

[F1]SCHEDULE A1

Rule 23

Procedure in Quality Contracts Scheme cases

Textual Amendments

F1 Sch. A1 inserted (21.8.2015) by [The Tribunal Procedure \(Amendment\) Rules 2015 \(S.I. 2015/1510\)](#), rules 1, 7

1. This Schedule applies to quality contracts scheme cases.

Notice of appeal

2. The appellant must send or deliver to the Upper Tribunal the notice of appeal together with the following materials —

- (a) a copy of the notice of the decision being challenged;
- (b) a copy of any separate written statement of reasons;
- (c) copies of the most significant documents (or relevant extracts) on which the appellant relies in support of the grounds stated in its notice of appeal, including—
 - (i) the quality contracts scheme (or relevant extracts); and
 - (ii) any report of the QCS Board (or relevant extracts); and
- (d) a list of the materials referred to in sub-paragraphs (a) to (c) and where such materials may be accessed (e.g. link to internet webpage).

3. The appellant must, at the same time as sending its notice of appeal to the Upper Tribunal in accordance with paragraph 2, send a copy of the notice of appeal and of the additional materials to the respondent.

4. The Upper Tribunal must send a copy of the notice of appeal and a copy of the list referred to in paragraph 2(d) to the appropriate national authority.

5. The Upper Tribunal may, upon receipt of the notice of appeal, direct the respondent to—

- (a) give notice in at least one newspaper circulating in the area to which the scheme relates that a notice of appeal has been received;
- (b) give written notice to the persons consulted under section 125(3) (notice and consultation requirements) of the Transport Act 2000 and (if the case may be) those not consulted under section 125(3) but who in the opinion of the QCS Board, under section 126D(1) (b) (consideration of proposed schemes by boards) of that Act, ought to have been so consulted, that a notice of appeal has been received;
- (c) make arrangements for a place or website where copies of the notice of appeal and any response or reply and in each case their accompanying documents may be inspected;
- (d) ensure that each notice provided for in sub-paragraphs (a) and (b) states—
 - (i) where copies of the notice of appeal and other documents relating to the proceedings may be inspected; and
 - (ii) where information about the procedure for applying to be added as a party may be found.

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Response to the notice of appeal

6. A respondent must send or deliver to the Upper Tribunal its response to the notice of appeal together with the following materials —

- (a) a copy of the most significant documents (or relevant extracts) on which the respondent relies in support of the response;
- (b) a list of those documents.

7. The respondent must, at the same time as providing its response to the Upper Tribunal in accordance with paragraph 6, provide copies of that response and of those materials to—

- (a) the appellants; and
- (b) the appropriate national authority.

8. Any directions given by the Upper Tribunal to the respondent under paragraph 5 are also to be regarded as directions to the respondent to make available for inspection copies of its response and accompanying materials.

Appellant's reply

9. The appellant must send or deliver to the Upper Tribunal its reply (if any) to a response under paragraph 6 together with the following materials—

- (a) a copy of any additional documents (or relevant extracts) relied on in support of the reply;
- (b) a list of those documents.

10. The appellant must, at the same time as providing its reply to the Upper Tribunal in accordance with paragraph 9, provide a copy of that reply and of those materials to the respondent.

11. The Upper Tribunal must send a copy of the appellant's reply and a copy of the list of documents referred to in paragraph 9(b) to the appropriate national authority.

12. Any directions given by the Upper Tribunal to the respondent under paragraph 5 are also to be regarded as directions to the respondent to make available for inspection copies of the appellant's reply and accompanying materials.

Adding further parties

13. Any person who wishes to be added as a party to the proceedings, and has given notice to the respondent that they received the notice of the appeal in consequence of a direction made under paragraph 5, must apply to the Upper Tribunal in accordance with rule 9 within 1 month of the date on which they received notice of the appeal.

14. Any application to be added as a party must state—

- (a) the name and address of the person making the application;
- (b) the name and address of the representative (if any) of that person;
- (c) an address where documents for that person may be sent or delivered;
- (d) whether or not copies of the notice of appeal, any response and any reply has been inspected, along with their accompanying documents;
- (e) whether the person making the application supports or opposes the appeal; and
- (f) the grounds relied upon for adding the person as a party.

15. The person making the application must provide the following materials with the application—

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(a) a copy of the most significant documents (or relevant extracts) on which the person relies in support of the application, if not already listed by a party; and

(b) a list of the documents referred to in sub-paragraph (a).

16. The Upper Tribunal must notify the parties of any application to be joined as a party and send a copy of the list of documents with the notification.

17. The Upper Tribunal may give further directions relating to any application to be added as a party and generally as to the conduct of the case.]

[^{F2}SCHEDULE 1

Rule 24(1)

Procedure after the notice of appeal in [^{F3}road transport cases]

Textual Amendments

F2 Sch. 1 inserted (1.9.2009) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2009 \(S.I. 2009/1975\)](#), rules 1, **22**

F3 Words in Sch. 1 heading substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(a)**

1. This Schedule applies to [^{F4}road transport cases].

Textual Amendments

F4 Words in Sch. 1 para. 1 substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(b)**

2. The only parties to the appeal are the appellant and any person added as a party under rule 9 [^{F5}(addition, substitution and removal of parties)] .

Textual Amendments

F5 Words in Sch. 1 para. 2 substituted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, **11**

3. On receipt of a copy of a notice of appeal under rule 23(6)(b), the [^{F6}decision maker] must send to the Upper Tribunal a copy (and, on request, further copies) of—

(a) a written record of the decision appealed against and reasons for the decision;

(b) all documents produced to the [^{F6}decision maker] in connection with the decision;

(c) if a public inquiry was held, the transcript of the inquiry or, if no such transcript was produced, the [^{F6}decision maker's] note of the inquiry; and

[^{F7}(d) in an appeal under—

(i) section 50 of the Public Passenger Vehicles Act 1981 or section 37 of the Goods Vehicles (Licensing of Operators) Act 1995, or

(ii) section 35 of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010,

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a list of the names and addresses of objectors and representors.]

Textual Amendments

- F6** Words in Sch. 1 para. 3 substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(c)**
- F7** Sch. 1 para. 3(d) substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(d)**

4. On receipt of a list under paragraph 3(d) the Upper Tribunal must send a copy of the notice of appeal—

- (a) where the appellant had applied for, or for the variation of, an operator’s licence, to each person who made an objection to the application;
- (b) where the appellant had made an objection to an application for, or (in the case of a goods vehicle operator’s licence) for the variation of, an operator’s licence, to the person who made the application and to every other person who made an objection to the application;
^{F8} ...
- (c) in an appeal under section 37(5) of the Goods Vehicles (Licensing of Operators) Act 1995,
^{F9}[^{F10}to] each person who made representations under section 12(4) or 19(2) of that Act against the application for, or for the variation of, the operator’s licence in question.

[in an appeal under section 35(5) of the Goods Vehicles (Licensing of Operators) Act ^{F11}(d) (Northern Ireland) 2010, to each person who made representations under section 11(4) or 18(2) of that Act.]

Textual Amendments

- F8** Word in Sch. 1 para. 4(b) omitted (1.7.2012) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), 9(e)(i)(bb)(i)
- F9** Word in Sch. 1 para. 4(c) inserted (20.10.2014) by [The Tribunal Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/2128\)](#), rules 1(b), **16**
- F10** Word in Sch. 1 para. 4(c) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **57(a)**
- F11** Sch. 1 para. 4(d) inserted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(e)(ii)**

5. The appropriate national authority and any person to whom the Upper Tribunal has sent a copy of the notice of appeal under paragraph 4 may apply for a direction under rule 9(2) adding them as a respondent.

6. An application under paragraph 5 must be sent or delivered to the Upper Tribunal so that it is received within 14 days of the date that the Upper Tribunal sent a copy of the notice of appeal to the person making the application.

7. If a person ^{F12}... makes an application in accordance with paragraphs 5 and 6, the Upper Tribunal must give a direction under rule 9(2) adding that person as a respondent.

Textual Amendments

- F12** Words in Sch. 1 para. 7 omitted (1.4.2013) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **57(b)**

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^{F13}8.

Textual Amendments

F13 Sch. 1 para. 8 omitted (1.4.2013) by virtue of [The Tribunal Procedure \(Amendment\) Rules 2013 \(S.I. 2013/477\)](#), rules 1(2)(c), **57(c)**

9. The Upper Tribunal must notify each other party of any application under paragraph 5 and the Upper Tribunal’s decision in respect of each such application.

10. Any party may make a request to the Upper Tribunal for copies of specified documents provided by the [^{F14}decision maker] under paragraph 3.

Textual Amendments

F14 Words in Sch. 1 para. 10 substituted (1.7.2012) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2012 \(S.I. 2012/1363\)](#), rules 1(b), **9(f)**

11. On receiving a request under paragraph 10 the Upper Tribunal—

- (a) must provide the requested copies unless it considers the request unreasonable; and
- (b) if it considers the request unreasonable, give details of why it considers the request unreasonable.]

^{F15}SCHEDULE 2

Rule 26A(4)

Additional procedure in national security certificate cases

Textual Amendments

F15 Sch. 2 inserted (18.1.2010) by [The Tribunal Procedure \(Amendment\) Rules 2010 \(S.I. 2010/43\)](#), rules 1, **14**

1. This Schedule applies only to national security certificate appeals.

2. Following the transfer of the appeal from the First-tier Tribunal, the Upper Tribunal must provide a copy of the notice of appeal to the respondent, the relevant Minister and the Information Commissioner.

3. The relevant Minister must send or deliver to the Upper Tribunal a copy of the certificate to which the appeal relates, and a response to the notice of appeal, not later than 42 days after the date on which the relevant Minister received a copy of the notice of appeal.

4. In an appeal under section 28(4) of the Data Protection Act 1998^{F16}, sections 27(3), 79(5) or 111(3) of the Data Protection Act 2018] or section 60(1) of the Freedom of Information Act 2000 (including that subsection as applied and modified by regulation 18 of the Environmental Information Regulations 2004), the relevant Minister’s response must state whether the relevant Minister intends to oppose the appeal and, if so set out—

- (a) a summary of the circumstances relating to the issue of the certificate;
- (b) the reason for the issue of the certificate;
- (c) the grounds on which the relevant Minister relies in opposing the appeal; and

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- (d) a statement of the evidence on which the relevant Minister relies in support of those grounds.

Textual Amendments

F16 Words in [Sch. 2 para. 4](#) inserted (30.10.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2018 \(S.I. 2018/1053\)](#), [rules 1, 3\(3\)\(a\)](#)

5. In an appeal under section 28(6) of the Data Protection Act 1998^{F17}, sections 27(5), 79(7) or 111(5) of the Data Protection Act 2018] or section 60(4) of the Freedom of Information Act 2000 (including that subsection as applied and modified by regulation 18 of the Environmental Information Regulations 2004), the relevant Minister’s response must state whether the relevant Minister intends to make representations in relation to the appeal and, if so set out—

- (a) the extent to which the relevant Minister intends to support or oppose the appeal;
- (b) the grounds on which the relevant Minister relies in supporting or opposing the appeal; and
- (c) a statement of the evidence on which the relevant Minister relies in support of those grounds.

Textual Amendments

F17 Words in [Sch. 2 para. 5](#) inserted (30.10.2018) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2018 \(S.I. 2018/1053\)](#), [rules 1, 3\(3\)\(b\)](#)

- 6.** The Upper Tribunal must—
 - (a) subject to paragraph 11, provide the relevant Minister’s response and any other response to the appellant, the Information Commissioner and any respondent; and
 - (b) send a copy of any other response to the relevant Minister.
- 7.** On grounds of the need to ensure that information is not disclosed contrary to the interests of national security, the relevant Minister may—
 - (a) object to the disclosure of the relevant Minister’s response to the appellant, the Information Commissioner or any respondent, by sending a notice to the Upper Tribunal with the response; or
 - (b) object to the disclosure of any other response to the Information Commissioner or any respondent, by sending a notice to the Upper Tribunal within 42 days of the date on which the relevant Minister received a copy of the response.
- 8.** A notice under paragraph 7 must—
 - (a) state the reason for the objection; and
 - (b) in the case of a notice under paragraph 7(a) and to the extent that it is possible to do so, be accompanied by a version of the relevant Minister’s response in a form that can be shown to the appellant, the Commissioner or, as the case may be, a respondent.
- 9.** Before the Upper Tribunal gives a direction, issues a summons or citation, or produces or publishes a written record of, or reasons for, a decision—
 - (a) the Upper Tribunal must notify the relevant Minister of the proposed action; and
 - (b) if the relevant Minister considers that the proposal would cause information that is or would be exempt by virtue of a provision in Part 2 of the Freedom of Information Act 2000 to be disclosed, the relevant Minister may object to the proposal by sending a notice

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to the Upper Tribunal [^{F18}so that the Upper Tribunal receives the notice within 14 days of the date that the Minister received notice of the proposal].

Textual Amendments

F18 Words in Sch. 2 para. 9(b) inserted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, **12**

- 10.** When deciding whether to uphold an objection made by the relevant Minister—
- (a) any hearing must take place in the absence of the parties;
 - (b) if the Upper Tribunal is minded to overrule the relevant Minister’s objection, or to require the relevant Minister to provide a version of the relevant Minister’s response in a form other than one provided under paragraph 8(b) above, the Upper Tribunal must invite the relevant Minister to make representations; and
 - (c) if the Upper Tribunal overrules an objection in relation to the disclosure of a response, the [^{F19}Upper] Tribunal must not disclose, or require the relevant Minister to disclose, any material the subject of the objection unless the relevant Minister relies upon that material in opposing the appeal.

Textual Amendments

F19 Word in Sch. 2 para. 10(c) inserted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **21(a)**

11. Where the relevant Minister may object to the disclosure of a response or proposed action by the Upper Tribunal, the Upper Tribunal may not proceed with that disclosure or that proposed action unless—

- (a) the time for the relevant Minister to object has expired; and
- (b) the relevant Minister has not objected, or the [^{F20}Upper] Tribunal has overruled the relevant Minister’s objection and, in the case of the disclosure of a response, may proceed with the disclosure under paragraph 10(c).]

Textual Amendments

F20 Word in Sch. 2 para. 11(b) inserted (1.11.2013) by [The Tribunal Procedure \(Amendment No. 4\) Rules 2013 \(S.I. 2013/2067\)](#), rules 1, **21(b)**

[^{F21}SCHEDULE 3

Rule 26B

Procedure in financial services cases [^{F22}and Wholesale Energy Cases]

Textual Amendments

F21 Sch. 3 inserted (6.4.2010) by [The Tribunal Procedure \(Upper Tribunal\) \(Amendment\) Rules 2010 \(S.I. 2010/747\)](#), rules 1, **13**

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F22 Words in Sch. 3 heading inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, 12

Interpretation

1. In this Schedule—

[^{F23cc}“further material” means—

- (a) in a single regulator case, documents which—
 - (i) were considered by the respondent in reaching or maintaining the decision to give the notice in respect of which the reference has been made; or
 - (ii) were obtained by the respondent in connection with the matter to which that notice relates (whether they were obtained before or after giving the notice) but which were not considered by it in reaching or maintaining that decision;

but does not include documents on which the respondent relies in support of the referred action;

- (b) in a multiple regulator case—
 - (i) in relation to a respondent who is the primary regulator, documents which—
 - (aa) were considered by that regulator in reaching or maintaining its decision to give the notice in respect of which the reference has been made; or
 - (bb) were obtained by that regulator in connection with the matter to which that notice relates (whether they were obtained before or after the notice was given) but which were not considered by that regulator in reaching or maintaining its decision;
 - (ii) in relation to a respondent who is the secondary regulator, documents which—
 - (aa) were considered by that regulator in reaching or maintaining its decision to take the secondary regulator action in relation to the notice in respect of which the reference has been made; or
 - (bb) were obtained by that regulator in connection with the matter to which that notice relates (whether they were obtained before or after the notice was given) but which were not considered by that regulator in reaching or maintaining its decision;

but does not include documents on which either the primary regulator or the secondary regulator relies;]

[^{F24cc}“multiple regulator case” means a case where—

- (a) any of the Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England has given the notice in respect of which the reference has been made; and
- (b) such notice stated that another of those regulators had decided to take one of the following actions—
 - (i) to refuse a consent where such consent is required under the 2000 Act;
 - (ii) to give a conditional consent under the 2000 Act; or
 - (iii) to direct another regulator to take an action or not to take an action under the 2000 Act;”]

[^{F24cc}“primary regulator” means, in a multiple regulator case, the regulator giving the notice;]

[^{F24cc}“secondary regulator action” means an action taken by a secondary regulator, as stated in the notice given by the primary regulator;]

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[^{F24}“secondary regulator” means, in a multiple regulator case, a regulator specified in the notice other than the primary regulator;]

[^{F24}“single regulator case” means a case that is not a multiple regulator case;]

“reference notice” means the written notice required in making a reference in a financial services case [^{F25}or a wholesale energy case] ;

[^{F26}“referred action” means—

- (a) in a single regulator case, the act (or proposed act) on the part of the respondent that gave rise to the reference; and
- (b) in a multiple regulator case, the act (or proposed act) on the part of the primary regulator that gave rise to the reference;]

“the 2000 Act” means the Financial Services and Markets Act 2000[^{F27};]

[^{F27}“the 2013 Regulations” means the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013;]

[^{F27}“the 2013 (NI) Regulations” means the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013.]

Textual Amendments

- F23** Words in Sch. 3 para. 1 substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(4\)\(b\)](#)
- F24** Words in Sch. 3 para. 1 inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(4\)\(a\)](#)
- F25** Words in Sch. 3 para. 1 inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\), rules 1, 13\(a\)](#)
- F26** Words in Sch. 3 para. 1 substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(4\)\(c\)](#)
- F27** Words in Sch. 3 para. 1 inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\), rules 1, 13\(b\)](#)

Reference notice

2.—(1) A reference notice must be signed by or on behalf of the applicant and sent or delivered by the applicant to the Upper Tribunal.

(2) A reference notice must be received by the Upper Tribunal no later than 28 days after notice was given of the decision in respect of which the reference is made.

(3) The reference notice must state—

- (a) the name and address of the applicant;
- (b) the name and address of the applicant’s representative (if any);
- (c) if no representative is named under sub-paragraph (b), an address where documents for the applicant may be sent or delivered; and
- (d) the issues that the applicant wishes the Upper Tribunal to consider.

(4) The applicant must send or deliver to the Upper Tribunal with the reference notice a copy of the notice of the decision in respect of which the reference has been made.

[^{F28}(5) At the same time the applicant must send a copy of the reference notice—

- (a) in a single regulator case, to the respondent; and

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- (b) in a multiple regulator case, to each of the primary and secondary regulators.]

Textual Amendments

F28 Sch. 3 para. 2(5) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(5)**

Register of references and decisions

3.—(1) The Upper Tribunal must keep a register of references and decisions in financial services cases [^{F29}and wholesale energy cases].

(2) The register must be open to inspection by any person without charge and at all reasonable hours.

(3) The Upper Tribunal may direct that the register is not to include particulars of a reference if it is satisfied that it is necessary to do so having regard [^{F30}in particular to—

- (a) any unfairness to the applicant or, except as regards a reference in respect of a decision of the Prudential Regulation Authority, any prejudice to the interests of consumers that might otherwise result;
- (b) as regards a reference in respect of a decision of the Financial Conduct Authority, any detriment to the stability of the UK financial system;
- (c) as regards a reference in respect of a decision of the Prudential Regulation Authority, any prejudice to the safety and soundness of persons authorised by it, or where section 2C of the 2000 Act applies, any prejudice to securing the appropriate degree of protection for policy holders; or
- (d) as regards a reference under the 2013 Regulations or the 2013 (NI) Regulations any detriment to the stability of the wholesale energy market as defined in those Regulations.]

(4) Upon receiving a reference notice, the Upper Tribunal must—

- (a) subject to any direction given under sub-paragraph (3), enter particulars of the reference in the register; and
- (b) notify the parties either that it has done so or that it will not include particulars in the register, as the case may be.

[
^{F31}(5) In a multiple regulator case, notification under sub-paragraph (4)(b) must be given to each of the primary and secondary regulators.]

Textual Amendments

F29 Words in Sch. 3 para. 3(1) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(c)(i)**

F30 Words in Sch. 3 para. 3(3) substituted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(c)(ii)**

F31 Sch. 3 para. 3(5) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(6)**

[^{F32}Respondent’s statement of case in a single regulator case]

4.—(1) The respondent [^{F33}in a single regulator case] must send or deliver a written statement (“a statement of case”) in support of the referred action so that it is received by the Upper Tribunal no later than 28 days after the day on which the respondent received from the Upper Tribunal the notification required by paragraph 3(4)(b).

(2) The statement of case must—

- (a) identify the statutory provisions providing for the referred action;
- (b) state the reasons for the referred action; and
- (c) set out all the matters and facts upon which the respondent relies to support the referred action.

(3) The respondent must provide with the statement of case a list of—

- (a) any documents on which the respondent relies in support of the referred action; and
- (b) any further material which in the opinion of the respondent might undermine the decision to take that action.

(4) At the same time as it sends or delivers the statement of case, the respondent must send to the applicant a copy of the statement of case and of the list referred to in sub-paragraph (3).

Textual Amendments

F32 Sch. 3 para. 4 heading substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), [rules 1, 2\(7\)\(a\)](#)

F33 Words in Sch. 3 para. 4(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), [rules 1, 2\(7\)\(b\)](#)

[^{F34}Respondents’ statements of case in a multiple regulator case]

4A.—(1) This paragraph applies in a multiple regulator case.

(2) The primary regulator must send or deliver either—

- (a) a written statement (a “statement of case”) in support of the referred action; or
- (b) a written notification that it does not itself advance a case in support of the referred action,

so that it is received by the Upper Tribunal no later than 28 days after the day on which the primary regulator received from the Upper Tribunal the notification required by paragraph 3(4)(b).

(3) A primary regulator providing a written notification under sub-paragraph (2)(b) must send or deliver a copy to the secondary regulator and the applicant and upon so doing—

- (a) the primary regulator shall not be required to take further steps in the proceedings unless the Upper Tribunal gives a direction to the contrary under rule 6; and
- (b) the respondent shall be the secondary regulator unless the Upper Tribunal orders otherwise.

(4) The secondary regulator must send or deliver a written statement (“a statement of case”) in support of its decision to take the secondary regulator action so that it is received by the Upper Tribunal no later than 28 days after the day on which the secondary regulator received from the Upper Tribunal the notification required by paragraph 3(4)(b).

(5) A statement of case must—

- (a) identify the statutory provisions providing for the referred action;
- (b) state the reasons in support for the referred action; and

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- (c) set out all the matters and facts upon which the regulator relies to support the referred action.
- (6) A regulator must provide with the statement of case a list of—
- (a) all documents on which it relies in support of the referred action;
 - (b) any further material which, in the opinion of the regulator, might undermine its decision to—
 - (i) in the case of a primary regulator; take the referred action; and
 - (ii) in the case of a secondary regulator; take the secondary regulator action.
- (7) The primary regulator and the secondary regulator must send to the applicant and the other regulator a copy of any statement of case required by sub-paragraphs (2) and (4) above and of the list referred to in sub-paragraph (6).]

Textual Amendments

F34 Sch. 3 para. 4A inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(8)**

Applicant's reply

5.—(1) The applicant must send or deliver a written reply so that it is received by the Upper Tribunal no later than 28 days after—

[^{F35}(a) in a single regulator case, on the date on which the applicant received a copy of the statement of case;]

[in a multiple regulator case, on the first date on which the applicant was in receipt of all the ^{F35}(aa) statements and, where relevant, notifications required under paragraphs 4A(2) and 4A(4); or]

(b) if [^{F36}a respondent] amends its statement of case, the date on which the applicant received a copy of the amended statement of case.

(2) The reply must—

(a) state the grounds on which the applicant relies in the reference;

(b) identify all matters contained in [^{F37}the respondent's statement of case (or, where applicable, respondents' statements of case)] which are disputed by the applicant; ^{F38}...

(c) state the applicant's reasons for disputing them.

(3) The applicant must send with the reply a list of all the documents on which the applicant relies in support of his case.

(4) At the same time the applicant must send to [^{F39}all other parties] a copy of the reply and of the list referred to in sub-paragraph (3).

[^{F40}(5) Where the primary regulator has provided a written notification under paragraph 4A(2)(b), if the applicant wishes the Tribunal to direct that further steps in the proceedings be taken by the primary regulator, an application must be made at the time of sending the reply.]

Textual Amendments

F35 Sch. 3 para. 5(1)(a)(aa) substituted for Sch. 3 para. 5(1)(a) (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(9)(a)(i)**

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- F36** Words in Sch. 3 para. 5(1)(b) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(9\)\(a\)\(ii\)](#)
- F37** Words in Sch. 3 para. 5(2)(b) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(9\)\(b\)\(i\)](#)
- F38** Word in Sch. 3 para. 5(2)(b) omitted (1.4.2013) by virtue of [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(9\)\(b\)\(ii\)](#)
- F39** Words in Sch. 3 para. 5(4) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(9\)\(c\)](#)
- F40** Sch. 3 para. 5(5) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(9\)\(d\)](#)

Secondary disclosure by ^{F41}a respondent]

6.—(1) After the applicant's reply has been sent or delivered, if there is any further material which might reasonably be expected to assist the applicant's case as disclosed by the applicant's reply and which is not listed in the list ^{F42}(or lists)] provided in accordance with paragraph 4(3) ^{F43}(or paragraph 4A(6) where applicable)], the respondent ^{F44}(or the respondents)] must send or deliver to the Upper Tribunal a list ^{F45}(or lists)] of such further material.

(2) Any list required to be sent or delivered by sub-paragraph (1) must be sent or delivered so that it is received no later than 14 days after the day on which the respondent ^{F46}in question] received the applicant's reply.

(3) At the same time as it sends or delivers any list required by sub-paragraph (1) ^{F47}a respondent must send a copy to the applicant (and where applicable the other parties)].

Textual Amendments

- F41** Words in Sch. 3 para. 6 heading substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(a\)](#)
- F42** Words in Sch. 3 para. 6(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(b\)\(i\)](#)
- F43** Words in Sch. 3 para. 6(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(b\)\(ii\)](#)
- F44** Words in Sch. 3 para. 6(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(b\)\(iii\)](#)
- F45** Words in Sch. 3 para. 6(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(b\)\(iv\)](#)
- F46** Words in Sch. 3 para. 6(2) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(c\)](#)
- F47** Words in Sch. 3 para. 6(3) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(10\)\(d\)](#)

Exceptions to disclosure

7.—(1) A list provided in accordance with paragraph 4(3)^{F48}, 4A(6)] or 6(1) need not include any document that relates to a case involving a person other than the applicant which was taken into account by the respondent ^{F49}providing the list] in the applicant's case only for the purposes of comparison with other cases.

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(2) A list provided in accordance with paragraph 4(3)^[F50], 4A(6)], 5(3) or 6(1) need not include any document that is material the disclosure of which for the purposes of or in connection with any legal proceedings is prohibited by ^[F51]section 56 of the Investigatory Powers Act 2016].

(3) A list provided in accordance with paragraph 4(3)^[F52], 4A(6)], 5(3) or 6(1) need not include any document in respect of which an application has been or is being made under sub-paragraph (4).

(4) A party may apply to the Upper Tribunal (without giving notice to any other party) for a direction authorising the party making the application not to include in the list required by paragraph 4(3)^[F53], 4A(6)], 5(3) or 6(1) a document on the ground that disclosure of the document—

- (a) would not be in the public interest; or
- (b) would not be fair, having regard to—
 - (i) the likely significance of the document to the applicant in relation to the matter referred to the Upper Tribunal; and
 - (ii) the potential prejudice to the commercial interests of a person other than the applicant which would be caused by disclosure of the document.

(5) For the purpose of deciding an application by a party under sub-paragraph (4), the Upper Tribunal may—

- (a) require the document to be produced to the Upper Tribunal together with a statement of the reasons why its inclusion in the list would—
 - (i) in the case of an application under sub-paragraph (4)(a), not be in the public interest; or
 - (ii) in the case of an application under sub-paragraph (4)(b), not be fair; and
- (b) invite any other party to make representations.

(6) If the Upper Tribunal refuses an application under sub-paragraph (4), it must direct the party—

- (a) to revise its list so as to include the document; and
- (b) to send or deliver a copy of the revised list to the Upper Tribunal and to any other party.

^[F54](7) A party (“P”) who has sent or delivered a list under paragraph 4(3), 4A(6), 5(3) or 6(1) must, upon the request of another party, provide that other party with a copy of any document which P has which is specified in the list, or make it available for inspection or copying, and if P does not have it, tell the other party where to the best of P’s knowledge and belief it may be found.]

(8) Sub-paragraph (7) does not apply to any document that is a protected item.

(9) In this paragraph “protected item” has the meaning provided by section 413 of the 2000 Act, section 311(2) of the Pensions Act 2004 or article 283(2) of the Pensions (Northern Ireland) Order 2005 ^[F55]or regulation 52(2) of the 2013 Regulations or regulation 51(2) of the 2013 (NI) Regulations].

Textual Amendments

- F48** Words in Sch. 3 para. 7(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(a\)\(i\)](#)
- F49** Words in Sch. 3 para. 7(1) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(a\)\(ii\)](#)
- F50** Words in Sch. 3 para. 7(2) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(b\)](#)
- F51** Words in Sch. 3 para. 7(2) substituted (27.6.2018) by [The Investigatory Powers \(Consequential Amendments etc.\) Regulations 2018 \(S.I. 2018/682\), reg. 1\(3\), Sch. 1 para. 6](#)

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- F52** Words in Sch. 3 para. 7(3) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(c\)](#)
- F53** Words in Sch. 3 para. 7(4) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(d\)](#)
- F54** Sch. 3 para. 7(7) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(11\)\(e\)](#)
- F55** Words in Sch. 3 para. 7(9) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\), rules 1, 13\(d\)](#)

Subsequent notices in relation to the referred action

8. Where, after a reference notice has been sent or delivered, [^{F56}a respondent] gives the applicant any further, amended or supplementary notice in relation to the referred action, [^{F57}that respondent] must without delay send or deliver a copy of that notice to the Upper Tribunal.

Textual Amendments

- F56** Words in Sch. 3 para. 8 substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(12\)\(a\)](#)
- F57** Words in Sch. 3 para. 8 substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\), rules 1, 2\(12\)\(b\)](#)

References by third parties

9.—(1) In the case of any reference made by an applicant under section 393 of the 2000 Act^{F58}, regulation 40 of the 2013 Regulations or regulation 40 of the 2013 (NI) Regulations] (third party rights) these rules apply subject to the modifications set out in this paragraph.

(2) In this paragraph—

- (a) if the reference was made under section 393(9) of the 2000 Act^{F59}, regulation 40(9) of the 2013 Regulations or regulation 40(9) of the 2013 (NI) Regulations] (reference to the Upper Tribunal by a third party to whom a decision notice was copied), the notice of the decision in respect of which the reference has been made is the decision notice which was copied to the applicant by the respondent [^{F60}that gave the notice]; and
- (b) if the reference was made under section 393(11) of the 2000 Act^{F61}, regulation 40(11) of the 2013 Regulations or regulation 40(11) of the 2013 (NI) Regulations] (reference to the Upper Tribunal by a third party who alleges that they were not given a copy of a decision notice), the notice of the decision in respect of which the reference has been made is the decision notice which the applicant alleges was not copied to them.

(3) If the reference was made under section 393(11) of the 2000 Act^{F62}, regulation 40(11) of the 2013 Regulations or regulation 40(11) of the 2013 (NI) Regulations], paragraph 2(4) does not apply.

[^{F63}(4) The duties of a respondent to—

- (a) set out information under paragraphs 4(2), 4A(2), 4A(4) or 4A(5); or
- (b) list material under paragraphs 4(3), 4A(6) or 6(1);

apply only to information or material which relate to the matters referred to the Upper Tribunal in accordance with section 393(9) or (as the case may be) section 393(11) of the 2000 Act^{F64}, regulation 40(9) or, as the case may be, regulation 40(11) of the 2013 Regulations, or regulation 40(9) or, as the case may be, regulation 40(11) of the 2013 (NI) Regulations].]]

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Textual Amendments

- F58** Words in Sch. 3 para. 9(1) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(e)(i)**
- F59** Words in Sch. 3 para. 9(2)(a) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(e)(ii)**
- F60** Words in Sch. 3 para. 9(2)(a) inserted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(13)(a)**
- F61** Words in Sch. 3 para. 9(2)(b) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(e)(iii)**
- F62** Words in Sch. 3 para. 9(3) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(e)(iv)**
- F63** Sch. 3 para. 9(4) substituted (1.4.2013) by [The Tribunal Procedure \(Amendment No. 2\) Rules 2013 \(S.I. 2013/606\)](#), rules 1, **2(13)(b)**
- F64** Words in Sch. 3 para. 9(4) inserted (6.4.2014) by [The Tribunal Procedure \(Amendment\) Rules 2014 \(S.I. 2014/514\)](#), rules 1, **13(e)(v)**

[^{F65}SCHEDULE 4

Rule 26C

Procedure in financial sanctions cases

Textual Amendments

- F65** Sch. 4 inserted (27.7.2017) by [The Tribunal Procedure \(Amendment\) Rules 2017 \(S.I. 2017/723\)](#), rules 1, **13**

Interpretation

1. In this Schedule—

“2017 Act” means the Policing and Crime Act 2017.

“financial sanctions legislation” has the meaning provided by section 143(4) of the 2017 Act.

“further material” means documents which-

- (a) were considered by the Treasury in reaching a decision under section 147(3) of the 2017 Act to impose the monetary penalty that is the subject of the appeal; or
- (b) were considered by the Minister in reaching a decision under section 147(4) of the 2017 Act to uphold the monetary penalty that is the subject of the appeal; or
- (c) were obtained by either the Treasury or the Minister in connection with a decision described above (whether they were obtained before or after making the decision) but which were not considered by them in reaching that decision, but does not include documents on which the respondent relies in support of the decision made.

Notice of Appeal

2.—(1) A notice of appeal must be made in writing and received by the Upper Tribunal no later than 28 days after notice was given of the decision under challenge.

(2) The notice of appeal must state—

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- (a) the name and address of the appellant;
 - (b) the name and address of the appellant’s representative (if any);
 - (c) if no representative is named under sub-paragraph (b), an address where documents for the appellant may be sent or delivered;
 - (d) details (including the full reference) of the decision challenged; and
 - (e) the grounds on which the appellant relies.
- (3) The appellant must provide with the notice of appeal a copy of—
- (a) any written record of the Treasury’s decision under section 147(3) of the 2017 Act;
 - (b) any written record of the Minister’s decision under section 147(4) of the 2017 Act;
 - (c) any separate written statement of reasons for either of those decisions.
- (4) If the appellant provides the notice of appeal to the Upper Tribunal later than the time required by sub-paragraph (1) or by an extension of time allowed under rule 5(3)(a) (power to extend time)—
- (a) the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time; and
 - (b) unless the Upper Tribunal extends time for the application under rule 5(3)(a) (power to extend time) the Upper Tribunal must not admit the notice of appeal.
- (5) At the same time as it sends the notice to the Upper Tribunal, the appellant must send a copy of the notice and any accompanying documents to the respondent.

Respondent’s statement of case

3.—(1) On receipt of a copy of a notice of appeal, the respondent must send or deliver a written statement (“a statement of case”) in support of the decision taken so that it is received by the Upper Tribunal no later than 28 days after the day on which the respondent received from the Upper Tribunal the copy of the notice of appeal.

- (2) The statement of case must—
- (a) identify the provisions of the financial sanctions legislation by reference to which the decision was made;
 - (b) state the reasons for the decision; and
 - (c) set out all the matters and facts upon which the respondent relies to support the decision.
- (3) The respondent must provide with the statement of case a list of—
- (a) any documents (or relevant extracts) on which the respondent relies in support of the decision; and
 - (b) any further material (or relevant extracts) which in the opinion of the respondent might undermine the decision taken.

(4) At the same time as it sends or delivers the statement of case to the Upper Tribunal, the respondent must send to the appellant a copy of the statement of case and of the list referred to in sub-paragraph (3).

Appellant’s reply

4.—(1) The appellant must send or deliver a written reply so that it is received by the Upper Tribunal no later than 28 days after the date on which the appellant received a copy of the statement of case.

- (2) The reply must—

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- (a) identify all matters contained in the respondent's statement of case which are disputed by the appellant; and
 - (b) state the appellant's reasons for disputing them.
- (3) The appellant must send with the reply a list of all the documents (or relevant extracts) on which the appellant relies in support of the appellant's case.
- (4) At the same time as it sends or delivers the written reply required by sub-paragraph (1) to the Upper Tribunal, the appellant must send to the respondent a copy of the reply and of the list referred to in sub-paragraph (3).

Secondary disclosure by the respondent

- 5.—(1) After the appellant's reply has been sent or delivered, if there is any further material (or relevant extracts) which might reasonably be expected to assist the appellant's case as disclosed by the appellant's reply and which is not listed in the list provided in accordance with paragraph 4(3), the respondent must send or deliver to the Upper Tribunal a list of such further material (or relevant extracts).
- (2) Any list required to be sent or delivered by sub-paragraph (1) must be sent or delivered so that it is received no later than 14 days after the day on which the respondent received the appellant's reply.
- (3) At the same time as it sends or delivers any list required by sub-paragraph (1) to the Upper Tribunal, the respondent must send a copy to the appellant.

Exceptions to disclosure

- 6.—(1) A list provided in accordance with paragraph 3(3), 4(3) or 5(1) need not include any document:
- (a) that is material the disclosure of which for the purposes of or in connection with any legal proceedings is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000; or
 - (b) in respect of which an application has been or is being made under sub-paragraph (2).
- (2) A party may apply to the Upper Tribunal (without giving notice to any other party) for a direction authorising the party making the application not to include in the list required by paragraph 3(3), 4(3) or 5(1) a document on the ground that disclosure of the document—
- (a) would not be in the public interest; or
 - (b) should not otherwise be given.
- (3) For the purpose of deciding an application by a party under sub-paragraph (2), the Upper Tribunal may—
- (a) require the document to be produced to the Upper Tribunal together with a statement of the reasons why—
 - (i) in the case of an application under sub-paragraph (2)(a), its disclosure would not be in the public interest; or
 - (ii) in the case of an application under sub-paragraph (2)(b), its disclosure should not be given; and
 - (b) invite the other party to make representations.
- (4) If the Upper Tribunal refuses an application under sub-paragraph (2), it must direct the party—
- (a) to revise its list so as to include the document; and
 - (b) to send or deliver a copy of the revised list to the Upper Tribunal and to the other party.

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(7) A party (“P”) who has sent or delivered a list under paragraph 3(3), 4(3) or 5(1) must, upon the request of the other party, provide that party with a copy of any document which P has which is specified in the list, or make it available for inspection or copying, and if P does not have it, tell the other party where to the best of P’s knowledge and belief it may be found.

(8) Sub-paragraph (7) does not apply to any document in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications as between client and professional legal adviser, could be maintained in legal proceedings]

Changes to legislation:

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Changes and effects yet to be applied to :

- rule 1(3) word inserted by [S.I. 2024/588 rule 2\(2\)\(b\)\(ii\)\(bb\)](#)
- rule 1(3) word omitted by [S.I. 2024/588 rule 2\(2\)\(b\)\(ii\)\(aa\)](#)
- rule 1(3) words inserted by [S.I. 2024/588 rule 2\(2\)\(b\)\(i\)](#)
- rule 1(3) words inserted by [S.I. 2024/588 rule 2\(2\)\(b\)\(ii\)\(cc\)](#)
- rule 11(1) words substituted by [S.I. 2024/588 rule 2\(3\)](#)

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\(4\)](#)