

2011 No. 2343 (L. 18)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Upper Tribunal) (Amendment) Rules 2011

Made - - - - - 22nd September 2011
Laid before Parliament 26th September 2011
Coming into force - 17th October 2011

The Tribunal Procedure Committee has made the following Rules in exercise of the powers conferred by sections 18(11), 19(5) and 22 of, and Schedule 5 to, the Tribunals, Courts and Enforcement Act 2007(a), and section 4 of the Forfeiture Act 1982(b), having consulted in accordance with paragraph 28(1) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.

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 (Upper Tribunal) (Amendment) Rules 2011 and come into force on 17th October 2011.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

2. The Tribunal Procedure (Upper Tribunal) Rules 2008(c) are amended as follows—

[Rule 3 amends the table of contents of S.I. 2008/2698.]

[Rule 4 amends rule 1 of S.I. 2008/2698.]

[Rule 5 substitutes rule 8(1) of S.I. 2008/2698.]

[Rule 6 amends rule 11 of S.I. 2008/2698.]

[Rule 7 makes insertions to rule 28(8) of S.I. 2008/2698.]

[Rule 8 inserts rule 28A into S.I. 2008/2698.]

[Rule 9 makes amendments to rule 29 of S.I. 2008/2698.]

[Rule 10 makes insertions to rule 30(5) of S.I. 2008/2698.]

[Rule 11 inserts rule 33A into S.I. 2008/2698.]

[Rule 12 substitutes rule 46(1) of S.I. 2008/2698.]

[Rule 13 amends rule 47 of S.I. 2008/2698.]

(a) 2007 c. 15.

(b) 1982 c. 34.

(c) S.I. 2008/2698 as amended by S.I. 2009/274, S.I. 2009/1975, S.I. 2010/43, S.I. 2010/44, S.I. 2010/747, S.I. 2010/2653 and S.I. 2011/651.

We make these Rules

Paul Walker
Mark Rowland
Michael Reed
Philip Brook Smith, QC
Simon Ennals

I allow these Rules

Signed by authority of the Lord Chancellor

22nd September 2011

McNally
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Tribunal Procedure (Upper Tribunal) Rules 2008 (“the Procedure Rules”).

First, a number of changes are made so the Upper Tribunal can deal with “fresh claim proceedings” in a similar way to the High Court in England and Wales. “Fresh claim proceedings” are those specified in a direction made by the Lord Chief Justice under section 18(6) of Tribunals, Courts and Enforcement Act 2007. Applications in such cases can be made directly to the Upper Tribunal or transferred from the High Court in England and Wales when the conditions in section 31A(2A) of the Senior Courts Act 1981 are met.

The Lord Chief Justice’s Direction can be found at:

<http://www.judiciary.gov.uk/publications-and-reports/practice-directions/tribunals/tribunals-pd>.

Rule 5 amends the strike out provisions in the Procedure Rules so that if an applicant fails to pay the required fee when permission has been granted, his application can be struck out.

Rule 6 amends the Procedure Rules to restrict representation in fresh claim judicial reviews before the Upper Tribunal to persons with the right to represent parties in the High Court.

Rule 8 provides that the Upper Tribunal must not accept an application for permission to bring fresh claim judicial review proceedings unless it is accompanied by a fee or an undertaking to pay a fee. It also provides for copies of the application to be served on all parties and details to be sent to the Upper Tribunal of when and how this was done.

Rule 9 provides that a recipient of an application for fresh claim judicial review proceedings must acknowledge service if they wish to take part in proceedings.

Rule 10 amends the time limit for making an application to the Upper Tribunal in fresh claim judicial review proceedings where the Upper Tribunal has determined an application for permission without a hearing, from 14 days to 9 days, to bring it into line with that applicable in the High Court.

Secondly, changes are made in rule 11 in respect of judicial reviews in England and Wales, to identify circumstances giving rise to an obligation, or a power, to transfer the application to the High Court in England and Wales, and to clarify that the Upper Tribunal may permit or require amendments, or permit reliance upon additional grounds, which would have this effect.

Thirdly, rules 12 and 13 make minor changes to correct an error in the rules governing forfeiture cases in the Upper Tribunal, to ensure that an appeal is available if the Upper Tribunal refuses to look again at its own decision in the circumstances set out in rule 47.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

