



# Tribunals Service

<b>Proposed Rule Changes</b>		
<b>Rule</b>	<b>Existing</b>	<b>Proposed</b>
<b>Time for responding to appeal</b>	No time limit	As soon as reasonably practicable rule 24(1)(b).
<b>Powers delegated to clerks</b>	Some powers are currently allotted to the clerk by the legislation, rather than delegated to the clerk by practice direction: e.g. postponement decisions – DMA reg. 51 - or reg. 20 of Tax Credits (Appeals) (No. 2) Regulations 2002	Delegated powers under the new rules have yet to be agreed. However, a delegated decision may be reconsidered by a judge if a request is made within 14 days – rule 4(3)
<b>Case management</b>	Currently case management hearings are rarely directed, under reg. 38(2)	Directions may be made at any time, may amend, set aside or suspend an earlier direction, and may include preliminary hearings - rule 5.  The judiciary do not intend to pre-view every case for this purpose
<b>Applications for a direction</b>	Currently preliminary hearings are rarely directed – reg. 38(2)	An application for a direction may be made in writing, or orally at a hearing. Parties must be notified of a direction, and if a party wants to challenge it, they may ask for it to be amended, set aside or suspended – rule 6
<b>Failure to comply</b>	A case may currently be struck out in whole, for 4 specified reasons, including failure to comply – reg. 46(1)(c), or Tax Credits (Appeals) reg. 16(1)(b)	The judiciary may waive a requirement or direct a remedy, as well as strike out – rule 7.  Only in the case of an outside jurisdiction appeal is the strike-out mandatory
<b>Strike-out</b>	The strike-out power operates at present for 4 specified reasons – reg. 46, as above.  The clerk may currently strike out for failure to return the pre-hearing enquiry form (TAS1)	A case may be struck out in whole or in part. The appellant must be forewarned. A reinstatement request must be made within 28 days  The clerk will no longer strike out for failure to return the TAS1.

		<p>Appellants (or representatives) will be sent reminders, and if necessary referred to the judge for a direction or decision on the case</p> <p>The respondent may be “barred” from taking further part. The respondent may apply for the bar to be lifted. If not lifted, any further response or submission need not be considered – rule 8</p>
<b>Lodging an appeal</b>	<p>The appellant must appeal within 1 month, which may be extended to a maximum of 1 year – reg. 32</p>	<p>The appellant must appeal within 1 month, as at present, with an extension of 14 days if a statement is produced – Schedule 1. The maximum limit is 12 months rule 23(5)</p> <p>Rule 23(4) says that if an application is made late, it will be treated as made in time, if the respondent does not object</p> <p>The details the appellant must provide are specified at rule 23(6) – name, address, etc.</p> <p>Rule 23(7) requires a late appeal to be referred immediately to the Tribunal if the decision-maker objects to its being made in time, or if the appeal was made over 12 months</p>
<b>The response</b>	<p>There is no time limit at present, for producing a submission</p>	<p>The respondent must produce a submission as soon as reasonably practicable - rule 24(1)(b)</p> <p>The response may include whether the respondent is content for the case to be heard on the papers - rule 24(3)</p> <p>The particulars to be provided with the response are set out at rule 24(2)</p>
<b>The hearing</b>	<p>At present, the appellant is required to say “on a form approved by the Secretary of State” whether they want an oral or a paper hearing – reg. 39 (corollary to Tax Credits (Appeals) reg. 12).</p>	<p>Rule 27 says that any decision which disposes of an appeal must warrant an oral hearing, unless the parties consent to a paper hearing, or the judge directs a paper hearing. (This does not apply to post-tribunal action, such</p>

	(NB: the referring agencies currently issue this form – the TAS1 - to the appellant with the submission. Under the new rules, the Tribunals Service will issue a revised version of the form)	<p>as set aside or leave to appeal decisions)</p> <p>An appeal may be struck out without a hearing</p> <p>Any decision whether to strike out an appeal for failure to return the replacement TAS1 will be made by a judge under the new rules</p>
<b>Statement</b>	A statement must be requested within 1 month, with an extension of time up to 3 months – reg. 53 and 54, or Tax Credits (Appeals) reg. 21 and 22	<p>Rule 34 says that a statement may be requested orally at a hearing, or otherwise within 1 month.</p> <p>It must be provided within 1 month, or as soon as practicable after that time</p>
<b>Procedural set aside</b>	Currently a decision may be set aside on procedural grounds and a new hearing arranged (comments from the parties are requested) – reg. 57	Rule 37 says that a decision, or part of a decision, may be set aside by the judiciary and a new decision substituted. There is no requirement to ask for comments.
<b>Leave to appeal</b>	Currently a party may apply for leave to appeal to the Commissioners – reg. 58	<p>Rule 38 says that a party may apply for permission to appeal to the Upper Tribunal, on the ground of error in law, within 1 month</p> <p>A party may ask for an extension of time</p>
<b>Consideration of review</b>	Currently there is no provision for review	Rule 39(1) says that the Tribunal must first consider whether to review a decision, on a question of error in law, on receipt of an application to the Upper Tribunal.
<b>Review</b>	Currently there is no provision for review	<p>Rule 40 says that the Tribunal may review a decision, if satisfied that there is error in law</p> <p>The parties must be notified of the outcome, and of any right of appeal</p> <p>If a party had not first been provided with the opportunity to make representations, they may apply for a set aside or another review</p>
<b>Power to treat an application</b>	Currently some specified applications may be treated as applications of another type - e.g. a set aside request may be treated as a statement	Rule 41 provides for a Part 4 application (post-tribunal) of one type to be treated as an application of another

	request – reg. 57(4A)	
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