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STATUTORY INSTRUMENTS

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**2013 No. 1169**

**The Tribunal Procedure (First-tier  
Tribunal) (Property Chamber) Rules 2013**

**PART 2**

**General Powers and Provisions**

**Delegation to staff**

5.—(1) Staff appointed under section 40(1) of the 2007 Act (tribunal staff and services) [<sup>F1</sup>or section 2(1) of the Courts Act 2003 (court officers, staff and services)] may, [<sup>F2</sup>if authorised by] the Senior President of Tribunals [<sup>F3</sup>under paragraph 3(3) of Schedule 5 to the 2007 Act], carry out functions of a judicial nature permitted or required to be done by the Tribunal.

<sup>F4</sup>(2) .....

(3) Within 14 days after the date that the Tribunal sends notice of a decision made by a member of staff <sup>F5</sup>... under paragraph (1) to a party, that party may apply in writing to the Tribunal for that decision to be considered afresh by a judge.

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| <b>F1</b> | Words in rule 5(1) inserted (21.7.2020) by <a href="#">The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651)</a> , rules 1(1), <b>9(2)(a)(i)</b>       |
| <b>F2</b> | Words in rule 5(1) substituted (21.7.2020) by <a href="#">The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651)</a> , rules 1(1), <b>9(2)(a)(ii)</b>   |
| <b>F3</b> | Words in rule 5(1) inserted (21.7.2020) by <a href="#">The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651)</a> , rules 1(1), <b>9(2)(a)(iii)</b>     |
| <b>F4</b> | Rule 5(2) omitted (21.7.2020) by virtue of <a href="#">The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651)</a> , rules 1(1), <b>9(2)(b)</b>          |
| <b>F5</b> | Words in rule 5(3) omitted (21.7.2020) by virtue of <a href="#">The Tribunal Procedure (Amendment) Rules 2020 (S.I. 2020/651)</a> , rules 1(1), <b>9(2)(c)</b> |

**Case management powers**

6.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.

(2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may—

- (a) extend or shorten the time for complying with any rule, practice direction or direction, even if the application for an extension is not made until after the time limit has expired;
- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues, or treat a case as a lead case (whether under rule 23 or otherwise);

- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide or produce documents, information or submissions to any or all of the following—
  - (i) the Tribunal;
  - (ii) a party;
  - (iii) in land registration cases, the registrar;
- (e) direct that enquiries be made of any person;
- (f) require a party to state whether that party intends to—
  - (i) attend,
  - (ii) be represented, or
  - (iii) call witnesses,
 at the hearing;
- (g) deal with an issue in the proceedings as a preliminary issue;
- (h) hold a hearing to consider any matter, including a case management issue;
- (i) decide the form of any hearing;
- (j) adjourn or postpone a hearing;
- (k) require a party to produce a bundle for a hearing;
- (l) require a party to provide an estimate of the length of the hearing;
- (m) stay proceedings;
- (n) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and
  - (i) because of a change of circumstances since the proceedings were started, the Tribunal no longer has jurisdiction in relation to the proceedings; or
  - (ii) the Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case;
- (o) suspend the effect of its own decision pending the determination by the Tribunal or the Upper Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

**[<sup>F6</sup>Coronavirus temporary rule (decisions without a hearing)]**

**6A.**—(1) Notwithstanding anything in rule 31 (decision with or without a hearing), rule 44 (urgent IMO authorisation applications) and rule 46 (procedure in urgent cases) the Tribunal may make a decision which disposes of proceedings without a hearing if the Tribunal considers that the conditions in paragraph (2) are satisfied.

- (2) The conditions are—
  - (a) the matter is urgent;
  - (b) it is not reasonably practicable for there to be a hearing (including a hearing where the proceedings would be conducted wholly or partly as video proceedings or audio proceedings); and
  - (c) it is in the interests of justice to do so.

(3) This rule does not prejudice any power of the Tribunal to make a decision which disposes of proceedings without a hearing otherwise than under this rule.]

**F6** Rule 6A inserted (temp.) (10.4.2020) by [The Tribunal Procedure \(Coronavirus\) \(Amendment\) Rules 2020 \(S.I. 2020/416\)](#), rules 1(2), **9(2)**

### **Procedure for applying for and giving directions**

7.—(1) The Tribunal may give a direction on the application of one or more of the parties or on its own initiative.

(2) An application for a direction may be made—

- (a) by sending or delivering a written application to the Tribunal; or
- (b) orally during the course of a hearing.

(3) An application for a direction must include the reason for making that application.

(4) Except with the permission of the Tribunal, if a written application for a direction is made without the consent of every party the applicant must provide—

- (a) a copy of the proposed application to every other party before it is made; and
- (b) confirmation to the Tribunal that the other parties have been notified that any objection they wish to make to the application must be provided in accordance with paragraph (5).

(5) A party who wishes to object to a written application that has been made to the Tribunal for a direction must send written notice of the objection to the Tribunal and the applicant for the direction.

(6) Unless the Tribunal considers that there is good reason not to do so, the Tribunal must send written notice of any direction made by the Tribunal to every party and to any other person affected by the direction.

(7) If a party or any other person sent notice under paragraph (6) of the direction made by the Tribunal wishes to challenge that direction, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

### **Failure to comply with rules, practice directions or Tribunal directions**

8.—(1) An irregularity resulting from a failure to comply with any provision of these Rules, a practice direction or a direction does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as the Tribunal considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied;
- (c) exercising its power under rule 9 (striking out a party's case);
- (d) exercising its power under paragraph (5); or
- (e) barring or restricting a party's participation in the proceedings.

(3) In land registration cases, the action that the Tribunal may take includes—

- (a) where the party who failed to comply was the person who made (or has been substituted for or added to the party who made) the original application, directing the registrar to cancel the original application in whole or in part;
- (b) where the party who failed to comply was an objector to (or was substituted for or added as an objector to) the original application, directing the registrar to give effect to that application in whole or in part as if that objection had not been made.

(4) In land registration cases, the Tribunal must, if the action taken does not include either of the requirements referred to in paragraph (3), send written notice to the parties of the Tribunal's decision as to what action is taken (if any) and give any consequential directions.

(5) The Tribunal may refer to the Upper Tribunal, and ask the Upper Tribunal to exercise its power under section 25 of the 2007 Act in relation to, any failure by a person to comply with a requirement imposed by the Tribunal—

- (a) to attend at any place for the purpose of giving evidence;
- (b) otherwise to make themselves available to give evidence;
- (c) to swear an oath in connection with the giving of evidence;
- (d) to give evidence as a witness;
- (e) to produce a document; or
- (f) to facilitate the inspection of a document or any other thing (including any premises).

### **Striking out a party's case**

9.—(1) The proceedings or case, or the appropriate part of them, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the direction by a stated date would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or case or that part of them; and
- (b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

(3) The Tribunal may strike out the whole or a part of the proceedings or case if—

- (a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to the striking out of the proceedings or case or that part of it;
- (b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly;
- (c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case which has been decided by the Tribunal;
- (d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or
- (e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings or case under paragraph (2) or paragraph (3)(b) to (e) without first giving the parties an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings or case, or part of them, have been struck out under paragraph (1) or (3) (a), the applicant may apply for the proceedings or case, or part of it, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date on which the Tribunal sent notification of the striking out to that party.

(7) This rule applies to a respondent as it applies to an applicant except that—

- (a) a reference to the striking out of the proceedings or case or part of them is to be read as a reference to the barring of the respondent from taking further part in the proceedings or part of them; and
- (b) a reference to an application for the reinstatement of proceedings or case or part of them which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings, or part of them.

(8) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submission made by that respondent, and may summarily determine any or all issues against that respondent.

#### **Addition, substitution and removal of parties**

**10.**—(1) The Tribunal may give a direction adding, substituting or removing a person as an applicant or a respondent.

(2) If the Tribunal gives a direction under paragraph (1) it may give such consequential directions as it considers appropriate.

(3) A person who is not a party may apply to the Tribunal to be added or substituted as a party.

#### **Fees: non-payment**

**11.**—(1) In any case where a fee is payable under an order made under section 42 of the 2007 Act (fees), the Tribunal must not proceed further with the case until the fee is paid.

(2) Where a fee remains unpaid for a period of 14 days after the date on which the fee is payable, the case, if not already started, must not be started.

(3) Where the case has started, it shall be deemed to be withdrawn 14 days after the date on which the Tribunal sends or delivers to the party liable to make payment a written notification that the fee has not been paid.

#### **Security for costs**

**12.**—(1) In a land registration case, a respondent may apply for security for the respondent's costs of the proceedings in the Tribunal.

(2) Paragraph (1) does not apply where the Tribunal has directed a party under section 110(1) of the 2002 LR Act to commence court proceedings for the court's decision on the whole or part of a matter.

(3) An application for security for costs must be supported by written evidence and copies of the application and supporting evidence must be provided by the respondent to the applicant in the proceedings.

(4) The Tribunal may make an order for security for costs if it is satisfied that—

- (a) one or more of the conditions subject to which security for costs might be ordered in proceedings in a court to which the Civil Procedure Rules 1998<sup>MI</sup> apply exists;
- (b) it is just to make such an order; and
- (c) the applicant in the proceedings has the ability to comply with the order.

(5) Where the Tribunal decides to order security for costs, it must—

- (a) determine the amount of security; and
- (b) direct the manner in which, and the time within which, the security must be given.

### Marginal Citations

M1 S.I. 1998/3132

### Orders for costs, reimbursement of fees and interest on costs

13.—(1) [<sup>F7</sup>Subject to paragraph (1ZA),] the Tribunal may make an order in respect of costs only—

- (a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
- (b) if a person has acted unreasonably in bringing, defending or conducting proceedings <sup>F8</sup>....;
- (c) in a land registration case [<sup>F9</sup>, or]
- [<sup>F9</sup>(d) in proceedings under Schedule 3A to the Communications Act 2003 (the Electronic Communications Code) [<sup>F10</sup>—
  - (i) under Part 4A (code rights in respect of land connected to leased premises: unresponsive occupiers); or
  - (ii) that have been transferred from the Upper Tribunal.]]

[<sup>F11</sup>(1ZA) The Tribunal may not make an order for costs under paragraph (1)(b) in proceedings under—

[ Part 1 of the Landlord and Tenant Act 1954 (security of tenure for residential tenants);]  
<sup>F12</sup>(za)

- [<sup>F13</sup>(a) Part 4 (registration of rents under regulated tenancies) or Part 5 (rents under restricted contracts) of the Rent Act 1977;]
- (b) Part 1 of the Housing Act 1988 (assured tenancies, shorthold and non-shorthold) [<sup>F14</sup>; or]]
- [<sup>F15</sup>(c) paragraph 6(2) or 10(2) of Schedule 10 to the Local Government and Housing Act 1989 (security of tenure on ending of long residential tenancies).]

[<sup>F16</sup>(1A) An order under [<sup>F17</sup>paragraph (1)(d)(ii)] may be made in respect of costs of—

- (a) any part of the proceedings in the Tribunal, and
- (b) any part of the proceedings which took place in the Upper Tribunal before the transfer (subject to any contrary order or direction by the Upper Tribunal).]

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.

(4) A person making an application for an order for costs—

- (a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and
- (b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.

(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—

- (a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or

- (b) notice of consent to a withdrawal under rule 22 (withdrawal) which ends the proceedings.
- (6) The Tribunal may not make an order for costs against a person (the “paying person”) without first giving that person an opportunity to make representations.
- (7) The amount of costs to be paid under an order under this rule may be determined by—
- (a) summary assessment by the Tribunal;
  - (b) agreement of a specified sum by the paying person and the person entitled to receive the costs (the “receiving person”);
  - (c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.
- (8) The Civil Procedure Rules 1998<sup>M2</sup>, section 74 (interest on judgment debts, etc) of the County Courts Act 1984<sup>M3</sup> and the County Court (Interest on Judgment Debts) Order 1991<sup>M4</sup> shall apply, with necessary modifications, to a detailed assessment carried out under paragraph (7)(c) as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply.
- (9) The Tribunal may order an amount to be paid on account before the costs or expenses are assessed.

- F7** Words in rule 13(1) inserted (1.11.2022) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/1030\)](#), rules 1, **4(3)(a)(i)**
- F8** Words in rule 13(1)(b) omitted (1.11.2022) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/1030\)](#), rules 1, **4(3)(a)(ii)**
- F9** Rule 13(1)(d) and word inserted (6.4.2021) by [The Tribunal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/322\)](#), rules 1(1), **4(2)(b)**
- F10** Words in rule 13(1)(d) substituted (16.11.2021) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/1183\)](#), rules 1(1), **2(2)**
- F11** Rule 13(1ZA) inserted (1.11.2022) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/1030\)](#), rules 1, **4(3)(b)**
- F12** Art. 13(1ZA)(za) inserted (25.12.2023) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), rules 1, **4(2)(a)**
- F13** Art. 13(1ZA)(a) substituted (25.12.2023) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), rules 1, **4(2)(b)**
- F14** Word in art. 13(1ZA)(b) inserted (25.12.2023) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), rules 1, **4(2)(c)**
- F15** Art. 13(1ZA)(c) inserted (25.12.2023) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2023 \(S.I. 2023/1280\)](#), rules 1, **4(2)(d)**
- F16** Rule 13(1A) inserted (6.4.2021) by [The Tribunal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/322\)](#), rules 1(1), **4(3)**
- F17** Words in rule 13(1A) substituted (16.11.2021) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2021 \(S.I. 2021/1183\)](#), rules 1(1), **2(3)**

**Marginal Citations**

- M2** [S.I. 1998/3132](#)  
**M3** [1984 c. 28](#)  
**M4** [S.I. 1981/1184](#)

## Representatives

**14.**—(1) A party may appoint a representative (whether legally qualified or not) to represent that party in the proceedings.

(2) If a party appoints a representative, that party must send or deliver to the Tribunal and to each other party written notice of the representative's name and address.

(3) Anything permitted or required to be done by or provided to a party under these Rules, a practice direction or a direction may be done by or provided to the representative of that party except—

- (a) signing a witness statement; or
- (b) sending or delivering a notice under paragraph (2), if the representative is not a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act.

(4) A person who receives due notice of the appointment of a representative—

- (a) must thereafter provide to the representative any document which is required to be sent to the represented party, and need not provide that document to the represented party; and
- (b) may assume that the representative is and remains authorised until receiving written notification to the contrary and an alternative address for communications from the representative or the represented party.

(5) At a hearing a party may be accompanied by another person whose name and address has not been notified under paragraph (2) but who, with the permission of the Tribunal, may act as a representative or otherwise assist in presenting the party's case at the hearing.

(6) Paragraphs (2) to (4) do not apply to a person who accompanies a party under paragraph (5).

## Calculating time

**15.**—(1) An act required by these Rules, a practice direction or a direction to be done on or by a particular day must be done before 5pm on that day.

(2) If the time specified by these Rules, a practice direction or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this rule “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 <sup>M5</sup>.

### Marginal Citations

M5 1971 c. 80

## Provision of documents

**16.**—(1) Any document to be provided under these Rules, a practice direction or a direction must be—

- (a) sent by prepaid post or by document exchange, or delivered by hand to the address specified in paragraph (5);
- (b) sent by fax to the number specified for the proceedings;
- (c) as regards any document sent or delivered to or by the Tribunal, by such other method as the Tribunal may permit; or



- (d) as regards any document to be sent or delivered by a method other than one provided for by sub-paragraphs (a), (b) or (c) or another paragraph in this rule, by such other method as the recipient may permit.
- (2) The Tribunal may provide any document (including any notice or summons or other information) under these Rules by—
- (a) itself sending or delivering the document; or
  - (b) requiring a party to do so.
- (3) In any case to which section 39, 41 or 53 of the 1986 Act applies, the applicant, not the Tribunal, must send or deliver a copy of the application and accompanying documents to the landlord of the agricultural holding to which the application relates and to any other person known to the applicant to be interested in the outcome of the application.
- (4) If the Tribunal permits or directs documents to be provided to it by email, any requirement in these Rules for a signature on a document may be satisfied by a typed instead of a handwritten signature.
- (5) Subject to paragraph (6), the address for the purposes of paragraph (1)(a) is—
- (a) in the case of the Tribunal, the address of the office of the Tribunal;
  - (b) in the case of an incorporated company or other body registered in the United Kingdom, the address of the registered or principal office of the company or body or any alternative address notified by that company or body to the Tribunal and all other parties for the purposes of provision of documents;
  - (c) in the case of any other person, body or authority, the usual or last known address of that person, body or authority.
- (6) The Tribunal and each party may assume that the address provided by a party or its representative or, in a reference, by the registrar is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary and an alternative address for communications.
- (7) Subject to paragraph (8), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.
- (8) If a party informs the Tribunal and all other parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party, that form of communication must not be used.
- (9) If the Tribunal or a party sends a document to another party or to the Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.
- (10) Unless the Tribunal otherwise permits, where a document is provided for the purposes of the proceedings is or contains a map, plan, drawing or photograph, any copy provided of that map, plan or drawing must be in the same colours as the map, plan, drawing or photograph of which it is a copy, and in agricultural land and drainage cases, maps of any holding or land must be to a scale of 1:10,000 or larger.
- (11) The Tribunal may waive a requirement under these Rules to send or deliver a notice or other document to a person or make an order for provision by alternative method (whether by advertisement in a newspaper or otherwise) as the Tribunal may think fit if that person—
- (a) cannot be found after all diligent enquiries have been made;
  - (b) has died and has no personal representative;
  - (c) is out of the United Kingdom; or

(d) for any other reason a notice or other document cannot readily be sent or delivered to that person in accordance with these Rules.

(12) Where an enactment requires evidence that a party has supplied any person with a document, that party may satisfy the requirement by providing a certificate signed by the party confirming that the document was provided in accordance with the requirements of this rule.

### **Prevention of disclosure or publication of documents and information**

**17.**—(1) The Tribunal may make an order prohibiting the disclosure or publication of—

- (a) specified documents or information relating to the proceedings; or
- (b) any matter likely to lead members of the public to identify any person whom the Tribunal considers should not be identified.

(2) The Tribunal may give a direction prohibiting the disclosure of a document or information to a person if—

- (a) the Tribunal is satisfied that such disclosure would be likely to cause that person or some other person serious harm; and
- (b) the Tribunal is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.

(3) If a party (the first party) considers that the Tribunal should give a direction under paragraph (2) prohibiting the disclosure of a document or information to another party (the second party), the first party must—

- (a) exclude the relevant document or information from any documents that will be provided to the second party; and
- (b) provide to the Tribunal the excluded document or information, and the reason for its exclusion, so that the Tribunal may decide whether the document or information should be disclosed to the second party or should be the subject of a direction under paragraph (2).

(4) The Tribunal may give a direction that certain documents or information must or may be disclosed to the Tribunal on the basis that the Tribunal will not disclose such documents or information to other persons, or specified other persons.

(5) A party making an application for a direction under paragraph (4) may withhold the relevant documents or information from other persons, or the specified other persons, until the Tribunal has made a decision on the application.

(6) Unless the Tribunal considers that there is good reason not to do so, the Tribunal must send notice that a party has made an application for a direction under paragraph (4) to each other party.

(7) In a case involving matters relating to national security, the Tribunal must ensure that information is not disclosed contrary to the interests of national security.

(8) The Tribunal must conduct proceedings and record its decision and reasons appropriately so as not to undermine the effect of an order made under paragraph (1), a direction given under paragraph (2) or (4) or the duty imposed by paragraph (7).

### **Disclosure, evidence and submissions**

**18.**—(1) Without restriction on the general powers in rule 6(1) and (2) (case management powers), the Tribunal may give directions as to—

- (a) the exchange between parties of lists of documents which are relevant to the application, or relevant to particular issues, and the inspection of such documents;
- (b) the provision by parties of statements of agreed matters;

- (c) issues on which it requires evidence or submissions;
  - (d) the nature of the evidence or submissions it requires;
  - (e) whether the parties are permitted or required to provide expert evidence, and if so whether the parties must jointly appoint a single expert to provide such evidence;
  - (f) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;
  - (g) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—
    - (i) orally at a hearing; or
    - (ii) by written submissions or witness statement; and
  - (h) the time at which any evidence or submissions are to be provided.
- (2) Instead of giving directions under paragraph (1)(a), the Tribunal may provide for the disclosure and inspection of documents to any extent which it considers relevant to the issues in dispute, including—
- (a) taking all reasonable steps to ensure that each of the parties is given a copy of any document which has been received from any other party or former party; or
  - (b) supplying the parties with a copy of any document which embodies the results of any relevant enquiries made by or for the Tribunal for the purposes of the proceedings.
- (3) A party to whom a document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed except where—
- (a) the document has been read to or by the Tribunal, or referred to, at a hearing which has been held in public;
  - (b) the Tribunal gives permission; or
  - (c) the party who disclosed the document and the person to whom the document belongs agree.
- (4) The Tribunal may make an order restricting or prohibiting the use of a document which has been disclosed, even where the document has been read to or by the Tribunal, or referred to, at a hearing which has been held in public.
- (5) An application for such an order may be made—
- (a) by a party; or
  - (b) by any person to whom the document belongs.
- (6) The Tribunal may—
- (a) admit evidence whether or not it—
    - (i) would be admissible in a civil trial in England and Wales; or
    - (ii) was available to a previous decision maker; or
  - (b) exclude evidence that would otherwise be admissible where—
    - (i) the evidence was not provided within the time allowed by a direction or a practice direction;
    - (ii) the evidence was otherwise provided in a manner that did not comply with a direction or a practice direction; or
    - (iii) it would otherwise be unfair to admit the evidence.
- (7) The Tribunal may consent to a witness giving, or require any witness to give, evidence on oath, and may administer an oath for that purpose.

(8) A party cannot be directed to produce any document which a party could not be compelled to produce on the trial of an action in a court of law.

(9) On receipt of written notice from the Tribunal of an application under the 1991 Act, the Secretary of State must provide the Tribunal with a report on the matters to which the application relates.

### **Expert evidence**

**19.**—(1) It is the duty of an expert to help the Tribunal on matters within the expert's expertise and this duty overrides any obligation to the person from whom the expert has received instructions or by whom the expert is paid.

(2) No party may adduce expert evidence without the permission of the Tribunal.

(3) Expert evidence is to be given in a written report unless the Tribunal directs otherwise.

(4) Subject to paragraph (6), each party must provide a copy of the written report of any expert witness to the Tribunal and each other party at least 7 days before—

(a) the date of the hearing; or

(b) the date notified upon which the issue to which the expert evidence relates will be determined without a hearing.

(5) A written report of an expert must—

(a) contain a statement that the expert understands the duty in paragraph (1) and has complied with it;

(b) contain the words “I believe that the facts stated in this report are true and that the opinions expressed are correct”;

(c) be addressed to the Tribunal;

(d) include details of the expert's qualifications and relevant experience;

(e) contain a summary of the instructions the expert has received for the making of the report; and

(f) be signed by the expert.

(6) The Tribunal may direct that—

(a) the expert's evidence must be limited to such matters as the Tribunal directs;

(b) the expert must attend a hearing to give oral evidence; or

(c) the parties must jointly instruct the expert.

### **Summoning of witnesses and orders to answer questions or produce documents**

**20.**—(1) On the application of a party or on its own initiative, the Tribunal may—

(a) by summons require any person to attend as a witness at a hearing at the time and place specified in the summons; or

(b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A summons under paragraph (1)(a) must—

(a) give the person required to attend not less than 14 days' notice of the hearing or such shorter period as the Tribunal may direct; and

(b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law.

(4) A summons or order under this rule must—

- (a) state that the person on whom the requirement is imposed may apply to the Tribunal to vary or set aside the summons or order, if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons or order.

### **Site inspections**

**21.**—(1) Subject to paragraph (2), the Tribunal may inspect—

- (a) the land, property or premises which is the subject of the application;
- (b) any other land, property or premises inspection of which may assist the Tribunal in determining the application;
- (c) the locality of the land, property or premises.

(2) The making of and attendance at an inspection is subject to the Tribunal obtaining all appropriate consents to its request for entry.

(3) The Tribunal must give reasonable written notice of the date and time proposed for the inspection.

(4) The Tribunal may include in its request for entry a request to be accompanied by one or more of—

- (a) the parties (and any party's representative);
- (b) in an agricultural land and drainage case, the official expert;
- (c) if the Tribunal considers necessary—
  - (i) any party's witness;
  - (ii) one or more members of the Tribunal's staff;
- (d) any other person, if the Tribunal considers it appropriate.

(5) In an agricultural land and drainage case, the condition of consent referred to in paragraph (2) does not apply, but the exercise of the right of entry under this paragraph or paragraph (6) is subject to the Tribunal making a direction requiring the person who is the owner or occupier to permit entry to the land, property or premises.

(6) In an agricultural land and drainage case, the Tribunal may direct any person who owns or occupies any land or premises which are relevant to the proceedings to permit the official expert to enter and inspect the land or premises for the purposes for which the official expert was appointed.

(7) Every direction under paragraph (5) or (6) must, unless the occupier was present when the direction was made, contain a statement that the occupier may apply to the Tribunal to vary or set aside the direction.

(8) Where a direction has been made under paragraph (5) or (6), the occupier of the land, property or premises must be given at least 7 days' notice of any inspection.

(9) Rule 19 also applies to the report and evidence of the official expert.

### **Withdrawal**

**22.**—(1) Subject to paragraph (2), a party may give notice of the withdrawal of its case, or any part of it—

- (a) orally at a hearing; or
- (b) by sending or delivering to the Tribunal a written notice of withdrawal.

- (2) A written notice of withdrawal must—
  - (a) be signed and dated;
  - (b) identify the case or part of the case which is withdrawn;
  - (c) state whether any part of the case, and if so what, remains to be determined;
  - (d) confirm that a copy of the notice of the withdrawal has been provided to all other parties and state the date on which this was done;
  - (e) include the written consent of any of the other parties who have consented to the withdrawal.
- (3) Notice of withdrawal will not take effect unless the Tribunal consents to the withdrawal.
- (4) The Tribunal may make such directions or impose such conditions on withdrawal as it considers appropriate.
- (5) A party which has withdrawn its case may apply to the Tribunal for the case to be reinstated.
- (6) An application under paragraph (5) must be made in writing and be received by the Tribunal within 28 days after—
  - (a) the date of the hearing at which the case was withdrawn orally under paragraph (1)(a); or
  - (b) the date on which the Tribunal received the notice under paragraph (1)(b).
- (7) The Tribunal must notify each party in writing of a withdrawal under this rule.
- (8) Any party may, within 28 days after the date of receipt of notification by the Tribunal under paragraph (7), apply for a case, or part of a case, which has been withdrawn under this rule to be re-instated.

### **Lead cases**

- 23.**—(1) This rule applies if—
- (a) two or more cases have been started before the Tribunal;
  - (b) in each such case the Tribunal has not made a decision disposing of the proceedings; and
  - (c) the cases give rise to common or related issues.
- (2) The Tribunal may direct that one or more such cases be specified as a lead case, and stay the other cases (“the related cases”).
- (3) The Tribunal must send a copy of any direction given under paragraph (2) to each party in a lead case and in the related cases.
- (4) A party in a related case referred to in paragraph (3) may apply for the related case to be substituted as the lead case (or added as a lead case) within 28 days after the date of receipt of notification from the Tribunal of a direction made under paragraph (2).
- (5) Where the Tribunal makes a decision in a lead case or cases in respect of the common or related issues—
- (a) the Tribunal must send a copy of the decision to each party in each of the related cases; and
  - (b) subject to paragraph (6), the decision will be binding on each of those parties in relation to the common or related issues.
- (6) Within 28 days after the date on which the Tribunal sent a copy of the decision to a party under paragraph (5)(a), that party may apply in writing for a direction that the decision is not binding on the parties to a particular related case.
- (7) The Tribunal must give directions in respect of cases which are stayed under paragraph (2), providing for the disposal of or further directions in those cases.

(8) If a lead case is withdrawn before the Tribunal makes a decision in respect of the common or related issues, the Tribunal must give directions as to—

- (a) whether another case or other cases are to be specified as a lead case or lead cases; and
- (b) whether any direction affecting the related cases should be set aside or amended.

### **Subsequent applications related to lead case**

**24.**—(1) This rule applies where a decision has been given in a lead case in accordance with rule 23 and a subsequent application is made which includes any of the common or related issues.

- (2) The Tribunal may send written notice to the parties to the subsequent application of—
  - (a) the matters which it appears to the Tribunal are the common or related issues in the subsequent application and the previously decided lead case;
  - (b) the decision recorded in respect of the common or related issues in the lead case;
  - (c) the Tribunal's proposal to record its decision on the common or related issues in the subsequent application in materially identical terms to the decision in the lead case;
  - (d) the date (being not less than 21 days after the date that the notice was sent) by which any objection to this proposal must be received by the Tribunal; and
  - (e) a requirement that any objection must include the grounds on which it is made.
- (3) Where no objection is received on or before the date specified in the notice—
  - (a) the Tribunal need not determine the matters mentioned in paragraph (2)(a); and
  - (b) the decision of the Tribunal in respect of the common or related issues in the lead case must be recorded as the decision of the Tribunal in respect of the common or related issues in the subsequent application.

(4) Where an objection is delivered to the Tribunal's proposal on or before the date specified in the notice the Tribunal must determine the application in accordance with the other provisions of these Rules.

### **Transfer of case to the Upper Tribunal**

**25.**—(1) The Tribunal may refer a case to the President of the Property Chamber with a request that the case be considered for transfer to the Upper Tribunal.

(2) If a case has been referred under paragraph (1), the President of the Property Chamber may, with the concurrence of the President of the Lands Chamber, direct that the case be transferred to and determined by the Upper Tribunal.

(3) The President of the Property Chamber may only direct a transfer under paragraph (2) if the President of the Property Chamber considers that the issues in dispute are likely to be further appealed to the Upper Tribunal and—

- (a) will require lengthy or complex evidence or a lengthy hearing; or
- (b) involve a complex or important principle or issue; or
- (c) involve a large financial sum.

(4) This rule does not apply to a land registration case or an agricultural land and drainage case.

**Changes to legislation:**

There are currently no known outstanding effects for the The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, PART 2.