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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1028**

The Welsh Language Tribunal Rules 2015

PART H

MISCELLANEOUS

**Extension of time**

**53.**—(1) Subject to paragraph (2), the Tribunal may, on the application of a party or on the Tribunal's own initiative, direct that a period of time specified in these Rules (other than the period specified by rule 11(1)) or by a direction made under them, is to be extended.

(2) The Tribunal may only extend a period of time in accordance with paragraph (1) if the Tribunal considers it fair and just to do so.

(3) The Tribunal may extend a period of time by such period as the Tribunal thinks fit.

(4) Where the Tribunal has extended a period of time, reference in these Rules or in a direction made under them to that period of time must be construed as a reference to the period of time so extended.

**Withdrawal**

**54.** A person may withdraw an application—

- (a) by giving notice to the Secretary of the Tribunal at any time before a hearing, or
- (b) orally at a hearing.

**Orders for costs and expenses**

**55.**—(1) The Tribunal must not normally make an order in respect of costs and expenses, but may, subject to paragraph (3), make such an order—

- (a) against a party if the Tribunal is of the opinion that a party has been responsible for improper, unreasonable or negligent action or omission, or for any failure to comply with a direction or any delay which with diligence could have been avoided or that the party's conduct in making or resisting the appeal or claim was unreasonable,
- (b) against a representative if the Tribunal is of the opinion that the representative has been responsible for improper, unreasonable or negligent action or omission, or for any failure to comply with a direction or any delay which with diligence could have been avoided,
- (c) against a party who has failed to attend or be represented at a hearing of which that party has been duly notified,
- (d) against the Commissioner, where the Commissioner has not submitted a case statement under rule 20,
- (e) against the Commissioner, if the Tribunal considers that the disputed decision was unreasonable.

- (2) Any order in respect of costs and expenses may be made—
  - (a) as respects the whole, or any part, of any costs and expenses incurred, or any allowances paid, or
  - (b) as respects the whole, or any part, of any allowance (other than allowances paid to members of the Tribunal) payable to any person for the purposes of, or in connection with, that person's attendance at a Tribunal hearing.
- (3) An order for costs may be made on the application of a party or on the Tribunal's own initiative.
- (4) A party making an application for an order under paragraph (3) must—
  - (a) submit a written application and a schedule of costs claimed to the Secretary of the Tribunal, and
  - (b) serve a copy of the application and schedule of costs on the person against whom it is proposed that the order is made.
- (5) An application for an order under paragraph (3) may be made at any time during the case but may not be made later than 28 days from the date on which—
  - (a) the decision notice recording the decision on all issues in the application was issued,
  - (b) upon withdrawal of the application, the order dismissing the application was made,
  - (c) following the Commissioner's concession to the application, the decision notice was issued.
- (6) An application for an order under paragraph (3)—
  - (a) must be refused by the Tribunal if a party is asking the Tribunal to consider a matter which is outside its powers,
  - (b) may be refused in whole or part by the Tribunal if, in the opinion of the Tribunal, the whole or part of it has no reasonable chance of success.
- (7) Unless an application for an order is refused under paragraph (6), it must be determined after the party and the person against whom it is proposed that the order is made have had an opportunity to be heard by the Tribunal.
- (8) If an order is made under paragraph (3), the Tribunal may give directions to be complied with before or at the costs hearing.
- (9) If a party fails to comply with a direction given under paragraph (8) the Tribunal may take account of that fact when deciding whether or not to make an order for costs.
- (10) An order under paragraph (3) may require the party or representative against whom it is made to pay a party either a specified sum in respect of the costs and expenses incurred by that other party in connection with the application, or the whole or part of such costs as assessed if not otherwise agreed.
- (11) An order under this rule for costs to be assessed has the effect that it is for the county court to make a detailed assessment of those costs in accordance with the Civil Procedure Rules 1998 either on the standard basis or, if specified in the order, on the indemnity basis.

### **Power to exercise functions**

- 56.**—(1) Subject to any practice direction made by the President, any function exercisable by the Tribunal under these Rules may be exercised by—
- (a) a tribunal panel,
  - (b) the President,

(c) a legally qualified member of the Tribunal authorised in writing by the President to exercise that function.

(2) Any function exercisable by the President under these Rules may be exercised by a member of the Tribunal who is legally qualified and who has been authorised by the President to do so.

(3) Subject to rule 60(6), in the event of the death or incapacity of the Chair, or if the Chair ceases to be a member of the Tribunal, following the decision of the tribunal panel, the functions of the Chair may be exercised by the President or another Chair appointed by the President for the purpose.

### **The Secretary of the Tribunal**

57. Any function of the Secretary of the Tribunal may be performed by another member of the staff of the Tribunal authorised by the President.

### **Register**

58.—(1) The Secretary of the Tribunal must keep a Register of applications made to the Tribunal.

(2) There must be entered in the Register a note of all applications, which must include the following particulars where appropriate—

- (a) the names and addresses of the parties,
- (b) brief details of the nature of the application,
- (c) the date of any hearing, including any hearing on preliminary or incidental matters, and, where appropriate, the nature of the hearing,
- (d) details of any directions or orders issued, and
- (e) the document in which the decision of the tribunal panel has been recorded under rule 47(3).

(3) The Register or any part of it may be kept in electronic form.

### **Publication**

59.—(1) The Tribunal must publish its decisions in accordance with such arrangements as the President considers appropriate.

(2) Decisions may be published electronically.

(3) If it is necessary for the Tribunal, in order to give full reasons for a decision, to refer to matters which relate to any confidential personal information or to an individual child or to another vulnerable person, the version of that decision which is published may, to the extent necessary to protect the privacy of the person in question, omit references to those matters.

### **Irregularities**

60.—(1) An irregularity resulting from failure to comply with any provision of these Rules, a practice direction or of any direction of the Tribunal before the Tribunal reaches its decision does not of itself render the proceedings on the case void.

(2) Where any such irregularity comes to the attention of the Tribunal, the Tribunal may, if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just, with a view to remedying the irregularity, before reaching its decision.

(3) The Tribunal may, by certificate signed by the President or by the Chair of the tribunal panel in question, correct, at any time, clerical mistakes in any document recording a direction or decision of the Tribunal or of the President, produced by or on behalf of the Tribunal, or errors arising in such documents from accidental slips or omissions.

(4) The Secretary of the Tribunal must as soon as practicable send to each party a copy of any corrected version of a document containing reasons for a tribunal panel's decision.

(5) Where a person has appointed a representative in accordance with rule 17, the Secretary of the Tribunal must (notwithstanding rule 13(10)) send a copy of the document referred to in paragraph (4) to that person as well as to the representative.

(6) Where these Rules require the Chair to sign a document, but by reason of death or incapacity the Chair is unable to do so, the other members of the tribunal panel must sign it and certify that the Chair is unable to sign.

### **Proof of documents and certification of decisions**

**61.**—(1) A document purporting to be a document issued by the Secretary of the Tribunal on behalf of the Tribunal is, unless the contrary is proved, to be considered to be a document so issued.

(2) A document purporting to be certified by the Secretary of the Tribunal as a true copy of a document containing a decision of a tribunal panel is, unless the contrary is proved, to be sufficient evidence of its contents.

### **Method of sending, submitting or serving notices and documents**

**62.**—(1) A notice given under these Rules must be in writing and a party required by these Rules to notify a matter to the Secretary of the Tribunal must do so in writing.

(2) Notices and documents to be provided under these Rules must be—

- (a) sent by first class pre-paid post to the Secretary of the Tribunal or delivered by hand to the office of the Tribunal or such other office as the Secretary of the Tribunal may notify to the parties,
- (b) sent by facsimile transmission to the number specified for the Tribunal,
- (c) sent by email to the address specified for the Tribunal, or
- (d) sent or delivered by such other method as the Tribunal may permit or direct.

(3) A party who sends a notice or document to the Tribunal by email or facsimile transmission must not treat the notice or document as having been delivered unless its delivery has been acknowledged by the Tribunal.

(4) Subject to paragraph (5), if a party provides a facsimile number, email address or other details for the service of notices or documents, that party must accept delivery of documents by that method.

(5) If a party informs the Tribunal and the other party that a particular form of communication, other than first class pre-paid post or delivery by hand, must not be used to provide documents to that party, that form of communication must not be used.

(6) If the Tribunal or a party sends a document to a party or 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.

(7) The Tribunal and each party may assume that the address provided by a party or a representative is and remains the address to which documents must be sent or delivered unless they receive written notification to the contrary.

(8) Notices and documents which these Rules authorise or require the Secretary of the Tribunal to send may (subject to paragraph (10)) either be sent by first class pre-paid post, by facsimile transmission to, by email to or be delivered at—

- (a) in the case of a party—

- (i) the party's address for service specified in the notice of application or in a notice under paragraph (9), or
  - (ii) if no address for service has been so specified the party's last known address, and
- (b) in the case of any other person, that person's place of residence or business or if the person is a corporation, the corporation's registered or principal office.
- (9) A party may at any time by notice to the Secretary of the Tribunal change that party's address for service under these Rules.
- (10) The recorded delivery service must be used instead of first class post for service of a summons issued under rule 41 requiring the attendance of a witness.
- (11) A notice or document sent by the Tribunal by first class post in accordance with these Rules, and not returned to the Tribunal, is to be taken to have been received by the addressee on the second working day after the date of posting, unless the contrary is shown.
- (12) The date of posting is to be presumed, unless the contrary is shown, to be the date shown in the postmark on the envelope in which the notice or document is contained.
- (13) A notice or document sent by the Tribunal to a party using email or facsimile transmission is to be taken to have been delivered when it is received in legible form.
- (14) Where for any sufficient reason service of any document or notice cannot be effected in the manner prescribed under this rule, the Tribunal may dispense with service or make an order for substituted service in such manner as the Tribunal may deem fit and such service has the same effect as service in the manner prescribed under this rule.

### **Calculating time**

- 63.**—(1) An act required by these Rules, by a practice direction or by a direction to be done on or by a particular day must be done by 5pm on that day.
- (2) If the time specified by these Rules, by a practice direction or by 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) If the time for commencing proceedings by submitting a notice of application to the Tribunal under rule 11 ends on a day between 25 December and 1 January, inclusive—
- (a) the notice of application is submitted in time if it is received by the Tribunal on the first working day after 1 January , and
  - (b) the days from 25 December to 1 January inclusive must not be counted when calculating the time by which any other act must be done.
- (4) Paragraph 3(b) does not apply where the Tribunal directs that an act must be done by or on a specified date.

### **Signature of documents**

- 64.** Where these Rules require a document to be signed, that requirement is satisfied—
- (a) if the signature is written, or
  - (b) in the case of a document which is communicated electronically in accordance with these Rules, by the electronic signature of the person who is required to sign it.