This Statutory Instrument has been made partially in consequence of a defect in S.I. 2022/312 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2024 No. 1283 (L. 20)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment No. 2) Rules 2024

Made - - - -	*2nd December 2024*
Laid before Parliament	*6th December 2024*
Coming into force - -	*27th December 2024*

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

The Lord Chancellor has allowed these 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. 2) Rules 2024 and come into force on 27th December 2024.

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

2.—(1) The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008(**b**) are amended as follows.

(2) In rule 22 (cases in which the notice of appeal is to be sent to the Tribunal)—

(a) in paragraph (2) after sub-paragraph (c) insert—

"(ca) in appeals under a scheme established under section 49(1) of the Victims and Prisoners Act 2024 (infected blood compensation scheme)(**c**), within 1 month after the date on which the appellant was sent written notice of the decision being challenged;";

(b) in paragraph (7)(b) after "in all other" insert "cases";

(c) in paragraph (8)(a) omit "not more than";

(**a**) 2007 c. 15. There are amendments to the Act but none is relevant to this instrument.
(**b**) S.I. 2008/2685; relevant amending instruments are S.I. 2013/477, 2015/1510 and 2023/327.
(**c**) 2024 c. 21. The Minister for the Cabinet Office has in exercise of the power conferred by section 49(1) of this Act made the Infected Blood Compensation Scheme Regulations 2024 (S.I. 2024/872), which came into force on 23 August 2024.

(d) in paragraph (9)(b) after "the appeal" insert ", other than an appeal under section 38(1) of the Tax Credits Act 2002(**a**),".

(3) In rule 30 (public and private hearings) omit paragraph (2).

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

3.—(1) The Tribunal Procedure (Upper Tribunal) Rules 2008(**b**) are amended as follows.

(2) In rule 11(8)(a) (representatives) omit "or after-care under supervision".

(3) In rule 25(2) (appellant's reply) for "Subject to paragraph (2A)" substitute "Subject to paragraphs (2A) and (2B)".

(4) In rule 30(2) (decision on permission or summary dismissal, and reconsideration of permission or summary dismissal at a hearing) after "whether summarily to dismiss" omit "of".

(5) In Schedule 1 (procedure after the notice of appeal in road transport cases), in paragraph 4(c) after "1995," omit "to" in the first place it occurs.

(6) In Schedule 3 (procedure in financial services cases and wholesale energy cases), in paragraph 5(5) (applicant's reply) before "Tribunal" insert "Upper".

(7) In Schedule 4 (procedure in financial sanctions cases), in paragraph 6(1)(a) (exceptions to disclosure) for "section 17 of the Regulation of Investigatory Powers Act 2000" substitute "section 56 of the Investigatory Powers Act 2016(**c**)".

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

4.—(1) The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(**d**) are amended as follows.

(2) In rule 35 (restrictions on disposal of proceedings without a hearing)—

(a) for paragraph (3) substitute—

"(3) The Tribunal may make a decision on a reference under section 68 (duty of managers of hospitals to refer cases to tribunal), 71(2) (references by Secretary of State concerning restricted patients) or 75(1) (references concerning conditionally discharged restricted patients) of the Mental Health Act 1983(**e**), as the case may be, without a hearing if the patient is aged 18 or over and—

(a) in the case of a patient who is a community patient, the patient or the patient's representative has stated in writing that the patient does not wish to attend or be represented at a hearing of the reference, or

(b) in the case of a patient who is not a community patient and is legally represented, the patient's representative has stated in writing that—

(i) the patient does not wish to attend or be represented at a hearing of the reference, and

(ii) the patient's representative has discussed with the patient the contents of any reports and any other documents provided by the responsible clinician

(**a**) 2002 c. 21. Section 38(1) was amended by the Welfare Reform Act 2012 (c. 5), section 120(3) and S.I. 2014/886.
(**b**) S.I. 2008/2698; relevant amending instruments are S.I. 2009/1975, 2010/44, 2013/477 and 606, 2014/2128, 2015/1510 and 2017/723.
(**c**) 2016 c. 25. Section 56 of the Act replaces section 17 of the Regulation of Investigatory Powers Act 2000 (c. 23) which was repealed by paragraph 45 of Schedule 10 to the Act.
(**d**) S.I. 2008/2699, amended by S.I. 2012/500.
(**e**) 1983 c. 20. Section 68 was amended by the Mental Health Act 2007 (c. 12), section 37 and by S.I. 2008/2833. Section 71(2) was amended by S.I. 2008/2833. Section 75(1) was amended by the Crime (Sentences) Act 1997 (c. 43), Schedule 4, paragraph 12(13) and by S.I. 2008/2833.

and any social supervisor in respect of the patient, and is satisfied that the patient has the capacity to decide whether or not to make that decision, and

the Tribunal is satisfied that the patient has the capacity to make that decision.";

(b) after paragraph (4) insert—

"(5) Paragraph (3) does not apply where—

(a) the patient's case has not previously been considered by the Tribunal, or

(b) the patient's case was last considered by the Tribunal without a hearing.".

Amendment to the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

5.—(1) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014(**a**) are amended as follows.

(2) In rule 39(1) (bail hearings) after "paragraph 11 of Schedule 10" insert "to the 2016 Act"(**b**).

Amendment to the Tribunal Procedure (Amendment) Rules 2022

6.—(1) The Tribunal Procedure (Amendment) Rules 2022(**c**) are amended as follows.

(2) In rule 3(5)(c)(i) before "to the end" insert "in the second place it occurs".

We make these Rules

Stephen Smith
Matt Jackson
David Franey
M J Reed
Mark Loveday
Susan Humble
Donald W Ferguson
Angela Shields
Philip Brook Smith KC
Gillian Fleming

27th November 2024

Tribunal Procedure Committee

I allow these Rules

Nic Dakin
Parliamentary Under Secretary of State
Ministry of Justice

2nd December 2024

(**a**) S.I. 2014/2604, amended by S.I. 2017/1168.
(**b**) "The 2016 Act" is defined in rule 37(2) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 as the Immigration Act 2016 (c. 19), to which there are amendments not relevant to this instrument.
(**c**) S.I. 2022/312.

EXPLANATORY NOTE

(This note is not part of the Rules)

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

Rule 2 amends the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685). Rule 2(2) amends rule 22 (cases in which the notice of appeal is to be sent to the Tribunal) to make provision for the time limits that apply to bring an appeal under a scheme established under section 49(1) of the Victims and Prisoners Act 2024 (c. 21). The scheme presently established being the Infected Blood Compensation Scheme established by the Infected Blood Compensation Scheme Regulations 2024 (S.I. 2024/872). This rule also makes drafting improvements to rule 22 to enhance clarity and readability. This includes an amendment to paragraph (9)(b) of rule 22 to clarify the time limit that applies to bring an appeal under section 38(1) of the Tax Credits Act 2002 (c. 21), following the decision of the Court of Appeal in Revenue and Customs Commissioners v Arrbab [2024] EWCA Civ 16. Additionally, rule 2(3) amends rule 30 (public and private hearings) to remove the requirement for hearings in criminal injuries compensation cases to be held in private (unless the Tribunal directs otherwise).

Rule 35(3) of the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (S.I. 2008/2699) (restrictions on disposal of proceedings without a hearing) provides an exception to the restriction on the Tribunal disposing of mental health cases without a hearing, where the patient is an adult community patient, who does not wish to attend or be represented at a hearing of their reference. Rule 4(2)(a) amends rule 35(3) to extend this exception so that it also applies to adult patients detained in hospital with capacity, whose cases have been referred under section 68, 71(2) or 75(1) of the Mental Health Act 1983 (c. 20) ("MHA") (as the case may be) to the Tribunal for review. Rule 4(2)(b) inserts a new paragraph (5) to rule 35 to provide that the exception in paragraph (3) (as amended by these Rules) does not apply to those patients whose detention under the MHA has never been considered by the Tribunal or the Tribunal last considered their case without a hearing.

Rules 3 and 5 make minor and technical drafting improvements to the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698) ("Upper Tribunal Rules") and the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 (S.I. 2014/2604) respectively, to remove redundant drafting, improve clarity and to update legislative references.

Rule 3(5)(c)(i) of the Tribunal Procedure (Amendment) Rules 2022 (S.I. 2022/312) ("2022 Amendment Rules") intended to amend rule 24(3)(e) of the Upper Tribunal Rules (response to the notice of appeal) to make substituted provisions to be inserted from "on which the respondent" in the second place the phrase appeared in that rule. This rule was not sufficiently specific in identifying that the substitution was intended to occur from the second place that "on which the respondent" appears in that rule. Rule 6 corrects the drafting in rule 3(5)(c)(i) of the 2022 Amendment Rules to remove this ambiguity.

No impact assessment has been carried out for these amendments as no, or no significant impact, on the private, voluntary, or public sectors is foreseen.

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