

2012 No. 1363 (L. 5)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment No. 2) Rules 2012

Made - - - - *22nd May 2012*

Laid before Parliament *24th May 2012*

Coming into force in accordance with rule 1

The Tribunal Procedure Committee has made the following Rules in exercise of the powers conferred on it 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 that Schedule.

The Lord Chancellor has allowed the Rules in accordance with paragraph 28(3) of that Schedule.

Citation and commencement

1. These Rules may be cited as the Tribunal Procedure (Amendment No. 2) Rules 2012 and come into force—

- (a) for the purposes of rules 2 and 3, on 1st September 2012;
- (b) for all other purposes, on 1st July 2012.

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

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

3. In paragraph (1) of rule 21 (the response)—

- (a) in sub-paragraph (c), after “in schools case” insert “to which sub-paragraph (cc) does not apply”;
- (b) at the end of sub-paragraph (c) insert a new sub-paragraph—

“(cc) in a disability discrimination in schools case that includes a claim for the reinstatement of a child who has been permanently excluded, within 15 working days after the respondent received the application notice;”.

(a) 2007 c.15

(b) S.I. 2008/2699. Amendments have been made by S.I. 2009/1975, S.I. 2010/43, S.I. 2010/2653, S.I. 2011/651 and S.I. 2011/500.

Amendments to the Tribunal Procedure (Upper Tribunal) Rules 2008

4. The Tribunal Procedure (Upper Tribunal) Rules 2008(a) are amended as follows.
5. In paragraph (3) of rule 1 (interpretation etc)—
- (a) in the definition of “appropriate national authority” after “Scottish Ministers” insert “, the Department of the Environment in Northern Ireland”;
 - (b) for the definition of “authorised person” substitute—
““authorised person” means—
 - (a) an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988(b);
 - (b) an examiner appointed by the Department of the Environment in Northern Ireland under Article 74 of the Road Traffic (Northern Ireland) Order 1995(c); or
 - (c) any person authorised in writing by the Department of the Environment in Northern Ireland for the purposes of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010(d);and includes a person acting under the direction of such an examiner or other authorised person, who has detained the vehicle to which an appeal relates;”
 - (c) in the definition of “respondent”, for “against any other decision except a decision of a traffic commissioner” substitute “other than a road transport case”;
 - (d) before the definition of “tribunal” insert—
““road transport case” means an appeal against a decision of a traffic commissioner or the Department of the Environment in Northern Ireland;”.
6. In paragraph (3) of rule 20A (procedure for applying for a stay of a decision pending an appeal)(e)—
- (a) in the first line, for “for a stay of a decision of a traffic commissioner” substitute “in a road transport case”;
 - (b) for each reference to “traffic commissioner” in sub-paragraphs (a) and (b), substitute “decision maker”.
7. In paragraph (6) of rule 23 (notice of appeal), for sub-paragraph (b) substitute—
- “(b) in a road transport case, to—
- (i) the decision maker;
 - (ii) the appropriate national authority; and
 - (iii) in a case relating to the detention of a vehicle, the authorised person”.
8. In paragraph (1) of rule 24 (response to the notice of appeal), for “an appeal against a decision of a traffic commissioner” substitute “a road transport case”.
9. In Schedule 1 (procedure after the notice of appeal in appeals against decisions of traffic commissioners)—
- (a) in the heading for “appeals against decisions of traffic commissioners” substitute “road transport cases”;
 - (b) in paragraph 1, for “an appeal against the decision of a traffic commissioner” substitute “road transport cases”;

(a) S.I. 2008/2698. Amendments have been made 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, S.I. 2011/651, S.I. 2011/2343 and S.I. 2012/500.

(b) 1988 c.52. Section 66A was inserted by section 9(1) of the Road Traffic Act 1991 (c. 40) and amended by paragraph 11 of Schedule 7 to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).

(c) S.I. 1995/2994 (N.I. 18)

(d) 2010 c. 2 (N.I.)

(e) Rule 20A was inserted by S.I. 2009/1975.

- (c) in paragraph 3, for each reference to “traffic commissioner” and “traffic commissioner’s”, substitute “decision maker” and “decision maker’s” respectively;
- (d) for paragraph 3(d), substitute—
 - “(d) in an appeal under—
 - (i) section 50 of the Public Passenger Vehicles Act 1981(a) or section 37 of the Goods Vehicles (Licensing of Operators) Act 1995(b), or
 - (ii) section 35 of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010,
 a list of the names and addresses of objectors and representors.”;
- (e) in paragraph 4—
 - (i) in sub-paragraph (b)—
 - (aa) before “each” insert “to”, and
 - (bb) at the end of that sub-paragraph omit “and”;
 - (ii) after sub-paragraph (c), insert—
 - “(d) in an appeal under section 35(5) of the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, to each person who made representations under section 11(4) or 18(2) of that Act.”;
- (f) in paragraph 10, for “traffic commissioner” substitute “decision maker”.

We make these Rules

Brian F J Langstaff
Philip Brook Smith QC
Simon Cox
Simon Ennals
Mark Rowland
Lesley Clare
Douglas J May QC
Bronwyn McKenna
MT Reed

I allow these Rules,
 Signed by the authority of the Lord Chancellor

J Djanogly
 Parliamentary Under Secretary of State
 Ministry of Justice

22nd May 2012

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (S.I. 2008/2699) and the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698).

In disability discrimination in schools cases where a person seeks the reinstatement of a pupil who has been permanently excluded, the time limit for a respondent to submit a response to the

(a) 1981 c. 14. Section 50 was substituted by section 31 of the Transport Act 1985 (c. 67) and amended by section 65(2) of, and paragraph 7 of Schedule 14 to, the Deregulation and Contracting Out Act 1994 (c. 40). It was also amended by paragraph 2(a) of Schedule 1 to the Transfer of Functions (Transport Tribunal and Appeal Panel) Order 2009 (S.I. 2009/1885).

(b) 1995 c. 23

Tribunal has been altered to 15 working days after the respondent received the application notice. In other cases, where reinstatement is not claimed, the time limit remains unaltered. These amendments to the First-tier Tribunal (Health, Education and Social Care Chamber) Rules are contained in rules 2 and 3.

Amendments are also being made for the purposes of appeals against decisions of the Department of the Environment in Northern Ireland relating to goods vehicles. As the procedures needed for these cases are similar to those which already apply in the Upper Tribunal for appeals from the decisions of traffic commissioners, the amendments are being added into those rules which already apply to appeals against traffic commissioners' decisions and both are newly defined as "road transport cases". These amendments to the Upper Tribunal Rules are contained in rules 4 to 9.

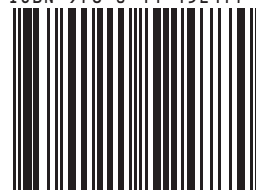
© Crown copyright 2012

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.00

E3539 05/2012 123539 19585

ISBN 978-0-11-152477-0



9 780111 524770