

**2014 No. 2128 (L. 30)**

**TRIBUNALS AND INQUIRIES**

**The Tribunal Procedure (Amendment No. 3) Rules 2014**

*Made* - - - - - *7th August 2014*

*Laid before Parliament* *11th August 2014*

*Coming into force in accordance with rule 1*

The Tribunal Procedure Committee has made the following Rules in exercise of the powers conferred by section 22 of and Schedule 5 to the Tribunals, Courts and Enforcement Act 2007<sup>(a)</sup>, having consulted in accordance with paragraph 28(1) of Schedule 5.

The Lord Chancellor has allowed the Rules in accordance with paragraph 28(3) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.

**Citation and commencement**

1. These Rules may be cited as the Tribunal Procedure (Amendment No. 3) Rules 2014 and come into force on—

- (a) 1st September 2014, for the purposes of rules 4(a), (c) and (d), 6(b), 13, 19 to 32 and 36 to 39;
- (b) 20th October 2014, for all other purposes.

**Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008**

2. The Tribunal Procedure (Upper Tribunal) Rules 2008<sup>(b)</sup> are amended as follows.

3. In the table of contents, at the relevant places—

- (a) for the entry relating to rule 19 substitute—  
“19 Confidentiality in social security and child support cases”;
- (b) after the entry relating to rule 22 insert—  
“22A Special procedure for providing notice of a refusal of permission to appeal in an asylum case.”;
- (c) omit the entry relating to rule 40A.

4. In rule 1(3)—

- (a) after the definition of authorised person, insert—  
““disability discrimination in schools case” means proceedings concerning discrimination in the education of a child or young person or related matters;”

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(a) 2007 c. 15  
(b) S.I. 2008/2698

- (b) in the definition of “fast-track case”(a) for “Schedule 2 to the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005” substitute “rule 2(3) of the Schedule to the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014”;
- (c) after the definition of “road transport case” insert—
  - ““special educational needs case” means proceedings concerning the education of a child or young person who has or may have special educational needs, including proceedings relating to—
    - (a) an EHC needs assessment within the meaning of section 36(2) of the Children and Families Act 2014(b); or
    - (b) an EHC plan within the meaning of section 37(2) of that Act, of such a child or young person;”
- (d) after the definition of working day, insert—
  - ““young person” means, in relation to a special educational needs case or a disability discrimination in schools case, a person over compulsory school age but under 25;”

**5. In rule 5(4) (case management powers)(c)—**

- (a) at the end of sub-paragraph (a) insert “or”;
- (b) in sub-paragraph (b)—
  - (i) omit “there are exceptional circumstances which suggest that”;
  - (ii) at the end of that sub-paragraph omit “: or”;
- (c) omit sub-paragraph (c).

**6. In rule 12 (calculating time)(d)—**

- (a) in paragraph (3A), at the end of sub-paragraph (a) omit “; and” and sub-paragraph (b);
- (b) omit paragraph (5).

**7. For rule 19 (confidentiality in child support or child trust fund cases)(e) substitute—**

**“Confidentiality in social security and child support cases**

**19.—(1) Paragraph (4) applies to an appeal against a decision of the First-tier Tribunal—**

- (a) in proceedings under the Child Support Act 1991(f) in the circumstances described in paragraph (2), other than an appeal against a reduced benefit decision (as defined in section 46(10)(b) of the Child Support Act 1991, as that section had effect prior to the commencement of section 15(b) of the Child Maintenance and Other Payments Act 2008(g)); or
- (b) in proceedings where the parties to the appeal include former joint claimants who are no longer living together in the circumstances described in paragraph (3).

**(2) The circumstances referred to in paragraph (1)(a) are that—**

- (a) in the proceedings in the First-tier Tribunal in respect of which the appeal has been brought, there was an obligation to keep a person’s address confidential; or
- (b) an absent parent, non-resident parent or person with care would like their address or the address of the child to be kept confidential and has given notice to that effect to the Upper Tribunal—

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(a) The definition of “fast-track case” was inserted by S.I. 2010/44.  
 (b) 2014 c. 6  
 (c) Rule 5(4) was amended by S.I. 2010/44.  
 (d) Rule 12(3A) was added by S.I. 2010/44.  
 (e) Rule 19 was amended by S.I. 2012/2007.  
 (f) 1991 c. 48  
 (g) 2008 c. 6

- (i) in an application for permission to appeal or notice of appeal;
- (ii) within 1 month after an enquiry by the Upper Tribunal; or
- (iii) when notifying any subsequent change of address after proceedings have been started.

(3) The circumstances referred to in paragraph (1)(b) are that—

- (a) in the proceedings in the First-tier Tribunal in respect of which the appeal has been brought, there was an obligation to keep a person’s address confidential; or
- (b) one of the former joint claimants would like their address to be kept confidential and has given notice to that effect to the Upper Tribunal—
  - (i) in an application for permission to appeal or notice of appeal;
  - (ii) within 1 month after an enquiry by the Upper Tribunal; or
  - (iii) when notifying any subsequent change of address after proceedings have been started.

(4) Where this paragraph applies, the Secretary of State or other decision maker and the Upper Tribunal must take appropriate steps to secure the confidentiality of the address and of any information which could reasonably be expected to enable a person to identify the address, to the extent that the address or that information is not already known to each other party.

(5) In this rule—

“absent parent”, “non-resident parent” and “person with care” have the meanings set out in section 3 of the Child Support Act 1991(a);

“joint claimants” means the persons who made a joint claim for a jobseeker’s allowance under the Jobseekers Act 1995(b), a tax credit under the Tax Credits Act 2002(c) or in relation to whom an award of universal credit is made under Part 1 of the Welfare Reform Act 2012(d).”

**8.** In rule 21 (application to the Upper Tribunal for permission to appeal)(e)—

- (a) in paragraph (3)(aa) omit “subject to paragraph (3A)”;
- (b) in paragraph (3)(aa)(i), for “seven working” substitute “14”;
- (c) omit paragraph (3)(ab);
- (d) omit paragraph (3A).

**9.** In rule 22(1) (decision in relation to permission to appeal)(f), for “Subject to rule 40A” substitute “Except where rule 22A (special procedure for providing notice of a refusal of permission to appeal in an asylum case) applies”.

**10.** After rule 22 insert—

**“Special procedure for providing notice of a refusal of permission to appeal in an asylum case**

**22A.—**(1) This rule applies to a decision in an asylum case to refuse permission to appeal or to refuse to admit a late application for permission to appeal, where—

- (a) the appellant is not the Secretary of State;
- (b) at the time the application is made the appellant is in the United Kingdom; and

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(a) The definition of “non-resident parent” was added by the Child Support, Pensions and Social Security Act 2000 (c. 19), Schedule 3, paragraph 11(2).  
 (b) 1995 c. 18  
 (c) 2002 c. 21  
 (d) 2012 c. 5  
 (e) Rule 21 was amended by S.I. 2010/44.  
 (f) Rule 22(1) was amended by S.I. 2014/514 and 2014/1505.

(c) the decision is not made in a fast-track case.

(2) The Upper Tribunal must provide written notice of the refusal and of the reasons for the refusal (“the notice”) to the Secretary of State as soon as reasonably practicable.

(3) The Secretary of State must—

(a) send the notice to the appellant not later than 30 days after the Upper Tribunal provided it to the Secretary of State; and

(b) as soon as practicable after doing so, inform the Upper Tribunal of the date on which, and the means by which, it was sent.

(4) If the Secretary of State does not give the Upper Tribunal the information required by paragraph (3)(b) within 31 days after the notice was provided to the Secretary of State, the Upper Tribunal must send the notice to the appellant as soon as reasonably practicable.”

**11.** In rule 24(2)(aa) (response to the notice of appeal)(a), for “one day” substitute “two days”.

**12.** In rule 36A(1)(a) (special time limits for hearing an appeal in a fast-track case)(b), for “four” substitute “five”.

**13.** In rule 37(4)(e) (public and private hearings)(c) for “the age of eighteen years” substitute “18, other than a young person who is a party in a special educational needs case or a disability discrimination in schools case”.

**14.** In rule 40(2) (decisions)(d) for “rule 40A (special procedure for providing notice of a decision relating to an asylum case)” substitute “rule 22 (decision in relation to permission to appeal) or rule 22A (special procedure for providing notice of a refusal of permission to appeal in an asylum case)”.

**15.** Omit rule 40A (special procedure for providing notice of a decision relating to an asylum case)(e).

**16.** In Schedule 1 (procedure after the notice of appeal in road transport cases)(f), paragraph 4(c), insert “to” before “each”.

### **Amendments to the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009**

**17.** The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(g) are amended as follows.

**18.** In rule 22 (the notice of appeal)(h), for paragraph (1A) substitute—

“(1A) The time limit in paragraph (1)(b) does not apply to—

(a) the laying before the Tribunal by the Immigration Services Commissioner of a disciplinary charge under paragraph 9(1)(e) of Schedule 5 to the Immigration and Asylum Act 1999(i); or

(b) an application by the Immigration Services Commissioner for suspension of a person’s registration under paragraph 4B(1) of Schedule 6 to that Act.(j)”

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(a) Rule 24 was amended by S.I. 2009/1975, 2010/43, 2010/44 and 2012/1363.

(b) Rule 36A was added by S.I. 2010/44.

(c) Rule 37 was amended by S.I. 2009/274, 2009/1975 and 2010/43.

(d) Rule 40(2) was amended by S.I. 2010/44 and S.I. 2013/477.

(e) Rule 40A was added by S.I. 2010/44 and amended by S.I. 2013/2067 and 2014/1505.

(f) Schedule 1 was added by S.I. 2009/1975 and amended by S.I. 2012/1363.

(g) S.I. 2009/1976

(h) Rule 22(1A) was added by S.I. 2012/500.

(i) 1999 c. 33. Schedule 5, paragraph 9 has been amended by Schedule 7, paragraphs 2(2), 4(2) and 7(3) to (5) of the Immigration Act 2014 (c. 22)

(j) Paragraph 4B was added to Schedule 6 to the Immigration and Asylum Act 1999 (c. 33) by Schedule 6, paragraph 5(4) of the Immigration Act 2014 (c. 22).

## **Amendments to the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008**

**19.** The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(a) are amended as follows.

**20.** In rule 1(3) (interpretation)—

- (a) in the definition of “disability discrimination in schools case”, after “child” insert “or young person”;
- (b) for the definition of “special educational needs case”, substitute—
  - ““special educational needs case” means proceedings concerning—
  - (a) an EHC needs assessment within the meaning of section 36(2) of the Children and Families Act 2014(b), or
  - (b) an EHC plan within the meaning of section 37(2) of that Act,of a child or young person who has or may have special educational needs;”;
- (c) after the definition of “working day” insert—
  - ““young person” means, in relation to a special educational needs case or a disability discrimination in schools case, a person over compulsory school age but under 25;”

**21.** In rule 11 (representatives)(c), after paragraph (1) insert—

“(1A) Where a child or young person is a party to proceedings, that child or young person may appoint a representative under paragraph (1).”

**22.** In rule 17(2) (withdrawal)(d)—

- (a) at the end of sub-paragraph (a) omit “or”;
- (b) after paragraph (2)(b) insert—
  - “; or
  - (c) where a local authority notifies the Tribunal before the expiry of the time limit for submitting a response that it will not oppose the appeal in a special educational needs case.”;
- (c) after paragraph (6) insert—
  - “(7) Where a local authority has notified the Tribunal before the expiry of the time limit for submitting a response that it will not oppose the appeal in a special educational needs case, the notice under paragraph (6) must state the date on which the Tribunal was so notified.”

**23.** In rule 19 (application for leave), for paragraphs (1) and (2) substitute—

“(1) This rule applies to applications for leave to bring proceedings under—

- (a) section 32 of the Criminal Justice and Court Services Act 2000(e) (application to have the issue of the continuation of a disqualification order determined by the Tribunal);
- (b) section 51 of the Children and Families Act 2014 where leave to appeal is required by virtue of regulation 34(3) of the Education (Special Educational Needs and Disability) Regulations 2014 (appeal in a special educational needs case in the absence of a mediation certificate).

(2) An application to the Tribunal for leave must be made by sending or delivering an application to the Tribunal which—

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(a) S.I. 2008/2699  
(b) 2014 c. 6  
(c) Rule 11 was amended by S.I. 2013/477.  
(d) Rule 17(2) was amended by S.I. 2013/477.  
(e) 2000 c. 43

- (a) gives full reasons why the applicant considers that the Tribunal should give leave; and
- (b) complies with paragraphs (2) to (4) of rule 20 (the application notice) as if the application for leave were an application notice.”

**24. In rule 20 (the application notice)(a)—**

- (a) for paragraph (1)(c) substitute—

“(c) in a special educational needs case—

- (i) within 2 months after written notice of the decision being challenged was sent to the applicant; or
- (ii) within 1 month from the date of issue of the mediation certificate if that date would be a later date than the date calculated by reference to paragraph (i);”;

- (b) for paragraph (3) substitute—

“(3) The applicant must send with the application notice—

- (a) a copy of any written record of any decision under challenge,
- (b) any statement of reasons for that decision that the applicant has or can reasonably obtain, and
- (c) in a special educational needs case to which section 55(3) of the Children and Families Act 2014 (cases in which an appeal may be made only if a mediation certificate has been issued) applies, a copy of any certificate issued under subsection (4) or (5) of that section, as the case may be.”

**25. In rule 21 (the response)(b)—**

- (a) in paragraph (1)(cc), after “child” insert “or young person”;
- (b) in paragraph (2)(e) after “case” insert “brought by a parent of a child”.

**26. In rule 24 (entitlement to attend a hearing), for paragraph (b) substitute—**

“(b) in a special educational needs case or a disability discrimination in schools case brought by a parent of a child, the child is entitled to attend a hearing and the Tribunal may permit the child to give evidence and to address the Tribunal.”

**27. In rule 26(5) (public and private hearings), for paragraph (e) substitute—**

“(e) in a special educational needs case or a disability discrimination in schools case brought by a parent of a child or by a young person who lacks capacity to conduct their case, that child or young person, if the Tribunal considers that their presence at the hearing would be adverse to their interests.”

**28. In the Schedule (cases in which time for providing the application notice is within three months etc)—**

- (a) omit the second and the fourth entries in the Schedule;
- (b) at the end of the Schedule insert the following entry—

“An appeal under section 129(1) of the Education and Skills Act 2008(c) (appeal against a decision to give, or not to vary or revoke, a direction prohibiting or restricting a person from taking part in the management of an independent educational institution).”

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(a) Rule 20 was amended by S.I. 2011/651.  
 (b) Rule 21 was amended by S.I. 2010/651 and S.I. 2012/1363.  
 (c) 2008 c. 25

### **Amendment to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**

**29.** The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013(a) are amended as follows.

**30.** In rule 1(3) (interpretation)—

- (a) in sub-paragraph (b)(v) of the definition of “interested person”, for “paragraph 8 or 9” substitute “paragraph 7B or 8B”(b);
- (b) in of the definition of “residential property case”, after “under” insert “the Caravan Sites and Control of Development Act 1960(c),”.

**31.** Omit rule 45 (urgent sale or gift of a mobile home applications) and the entry relating to that rule in the table of contents.

**32.** In rule 47(5) (interim orders) omit “or sale or gift of a mobile home”.

### **Amendments to the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008**

**33.** The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008(d) are amended as follows.

**34.** In the table of contents, in the entry for rule 19, for “child support or child trust fund” substitute “social security and child support”.

**35.** For rule 19 (confidentiality in child support or child trust fund cases)(e) and the heading to that rule substitute—

#### **“Confidentiality in social security and child support cases**

**19.**—(1) Paragraph (4) applies to—

- (a) proceedings under the Child Support Act 1991(f) in the circumstances described in paragraph (2), other than an appeal against a reduced benefit decision (as defined in section 46(10)(b) of the Child Support Act 1991, as that section had effect prior to the commencement of section 15(b) of the Child Maintenance and Other Payments Act 2008(g));
- (b) proceedings where the parties to the appeal include former joint claimants who are no longer living together in the circumstances described in paragraph (3).

(2) The circumstances referred to in paragraph (1)(a) are that the absent parent, non-resident parent or person with care would like their address or the address of the child to be kept confidential and has given notice to that effect—

- (a) in the notice of appeal or when notifying the Secretary of State or the Tribunal of any subsequent change of address; or
- (b) within 14 days after an enquiry is made by the recipient of the notice of appeal or the notification referred to in sub-paragraph (a).

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(a) S.I. 2013/1169

(b) Paragraphs 7B and 8B were added to Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (c. 34) by section 10 of the Mobile Homes Act 2013 (c. 14).

(c) 1960 c. 62

(d) S.I. 2008/2685

(e) Rule 19 was amended by S.I. 2012/2007 and S.I. 2013/2067.

(f) 1991 c. 48

(g) 2008 c. 6

(3) The circumstances referred to in paragraph (1)(b) are that one of the former joint claimants would like their address to be kept confidential and has given notice to that effect—

- (a) in the notice of appeal or when notifying the decision maker or the tribunal of any subsequent change of address; or
- (b) within 14 days after an enquiry is made by the recipient of the notice of appeal or the notification referred to in sub-paragraph (a).

(4) Where this paragraph applies, the Secretary of State or other decision maker and the Tribunal must take appropriate steps to secure the confidentiality of the address and of any information which could reasonably be expected to enable a person to identify the address, to the extent that the address or that information is not already known to each other party.

(5) In this rule—

“absent parent”, “non-resident parent” and “person with care” have the meanings set out in section 3 of the Child Support Act 1991(a);

“joint claimants” means the persons who made a joint claim for a jobseeker’s allowance under the Jobseekers Act 1995(b), a tax credit under the Tax Credits Act 2002(c) or in relation to whom an award of universal credit is made under Part 1 of the Welfare Reform Act 2012(d).”

### **Amendment to the Tribunal Procedure (Amendment) Rules 2013**

**36.** The Tribunal Procedure (Amendment) Rules 2013(e) are amended as follows.

**37.** In rule 27(a) (amending rule 24(1) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 with effect from 1st October 2014), for the substitute sub-paragraph (b) of rule 24(1) substitute—

“(b) in—

- (i) criminal injuries compensation cases, or
- (ii) appeals under the Child Support Act 1991(f),

within 42 days after the date on which the decision maker received the copy of the notice of appeal; and”

### **Saving for cases relating to special educational needs or disability discrimination in schools**

**38.** The amendments made by rules 19 to 27 have no effect in relation to—

- (a) appeals brought under the Education Act 1996(g); or
- (b) claims brought under the Equality Act 2010(h) before 1st September 2014.

### **Revocation**

**39.** Rule 9(e)(i)(aa) of the Tribunal Procedure (Amendment No. 2) Rules 2012(i) is revoked.

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(a) The definition of “non-resident parent” was added by the Child Support, Pensions and Social Security Act 2000 (c. 19), Schedule 3, paragraph 11(2).  
(b) 1995 c. 18  
(c) 2002 c. 21  
(d) 2002 c. 5  
(e) S.I. 2013/477  
(f) 1991 c. 48  
(g) 1996 c. 56  
(h) 2010 c. 15  
(i) S.I. 2012/1363



We make these Rules,

*Brian F J Langstaff*  
*Philip Brook Smith QC*  
*Michael J Reed*  
*Mark Rowland*  
*Simon Cox*  
*Simon Ennals*  
*W B Thompson*  
*Jayam Dalal*

7th August 2014

I allow these Rules

*Chris Grayling*  
Lord Chancellor  
Ministry of Justice

7th August 2014

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the rules of procedure which apply in some of the chambers of the First-tier Tribunal and Upper Tribunal.

Rules 2 to 16 make amendments to the rules of the Upper Tribunal. The amendments made by rules 5, 6, 8 to 10, 11, 12, 14 and 15 concern appeals in immigration and asylum cases in the Upper Tribunal, most particularly fast track cases where the appellant is detained under the Immigration Acts. They also make changes reflecting the coming into force in October 2014 of new Tribunal Procedure Rules for the Immigration and Asylum Chamber of the First-tier Tribunal.

Rules 17 and 18 amend the rules of the General Regulatory Chamber of the First-tier Tribunal. The amendments ensure that the general time limits for appealing do not apply to cases where the Immigration Services Commissioner is making an application for suspension of a person's registration.

Rules 19 to 28 amend the rules of the Health, Education and Social Care Chamber of the First-tier Tribunal. They relate to changes made by Part 3 of the Children and Families Act 2014 (c. 6) (children and young people in England with special educational needs or disabilities) and the Special Educational Needs and Disability Regulations 2014 (S.I. 2014/1530) made under that Act. They make provision, in particular, where young persons bring appeals themselves in cases relating to special educational needs or disability discrimination in schools, for matters such as the need for permission to appeal if no mediation certificate has been issued, the time limits for appealing, and they cover matters such as their right to be represented, attend the hearing, give evidence and make submissions to the Tribunal. A related saving provision is contained in rule 38.

Rule 28 introduces a three month time limit for appeals to the Tribunal under section 129 of the Education and Skills Act 2008 (c. 25).

Rules 29 to 32 amend the rules of the Property Chamber of the First-tier Tribunal. The amendments reflect the recent conferral by the Mobile Homes Act 2013 (c. 14) of further jurisdiction relating to mobile homes and caravan sites.

Rules 33 to 37 amend the rules of the Social Entitlement Chamber of the First-tier Tribunal. The amendments relate to the circumstances in which joint claimants in social security and child support cases can request that the Tribunal keeps certain information confidential, namely their own, or their child's, address. A similar amendment is made by Rule 7 to the rules of the Upper Tribunal for cases which are heard in that Tribunal.

The other changes revoke obsolete provisions or are minor corrections or improvements.

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