

2015 No. 1510 (L. 19)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment) Rules 2015

<i>Made</i> - - - -	<i>8th July 2015</i>
<i>Laid before Parliament</i>	<i>15th July 2015</i>
<i>Coming into force</i> - -	<i>21st August 2015</i>

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(a), having consulted in accordance with paragraph 28(1) of Schedule 5 to that Act.

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) Rules 2015 and come into force on 21st August 2015.

Amendments to the Upper Tribunal Rules 2008

2. The Upper Tribunal Rules 2008(b) are amended as follows.

3. In rule 1(3) (definitions)—

(a) after the definition of “practice direction” insert—

““QCS Board” means a Board constituted under Part 2 of the Transport Act 2000(c);

“quality contracts scheme” has the meaning provided for in section 124(3) (quality contracts scheme) of the Transport Act 2000(d);

“quality contracts scheme case” means proceedings in the Upper Tribunal under Part 2 of the Transport Act 2000;”;

(b) in the definition of “special educational needs case”(e), after paragraph (a) omit “or” and insert—

“(aa) a detained person’s EHC needs assessment within the meaning of section 70(5) of the Children and Families Act 2014(f); or”

(a) 2007 c. 15

(b) S.I. 2008/2698

(c) 2000 c. 38. Part 2 of the Transport Act 2000 has been amended in relation to quality contracts schemes by sections 19 to 39 and 77 of, and Schedule 4 to the Local Transport Act 2008 (c. 26) and the Transfer of Tribunal Functions (Transport Tribunal) Order 2015, S.I. 2015/65.

(d) Section 124 (3) has been amended by section 19 of the Local Transport Act 2008 (c. 26).

(e) The definition of “special educational needs case” in rule 1(3) has been amended by S.I. 2014/2128.

(f) 2014 c. 6

- 4. In rule 23 (notice of appeal)(a)—**
- (a) for paragraph (2)(b) substitute—
- “(b) if permission to appeal is not required, the date on which notice of decision to which the appeal relates—
- (i) was sent to the appellant; or
- (ii) in a quality contracts scheme case, if the notice was not sent to the appellant, the date on which the notice was published in a newspaper in accordance with the requirement of section 125 (notice and consultation requirements) of the Transport Act 2000(b).”;
- (b) after paragraph (6) insert—
- “(7) Paragraph (6)(a) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.”
- 5. In rule 24 (response to the notice of appeal)(c)—**
- (a) after paragraph (1)(aa) insert—
- “(ab) in a quality contracts scheme case, no later than 1 month after the date on which a copy of the notice of appeal is sent to the respondent;”
- (b) after paragraph (5) insert—
- “(6) Paragraph (5) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.”
- 6. In rule 25 (appellant’s reply)(d)—**
- (a) after paragraph (2A) insert—
- “(2B) In a quality contracts scheme case, the time limit in paragraph (2) is 1 month from the date on which the respondent sent a copy of the response to the appellant.”;
- (b) after paragraph (3) insert—
- “(4) Paragraph (3) does not apply in a quality contracts scheme case, in respect of which Schedule A1 makes alternative and further provision.”
- 7. Before Schedule 1 (procedure after the notice of appeal in road transport cases)(e) insert—**

“SCHEDULE A1

Rule 23

Procedure in Quality Contracts Scheme cases

- 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—

(a) Rule 23 has been amended by S.I. 2009/1975, 2010/44, 2010/747 and 2012/1363.
 (b) Section 125 has been amended by section 20 of the Local Transport Act 2008 (c. 26).
 (c) Rule 24 has been amended by S.I. 2009/1975, 2010/43, 2010/44 and 2012/1363.
 (d) Rule 25 has been amended by S.I. 2010/44.
 (e) Schedule 1 was inserted by S.I. 2009/1975 and amended by S.I. 2010/747 and 2012/1363.

- (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.

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 appellant; 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—

- (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.”

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

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

9. In rule 1(3) (definitions)(b)—

(a) in the definition of “respondent”—

(i) for paragraph (a) substitute—

“(a) in an appeal against an order made by a justice of the peace, the person who applied to the justice of the peace for the order;”;

(ii) for paragraph (c) substitute—

(a) S.I. 2008/2699

(b) In rule 1(3) the definition of respondent has been amended by S.I. 2010/2653, 2011/651 and 2013/477.

- “(c) in proceedings on a claim brought under paragraph 3 of Schedule 17 to the Equality Act 2010(a) (disabled pupils: enforcement)—
 - (i) the local authority or the governing body, where the school concerned is a maintained school;
 - (ii) the proprietor, where the school concerned is an independent school;”
- (iii) omit paragraph (d);
- (b) in the definition of “special educational needs case”, after paragraph (a) omit “or” and insert—
 - “(aa) a detained person’s EHC needs assessment within the meaning of section 70(5) of the Children and Families Act 2014(b), or”.

10. In rule 19 (application for leave)(c), in paragraph (1)(b), for the words from “by virtue of regulation 34(3)” to the end substitute—

- “by virtue of—
 - (i) regulation 34(3) of the Special Educational Needs and Disability Regulations 2014(d), or
 - (ii) regulation 20(3) of the Special Educational Needs and Disability (Detained Persons) Regulations 2015(e),
 (appeals in a special educational needs case in the absence of a mediation certificate).”

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

11. The Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008(f) are amended as follows.

12. In rule 1(3) (definitions), in the definition of “respondent”, after paragraph (c), omit “or” and insert—

- “(cc) an affected party within the meaning of section 61(5) of the Childcare Payments Act 2014(g), other than an appellant; or”.

13. In rule 5 (case management powers), omit paragraph (3)(aa)(h).

14. In rule 17 (withdrawal) for paragraphs (4) and (5) substitute—

- “(4) An application for a withdrawn case to be reinstated may be made by—
 - (a) the party who withdrew the case;
 - (b) where an appeal in a social security and child support case has been withdrawn, a respondent.
- (5) An application under paragraph (4) must be made in writing and be received by the Tribunal within 1 month after the earlier of—
 - (a) the date on which the applicant was sent notice under paragraph (6) that the withdrawal had taken effect; or
 - (b) if the applicant was present at the hearing when the case was withdrawn orally under paragraph (1)(b), the date of that hearing.”.

(a) 2010 c. 15
 (b) 2014 c. 6
 (c) Rule 19 was amended by S.I. 2014/2128.
 (d) S.I. 2014/1530
 (e) S.I. 2015/62
 (f) S.I. 2008/2685
 (g) 2014 c. 28
 (h) Rule 5(3)(aa) was inserted by S.I. 2013/2067.

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

- (a) in paragraph (2)(d)(ii) for “(time specified for providing notice of appeal)” substitute “(time limits for providing notices of appeal in social security and child support cases where mandatory reconsideration does not apply)”;
- (b) after paragraph (7), insert—

“(7A) Her Majesty’s Revenue and Customs must, upon receipt of the notice of appeal from the Tribunal under the Childcare Payments Act 2014, inform the Tribunal whether there are any affected parties within the meaning of section 61(5) of that Act other than the appellant and, if so, provide their names and addresses.”;
- (c) for paragraph (9) substitute—

“(9) For the purposes of this rule, mandatory reconsideration applies where—

 - (a) the notice of the decision being challenged includes a statement to the effect that there is a right of appeal in relation to the decision only if the decision-maker has considered an application for the revision, reversal, review or reconsideration (as the case may be) of the decision being challenged; or
 - (b) the appeal is brought against a decision made by Her Majesty’s Revenue and Customs.”.

16. In rule 23 (cases in which the notice of appeal is to be sent to the decision maker)—

- (a) in paragraph (1) for the words from “social security” to the end of the paragraph, substitute “appeals under paragraph 6 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(a) (housing benefit and council tax benefit: revisions and appeals) or under section 22 of the Child Trust Funds Act 2004(b)”;
- (b) in paragraph (2) for the words “within the time specified in Schedule 1 to these Rules (time limits for providing notices of appeal to the decision maker)”, substitute—

“no later than the latest of—

 - (a) in a housing benefit or council tax benefit case—
 - (i) one month after the date on which notice of the decision being challenged was sent to the appellant;
 - (ii) if a written statement of reasons for the decision was requested within that month, 14 days after the later of—
 - (aa) the end of that month; or
 - (ab) the date on which the written statement of reasons was provided; or
 - (iii) if the appellant made an application for revision of the decision under regulation 4(1)(a) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(c) and that application was unsuccessful, one month after the date on which notice that the decision would not be revised was sent to the appellant;
 - (b) in an appeal under section 22 of the Child Trust Funds Act 2004, the period of 30 days specified in section 23(1) of that Act(d).”;
- (c) in paragraph (3), for “paragraph (2)”, substitute “paragraph (2)(a)”;
- (d) in each of paragraphs (4), (5) and (7)(a) and (b), for “Schedule 1” substitute “paragraph (2)”;
- (e) in paragraph (8) omit “or (aa)”.

17. For Schedule 1 substitute the Schedule contained in the Schedule to these Rules.

(a) 2000 c. 19. Paragraph 6 was amended by S.I. 2008/2833.

(b) 2004 c. 6

(c) S.I. 2001/1002; regulation 4(1) has been amended by S.I. 2002/1379 and 2008/2683.

(d) Section 23(1) was amended by the Transfer of Tribunal Functions and Revenue and Customs Order 2009, S.I. 2009/56.

Saving provision

18. The amendments made by rules 16 and 17 have no effect in relation to any appeal against a decision made before 6th April 2014 where the decision maker was Her Majesty's Revenue and Customs.

We make these Rules

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

7th July 2015

I allow these Rules

Shailesh Vara
Parliamentary Under Secretary of State
Department

8th July 2015

SCHEDULE Rule 17

“SCHEDULE 1 Rule 22

*Time Limits for providing notices of appeal in social security and child support cases
where mandatory reconsideration does not apply*

<i>Type of proceedings</i>	<i>Time for providing notice of appeal</i>
1 Appeal against a certification of NHS charges under section 157(1) of the Health and Social Care (Community Health and Standards) Act 2003(a)	(a) 3 months after the latest of— (i) the date on the certificate; (ii) the date on which the compensation payment was made; (iii) if the certificate has been reviewed, the date the certificate was confirmed or a fresh certificate was issued; or (iv) the date of any agreement to treat an earlier compensation payment as having been made in final discharge of a claim made by or in respect of an injured person and arising out of the injury or death; or (b) if the person to whom the certificate has been issued makes an application under section 157(4) of the Health and Social Care (Community Health and

(a) 2003 c. 43

		Standards) Act 2003, one month after—
		(i) the date of the decision on that application; or
		(ii) if the person appeals against that decision under section 157(6) of that Act, the date on which the appeal is decided or withdrawn.
2	Appeal against a waiver decision under section 157(6) of the Health and Social Care (Community Health and Standards) Act 2003	One month after the date of the decision.
3	Appeal against a certificate of NHS charges under section 7 of the Road Traffic (NHS Charges) Act 1999(a)	3 months after the latest of—
		(a) the date on which the liability under section 1(2) of the Road Traffic (NHS Charges) Act 1999 was discharged;
		(b) if the certificate has been reviewed, the date the certificate was confirmed or a fresh certificate was issued; or
		(c) the date of any agreement to treat an earlier compensation payment as having been made in final discharge of a claim made by or in respect of a traffic casualty and arising out of the injury or death.
4	Appeal against a certificate of recoverable benefits under section 11 of the Social Security (Recovery of Benefits) Act 1997(b)	One month after the latest of—
		(a) the date on which any payment to the Secretary of State required under section 6 of the Social Security (Recovery of Benefits) Act 1997 was made;
		(b) if the certificate has been reviewed, the date the certificate was confirmed or a fresh certificate was issued;
		(c) the date of any agreement to treat an earlier compensation payment as having been made in final discharge of a claim made by or in respect of an injured person and arising out of the accident, injury or disease.
5	Cases other than those listed above	The latest of—
		(a) one month after the date on which notice of the decision being challenged was sent to the appellant;
		(b) if a written statement of reasons for the decision was requested within that month, 14 days after the later of—
		(i) the end of that month; or
		(ii) the date on which the written statement of reasons was provided;
		(c) if the appellant made an application for the revision

(a) 1999 c. 3
(b) 1997 c. 27

of the decision under—

- (i) regulation 17(1)(a) of the Child Support (Maintenance Assessment Procedure) Regulations 1992^(a);
 - (ii) regulation 3(1) or (3) or 3A(1)(a) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999^(b);
 - (iii) regulation 14(1)(a) of the Child Support Maintenance Calculation Regulations 2012^(c);
or
 - (iv) regulation 5 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013^(d),
- and the application was unsuccessful, one month after the date on which notice that the decision would not be revised was sent to the appellant.”
-

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the rules of procedure which apply in certain chambers of the First-tier Tribunal and Upper Tribunal. They mainly update those rules of procedure to reflect recent changes in primary legislation.

Rules 2 to 7 amend the Tribunal Procedure (Upper Tribunal) Rules 2008 (S.I. 2008/2698) (“Upper Tribunal Rules”). They introduce provisions for appeals relating to bus quality contracts schemes made under Part 2 of the Transport Act 2000 (c. 26) following the conferral of jurisdiction on the Upper Tribunal by the Transfer of Tribunal Functions (Transport Tribunal) Order 2015 (S.I. 2015/65).

Rule 7 inserts Schedule A1 (Procedure in Quality Contracts Schemes Cases) into the Upper Tribunal Rules. It adds provisions regarding the documentation needed in such cases and places duties on the respondent to ensure that such documentation is available for inspection. The Schedule also makes further provision as to adding further parties to the proceedings.

Rules 8 to 10 amend the Tribunal Procedure (Health, Education and Social Care Chamber) Rules 2008 (S.I. 2008/2699). Rule 9 amends the definition of respondent. In appeals against an order made by a justice of the peace, the respondent is always the person who applied for that order. It identifies the correct respondent in claims under Schedule 17 to the Equality Act 2010 (c. 15) for schools of different types. Rule 10 updates the rule relating to circumstances in which a person requires permission to appeal to the Tribunal by adding in reference to regulation 20(3) of the Special Educational Needs and Disability (Detained Persons) Regulations 2015 (S.I. 2015/62).

Rules 11 to 17 and the Schedule amend the Tribunal Procedure (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2699). The definition of “special educational needs case” is amended consequential on the Children and Families Act 2014 (c. 6) so as to cover the special educational needs of detained children and young persons under 18. A similar amendment is made by rule 3(b) to the same definition in the Upper Tribunal Rules.

(a) S.I. 1992/1813.

(b) S.I. 1999/991. Regulation 3A was inserted by regulation 5 of the Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185).

(c) S.I. 2012/2677

(d) S.I. 2013/381

Rules 15 to 17 amend rules 22, 23 and Schedule 1 of the First-tier Tribunal (Social Entitlement Chamber) Rules 2008 (S.I. 2008/2685) to clarify which appeals should be lodged directly at the Tribunal and which should still be lodged with the decision making Department or body. They reflect more clearly the position which now exists in relation to mandatory reconsideration of certain decisions before appeal rights are exercised.

Rule 18 is a saving provision that the amendments to rules 23 and Schedule 1 do not apply to HMRC decisions made before 6th April 2014.

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