



Tribunals, Courts and Enforcement Act 2007

2007 CHAPTER 15

PART 1

TRIBUNALS AND INQUIRIES

CHAPTER 2

FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

Miscellaneous

22 Tribunal Procedure Rules

- (1) There are to be rules, to be called “Tribunal Procedure Rules”, governing—
 - (a) the practice and procedure to be followed in the First-tier Tribunal, and
 - (b) the practice and procedure to be followed in the Upper Tribunal.
- (2) Tribunal Procedure Rules are to be made by the Tribunal Procedure Committee.
- (3) In Schedule 5—
 - Part 1 makes further provision about the content of Tribunal Procedure Rules,
 - Part 2 makes provision about the membership of the Tribunal Procedure Committee,
 - Part 3 makes provision about the making of Tribunal Procedure Rules by the Committee, and
 - Part 4 confers power to amend legislation in connection with Tribunal Procedure Rules.
- (4) Power to make Tribunal Procedure Rules is to be exercised with a view to securing—

Status: This is the original version (as it was originally enacted).

- (a) that, in proceedings before the First-tier Tribunal and Upper Tribunal, justice is done,
 - (b) that the tribunal system is accessible and fair,
 - (c) that proceedings before the First-tier Tribunal or Upper Tribunal are handled quickly and efficiently,
 - (d) that the rules are both simple and simply expressed, and
 - (e) that the rules where appropriate confer on members of the First-tier Tribunal, or Upper Tribunal, responsibility for ensuring that proceedings before the tribunal are handled quickly and efficiently.
- (5) In subsection (4)(b) “the tribunal system” means the system for deciding matters within the jurisdiction of the First-tier Tribunal or the Upper Tribunal.

23 Practice directions

- (1) The Senior President of Tribunals may give directions—
 - (a) as to the practice and procedure of the First-tier Tribunal;
 - (b) as to the practice and procedure of the Upper Tribunal.
- (2) A Chamber President may give directions as to the practice and procedure of the chamber over which he presides.
- (3) A power under this section to give directions includes—
 - (a) power to vary or revoke directions made in exercise of the power, and
 - (b) power to make different provision for different purposes (including different provision for different areas).
- (4) Directions under subsection (1) may not be given without the approval of the Lord Chancellor.
- (5) Directions under subsection (2) may not be given without the approval of—
 - (a) the Senior President of Tribunals, and
 - (b) the Lord Chancellor.
- (6) Subsections (4) and (5)(b) do not apply to directions to the extent that they consist of guidance about any of the following—
 - (a) the application or interpretation of the law;
 - (b) the making of decisions by members of the First-tier Tribunal or Upper Tribunal.
- (7) Subsections (4) and (5)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the First-tier Tribunal or Upper Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.

24 Mediation

- (1) A person exercising power to make Tribunal Procedure Rules or give practice directions must, when making provision in relation to mediation, have regard to the following principles—
 - (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;

Status: This is the original version (as it was originally enacted).

- (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.
- (2) Practice directions may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (3) The provision that may be made by virtue of subsection (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.
- (4) Once a member has begun to act as a mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (5) Staff appointed under section 40(1) may, subject to their terms of appointment, act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (6) In this section—
 - “member” means a judge or other member of the First-tier Tribunal or a judge or other member of the Upper Tribunal;
 - “practice direction” means a direction under section 23(1) or (2);
 - “proceedings” means proceedings before the First-tier Tribunal or proceedings before the Upper Tribunal.

25 Supplementary powers of Upper Tribunal

- (1) In relation to the matters mentioned in subsection (2), the Upper Tribunal—
 - (a) has, in England and Wales or in Northern Ireland, the same powers, rights, privileges and authority as the High Court, and
 - (b) has, in Scotland, the same powers, rights, privileges and authority as the Court of Session.
- (2) The matters are—
 - (a) the attendance and examination of witnesses,
 - (b) the production and inspection of documents, and
 - (c) all other matters incidental to the Upper Tribunal’s functions.
- (3) Subsection (1) shall not be taken—
 - (a) to limit any power to make Tribunal Procedure Rules;
 - (b) to be limited by anything in Tribunal Procedure Rules other than an express limitation.
- (4) A power, right, privilege or authority conferred in a territory by subsection (1) is available for purposes of proceedings in the Upper Tribunal that take place outside that territory (as well as for purposes of proceedings in the tribunal that take place within that territory).

26 First-tier Tribunal and Upper Tribunal: sitting places

Each of the First-tier Tribunal and the Upper Tribunal may decide a case—

- (a) in England and Wales,
- (b) in Scotland, or

Status: This is the original version (as it was originally enacted).

(c) in Northern Ireland,
even though the case arises under the law of a territory other than the one in which the case is decided.

27 Enforcement

- (1) A sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in England and Wales—
 - (a) shall be recoverable as if it were payable under an order of a county court in England and Wales;
 - (b) shall be recoverable as if it were payable under an order of the High Court in England and Wales.
- (2) An order for the payment of a sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in Scotland (or a copy of such an order certified in accordance with Tribunal Procedure Rules) may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) A sum payable in pursuance of a decision of the First-tier Tribunal or Upper Tribunal made in Northern Ireland—
 - (a) shall be recoverable as if it were payable under an order of a county court in Northern Ireland;
 - (b) shall be recoverable as if it were payable under an order of the High Court in Northern Ireland.
- (4) This section does not apply to a sum payable in pursuance of—
 - (a) an award under section 16(6), or
 - (b) an order by virtue of section 21(1).
- (5) The Lord Chancellor may by order make provision for subsection (1) or (3) to apply in relation to a sum of a description specified in the order with the omission of one (but not both) of paragraphs (a) and (b).
- (6) Tribunal Procedure Rules—
 - (a) may make provision as to where, for purposes of this section, a decision is to be taken to be made;
 - (b) may provide for all or any of subsections (1) to (3) to apply only, or not to apply except, in relation to sums of a description specified in Tribunal Procedure Rules.

28 Assessors

- (1) If it appears to the First-tier Tribunal or the Upper Tribunal that a matter before it requires special expertise not otherwise available to it, it may direct that in dealing with that matter it shall have the assistance of a person or persons appearing to it to have relevant knowledge or experience.
- (2) The remuneration of a person who gives assistance to either tribunal as mentioned in subsection (1) shall be determined and paid by the Lord Chancellor.
- (3) The Lord Chancellor may—

- (a) establish panels of persons from which either tribunal may (but need not) select persons to give it assistance as mentioned in subsection (1);
- (b) under paragraph (a) establish different panels for different purposes;
- (c) after carrying out such consultation as he considers appropriate, appoint persons to a panel established under paragraph (a);
- (d) remove a person from such a panel.

29 Costs or expenses

- (1) The costs of and incidental to—
 - (a) all proceedings in the First-tier Tribunal, and
 - (b) all proceedings in the Upper Tribunal,shall be in the discretion of the Tribunal in which the proceedings take place.
- (2) The relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid.
- (3) Subsections (1) and (2) have effect subject to Tribunal Procedure Rules.
- (4) In any proceedings mentioned in subsection (1), the relevant Tribunal may—
 - (a) disallow, or
 - (b) (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with Tribunal Procedure Rules.
- (5) In subsection (4) “wasted costs” means any costs incurred by a party—
 - (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
 - (b) which, in the light of any such act or omission occurring after they were incurred, the relevant Tribunal considers it is unreasonable to expect that party to pay.
- (6) In this section “legal or other representative”, in relation to a party to proceedings, means any person exercising a right of audience or right to conduct the proceedings on his behalf.
- (7) In the application of this section in relation to Scotland, any reference in this section to costs is to be read as a reference to expenses.