STATUTORY INSTRUMENTS

2017 No. 1168 (L. 19)

TRIBUNALS AND INQUIRIES

The Tribunal Procedure (Amendment No. 2) Rules 2017

Made - - - -	*28th November 2017*
Laid before Parliament	*30th November 2017*
Coming into force in accordance with article 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(**1**), 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 No. 2) Rules 2017 and subject to rules 2 and 3 come into force 21 days after the day on which they are laid.

2. Rules 11 to 21 come into force on the day on which, and immediately after the following provisions of the Immigration Act 2016(**2**) come into force—

(a) section 61(1) and (2) (immigration bail) except insofar as it relates to the provisions of Schedule 10 to the Immigration Act 2016 listed in sub-paragraphs (i) to (iv) of paragraph (b) below;

(b) Schedule 10 (immigration bail), except for—

(i) sub-paragraphs (2), (3) and (5) of paragraph 2 (conditions of immigration bail);

(ii) paragraph 7 (removal etc of electronic monitoring condition: bail managed by Secretary of State);

(iii) paragraph 8 (amendment etc of electronic monitoring condition: bail managed by First-tier Tribunal); and

(iv) paragraph 25 to the extent that it applies, in a modified form, the provisions set out in sub-paragraphs (i) to (iii) above.

(**1**) 2007 c. 15.
(**2**) 2016 c. 19.

3. Insofar as they relate to proceedings under Schedule 3A to the Communications Act 2003(**3**), rules 22 to 25 come into force on the day on which, and immediately after, section 4 of and Schedule 1 to the Digital Economy Act 2017(**4**) come into force.

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

4. The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(**5**) are amended as follows.

5. In rule 1(3)(**6**) (citation, commencement, application and interpretation)—

(a) omit "or" at the end of paragraph (db);

(b) after paragraph (db) insert—

"(dc) in an application under section 127(5) of the Education and Skills Act 2008, the Secretary of State; or".

6. In rule 20 (the application notice)—

(a) in paragraph (1), after "(1A)" insert "or (1B)";

(b) after paragraph (1A) insert—

"(1B) An application under section 127(5) of the Education and Skills Act 2008(**7**) may be made at any time when the relevant restriction has effect.".

Amendment to the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009

7. The Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009(**8**) are amended as follows.

8. In rule 1(3)(**9**) (citation, commencement, application and interpretation)—

(a) insert at the appropriate place—

""devolved Welsh case" means an appeal, referral or application under—

(a) a Measure or Act of the National Assembly for Wales; or

(b) an instrument made under a Measure or Act of the National Assembly for Wales;

"WRA" means the Welsh Revenue Authority.";

(b) in the definition of "respondent"(**10**)—

(i) in paragraph (a) after "an MP expenses case" insert "or a devolved Welsh case";

(ii) omit "and" at the end of paragraph (b);

(iii) after paragraph (b) insert—

"(ba) in a devolved Welsh case—

(i) WRA, where WRA is not an appellant;

(**3**) 2003 c. 21; Schedule 3A was inserted by section 4 of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).
(**4**) 2017 c. 30.
(**5**) S.I. 2008/2699. Rule 20 was amended by S.I. 2011/651; there are other amending instruments but none is relevant.
(**6**) The definition of "respondent" in rule 1(3) was amended by S.I. 2010/2653, 2011/6512013/477 and 2015/1510; there are other amending instruments but none is relevant.
(**7**) 2008 c. 25.
(**8**) S.I. 2009/273.
(**9**) Rule 1(3) was amended by S.I. 2010/2653; there are other amending instruments but none is relevant.
(**10**) The definition of "respondent" in rule 1(3) was substituted by S.I. 2010/2653; there are other amending instruments but none is relevant.

(ii) in proceedings brought by WRA alone, a person against whom the proceedings are brought or to whom the proceedings relate; and";

(c) omit the full stop after the definition of "Tribunal".

Amendment to the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

9. The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(**11**) are amended as follows.

10. In rule 22 (the notice of appeal) after paragraph (6)(c) insert—

"(cc) in an appeal under section 57(4) of the Freedom of Information Act 2000(**12**) as it applies by reason of regulation 19 of the Re-use of Public Sector Information Regulations 2015(**13**), within 28 days of the latest date by which the public sector body is required to comply with section 50(4) of that Act.".

Amendment to Part 5 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

11. The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014(**14**) are amended as follows.

12. In the table of contents—

(a) before the entry for rule 42 insert "**41A.** Power to vary bail conditions";

(b) for the entry for rule 42, substitute "**42.** Financial conditions".

13. In rule 37 (scope of this Part and interpretation)—

(a) for paragraph (2), substitute—

"(2) In this Part—

"the 2016 Act" means the Immigration Act 2016(**15**);

"bail application" includes a reference to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act;

"bail party" means—

(a) a person released on bail or applying to the Tribunal to be released on bail; or

(b) a person in respect of whom a reference has been made to the Tribunal under paragraph 11 of Schedule 10 to the 2016 Act; and

"financial condition" has the meaning given in paragraph 5 of Schedule 10 to the 2016 Act.";

(b) for paragraph (4), substitute—

"(4) Where the proceedings concern payment of a sum under a financial condition, the parties are the Secretary of State, the bail party and any other person who is liable to make payment under the financial condition.".

14. In rule 38 (bail applications)—

(**11**) S.I. 2009/1976. Rule 22 was amended by S.I. 2010/43 and S.I. 2010/2653, S.I. 2012/500; there are other amending instruments but none is relevant.
(**12**) 2000 c. 36.
(**13**) S.I. 2015/1415.
(**14**) S.I. 2014/2604.
(**15**) 2016 c. 19.

(a) omit paragraph (2)(c);

(b) for paragraph (2)(d), substitute—

"(d) payment of a sum under a financial condition; or

(e) a reference for consideration under paragraph 11 of Schedule 10 to the 2016 Act.";

(c) in paragraph (3)—

(i) in the opening words for "paragraph (4)" substitute "paragraphs (4) and (4A)";

(ii) for sub-paragraph (d) substitute—

"(d) the terms of the financial condition to which the bail party is, or is proposed to be, subject;";

(iii) for sub-paragraph (f), substitute—

"(f) the full name, address, date of birth and any occupation of any person other than the bail party who is, or is proposed to be, subject to a financial condition.";

(iv) in sub-paragraph (g) for "as a condition of bail to co-operate with electronic monitoring under section 36 of the 2004 Act" substitute "to co-operate with an electronic monitoring condition under paragraph 2 of Schedule 10 to the 2016 Act.";

(d) in paragraph (4), for "forfeiture of a recognizance" substitute "payment of a sum under a financial condition";

(e) after paragraph (4) insert—

"(4A) Where the application is a reference under paragraph 11 of Schedule 10 to the 2016 Act—

(a) paragraph (3) applies except for sub-paragraph (h); and

(b) the application must also contain—

(i) details of the provision or provisions under which the bail party is detained;

(ii) a copy of any previous Secretary of State decision on whether to grant bail; and

(iii) any documents relevant to (i) or (ii).";

(f) for paragraph (6) substitute—

"(6) On receipt of a bail application, the Tribunal must record the date on which it was received and provide a copy of the application as soon as reasonably practicable to—

(a) the Secretary of State, the bail party and any other person subject to a financial condition, in the case of an application to vary a financial condition;

(b) the bail party, in the case of a reference under paragraph 11 of Schedule 10 to the 2016 Act; and

(c) the Secretary of State, in the case of other bail applications.".

15. In rule 39 (bail hearings)—

(a) in paragraph (1) after "released on bail" insert "or is a reference under paragraph 11 of Schedule 10"; and

(b) omit paragraph (4).

16. In rule 40 (response to a bail application) insert after paragraph (2)—