the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020**]** that are not an asylum case[F22]...;**]**

[[F23]"immigration judicial review proceedings" means judicial review proceedings which are designated as an immigration matter—

(a) in a direction made in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 specifying a class of case for the purposes of section 18(6) of the 2007 Act; or

(b) in an order of the High Court in England and Wales made under section 31A(3) of the Senior Courts Act 1981, transferring to the Upper Tribunal an application of a kind described in section 31A(1) of that Act;**]**

"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 **[**[F24](addition, substitution and removal of parties)**]**; [F25]...

(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; [F26]...

(c) **[**[F27]in a financial services case **[**[F28]or a wholesale energy case**]** , any person other than the applicant who could have referred the case to the Upper Tribunal and who has been added or substituted as an interested party under rule 9 (addition, substitution and removal of parties);**]**

(d) **[**[F29]in a financial sanctions case, any person other than the appellant upon whom the Treasury has imposed a monetary penalty under Part 8 of the Policing and Crime Act 2017 in connection with the same matters as led to the decision that is the subject of the appeal and who has been added or substituted as an interested party under rule 9 (addition, substitution and removal of parties)**]**; **[**[F30]and**]**

(e) **[**[F31]in a trade remedies case, any person other than the appellant who could have appealed to the Upper Tribunal and who has been added or substituted as an interested party under rule 9 (addition, substitution and removal of parties);**]**

"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;

[F32]…

"mental health case" means proceedings before the Upper Tribunal on appeal against a decision in proceedings under the Mental Health Act 1983 [M3] or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984 [M4];

[[F33]"national security certificate appeal" means an appeal under section 28 of the Data Protection Act 1998**[**[F34], sections 27, 79 or 111 of the Data Protection Act 2018**]** or section 60 of the Freedom of Information Act 2000 (including that section as applied and modified by regulation 18 of the Environmental Information Regulations 2004);**]**

"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 **[**[F35]or matter**]** 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 **[**[F36]Upper**]** 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;

[[F37]"QCS Board" means a Board constituted under Part 2 of the Transport Act 2000;

"quality contracts scheme" has the meaning provided for in section 124(3) (quality contracts scheme) of the Transport Act 2000;

"quality contracts scheme case" means proceedings in the Upper Tribunal under Part 2 of the Transport Act 2000;**]**

[[F38]"reference", in a financial services case, includes an appeal;**]**

[[F39]"relevant Minister" means the Minister or designated person responsible for the signing of the certificate to which a national security certificate appeal relates;**]**

"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) [F40]...

(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) **[**[F41]in any other any other application for permission to appeal, or any other appeal except a road transport case, the person who made the decision that has been challenged;**]**

(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.

(ca) **[**[F42]in proceedings transferred or referred to the Upper Tribunal from the First-tier Tribunal, a person who was a respondent in the proceedings in the First-tier Tribunal;**]**

(d) in a reference under the Forfeiture Act 1982 [M5], the person whose eligibility for a benefit or advantage is in issue; [F43]...

(da) **[**[F44]in a financial services case—

(i) where the case is a multiple regulator case, both the primary and secondary regulator as defined in Schedule 3 to these rules (but subject to the operation of paragraph 4A(3) of that Schedule);

(ii) where the case is a single regulator case, the maker of the decision in respect of which a reference has been made; or**]**

(db) **[**[F45]in a wholesale energy case, in relation to Great Britain, the Gas and Electricity Markets Authority or, in relation to Northern Ireland, the Northern Ireland Authority for Utility Regulation; or**]**

(e) a person substituted or added as a respondent under rule 9 (substitution and addition of parties);

[[F46]"road transport case" means an appeal against a decision of—;

(a) a traffic commissioner, other than an appeal pursuant to—

(i) section 6F of the Transport Act 1985, or

(ii) section 123T of the Transport Act 2000, or

(b) the Department of the Environment in Northern Ireland;**]**

[[F47]"special educational needs case" means proceedings concerning the education of a child or young person who has or may have special educational needs, including proceedings relating to—

(a) an EHC needs assessment within the meaning of section 36(2) of the Children and Families Act 2014; [F48]...

(aa) **[**[F49]a detained person's EHC needs assessment within the meaning of section 70(5) of the Children and Families Act 2014; or**]**

(c) an EHC plan within the meaning of section 37(2) of that Act,

of such a child or young person;**]**

[[F50]"TRA" means the Trade Remedies Authority;**]**

[[F50]"trade remedies case" means an appeal pursuant to the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 against a decision made by the TRA or a determination of the Secretary of State;**]**

[[F51]"tribunal" does not include a traffic commissioner;**]**

[[F52]"wholesale energy case" means a reference to the Upper Tribunal in respect of a decision of—

(a) in relation to Great Britain, the Gas and Electricity Markets Authority under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013; or

(b) in relation to Northern Ireland, the Northern Ireland Authority for Utility Regulation under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013;**]**

[F53]...

"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 [M6].

[[F54]"young person" means, in relation to a special educational needs case or a disability discrimination in schools case, a person over compulsory school age but under 25;**]**

Textual Amendments

F1 Words in rule 1(2) inserted (1.9.2009) by The Tribunal Procedure (Amendment No. 2) Rules 2009 (S.I. 2009/1975), rules 1, **8(a)**

F2 Words in rule 1(3) substituted (1.4.2009) by Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(a)**

F3 Words in rule 1(3) substituted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(a)**

F4 Words in rule 1(3) inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **4(a)**

F5 Words in rule 1(3) inserted (1.9.2009) by The Tribunal Procedure (Amendment No. 2) Rules 2009 (S.I. 2009/1975), rules 1, **8(b)(i)**

F6 Words in rule 1(3) inserted (1.7.2012) by The Tribunal Procedure (Amendment No. 2) Rules 2012 (S.I. 2012/1363), rules 1(b), **5(a)**

F7 Words in rule 1(3) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **3(a)**

F8 Words in rule 1(3) substituted (1.7.2012) by The Tribunal Procedure (Amendment No. 2) Rules 2012 (S.I. 2012/1363), rules 1(b), **5(b)**

F9 Words in rule 1(3) inserted (1.9.2014) by The Tribunal Procedure (Amendment No. 3) Rules 2014 (S.I. 2014/2128), rules 1, **4(a)**

F10 Words in rule 1(3) omitted (1.4.2009) by virtue of Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(b)**

F11 Words in rule 1(3) omitted (21.7.2020) by virtue of The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651), rules 1(1), **5(2)(a)**

F12 Words in rule 1(3) inserted (27.7.2017) by The Tribunal Procedure (Amendment) Rules 2017 (S.I. 2017/723), rules 1, **7(a)**

F13 Words in rule 1(3) inserted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(b)**

F14 Words in rule 1(3) substituted (1.4.2013) by The Tribunal Procedure (Amendment No. 2) Rules 2013 (S.I. 2013/606), rules 1, **2(2)(a)**

F15 Word in rule 1(3) omitted (6.4.2014) by virtue of The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **4(b)**

F16 Word in rule 1(3) inserted (1.4.2011) by The Tribunal Procedure (Amendment) Rules 2011 (S.I. 2011/651), rules 1(2)(a), **8(2)(a)**

F17 Words in rule 1(3) inserted (1.4.2011) by The Tribunal Procedure (Amendment) Rules 2011 (S.I. 2011/651), rules 1(2)(a), **8(2)(b)**

F18 Words in rule 1(3) omitted (1.11.2013) by virtue of The Tribunal Procedure (Amendment No. 4) Rules 2013 (S.I. 2013/2067), rules 1, **4(a)**

F19 Words in rule 1(3) inserted (15.2.2010) by The Tribunal Procedure (Amendment No. 2) Rules 2010 (S.I. 2010/44), rules 1, **3(b)**

F20 Words in rule 1 omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **33(2)** (with reg. 33(4)(5))

F21 Words in rule 1(3) inserted (21.7.2020) by The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651), rules 1(1), **5(2)(b)(i)**

F22 Words in rule 1(3) omitted (21.7.2020) by virtue of The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651), rules 1(1), **5(2)(b)(ii)**

F23 Words in rule 1(3) inserted (1.11.2013) by The Tribunal Procedure (Amendment No. 4) Rules 2013 (S.I. 2013/2067), rules 1, **4(b)**

F24 Words in rule 1(3) substituted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(c)(i)**

F25 Word in rule 1(3) omitted (6.4.2010) by virtue of The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(c)(ii)**

F26 Word in rule 1(3) omitted (3.6.2019) by virtue of The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(2)(a)(i)** (with rule 6)

F27 Words in rule 1(3) inserted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(c)(iii)**

F28 Words in rule 1(3) inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **4(c)**

F29 Words in rule 1(3) inserted (27.7.2017) by The Tribunal Procedure (Amendment) Rules 2017 (S.I. 2017/723), rules 1, **7(b)**

F30 Word in rule 1(3) inserted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(2)(a)(ii)** (with rule 6)

F31 Words in rule 1(3) inserted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(2)(a)(iii)** (with rule 6)

F32 Words in rule 1(3) omitted (1.4.2009) by virtue of Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(c)**

F33 Words in rule 1(3) inserted (18.1.2010) by The Tribunal Procedure (Amendment) Rules 2010 (S.I. 2010/43), rules 1, **6(a)**

F34 Words in rule 1(3) inserted (30.10.2018) by The Tribunal Procedure (Amendment No. 2) Rules 2018 (S.I. 2018/1053), rules 1, **3(2)(a)**

F35 Words in rule 1(3) inserted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(d)**

F36 Word in rule 1(3) inserted (1.11.2013) by The Tribunal Procedure (Amendment No. 4) Rules 2013 (S.I. 2013/2067), rules 1, **4(c)**

F37 Words in rule 1(3) inserted (21.8.2015) by The Tribunal Procedure (Amendment) Rules 2015 (S.I. 2015/1510), rules 1, **3(a)**

F38 Words in rule 1(3) inserted (6.4.2010) by The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(e)**

F39 Words in rule 1(3) inserted (18.1.2010) by The Tribunal Procedure (Amendment) Rules 2010 (S.I. 2010/43), rules 1, **6(b)**

F40 Words in rule 1(3) omitted (1.4.2009) by virtue of Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(d)(i)**

F41 Words in rule 1(3) substituted (30.10.2018) by The Tribunal Procedure (Amendment No. 2) Rules 2018 (S.I. 2018/1053), rules 1, **3(2)(b)**

F42 Words in rule 1(3) inserted (1.4.2009) by Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(d)(ii)**

F43 Word in rule 1(3) omitted (6.4.2010) by virtue of The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2010 (S.I. 2010/747), rules 1, **4(f)(i)**

F44 Words in rule 1(3) substituted (1.4.2013) by The Tribunal Procedure (Amendment No. 2) Rules 2013 (S.I. 2013/606), rules 1, **2(2)(b)**

F45 Words in rule 1(3) inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **4(d)**

F46 Words in rule 1(3) substituted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(2)(b)** (with rule 6)

F47 Words in rule 1(3) inserted (1.9.2014) by The Tribunal Procedure (Amendment No. 3) Rules 2014 (S.I. 2014/2128), rules 1, **4(c)**

F48 Word in rule 1(3) omitted (21.8.2015) by virtue of The Tribunal Procedure (Amendment) Rules 2015 (S.I. 2015/1510), rules 1, **3(b)**

F49 Words in rule 1(3) inserted (21.8.2015) by The Tribunal Procedure (Amendment) Rules 2015 (S.I. 2015/1510), rules 1, **3(b)**

F50 Words in rule 1(3) inserted (3.6.2019) by The Tribunal Procedure (Amendment) Rules 2019 (S.I. 2019/925), rules 1(2), **2(2)(c)** (with rule 6)

F51 Words in rule 1(3) inserted (1.9.2009) by The Tribunal Procedure (Amendment No. 2) Rules 2009 (S.I. 2009/1975), rules 1, **8(b)(iii)**

F52 Words in rule 1(3) inserted (6.4.2014) by The Tribunal Procedure (Amendment) Rules 2014 (S.I. 2014/514), rules 1, **4(e)**

F53 Words in rule 1(3) omitted (1.4.2009) by virtue of Tribunal Procedure (Amendment) Rules 2009 (S.I. 2009/274), rules 1, **5(e)**

F54 Words in rule 1(3) inserted (1.9.2014) by The Tribunal Procedure (Amendment No. 3) Rules 2014 (S.I. 2014/2128), rules 1, **4(d)**

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 1983 c.20.

M4 1984 c.47.

M5 1982 c.34.

M6 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 [M7] does not apply to proceedings before the Upper Tribunal.

Marginal Citations

M7 1996 c.23.

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 20 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.
View outstanding changes

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)