



# FIRST TIER TRIBUNAL

## criminal injuries compensation

**Criminal Injuries Compensation Schemes 1996, 2001 & 2008 (the tariff based Schemes)  
Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (the Rules)**

### **PRACTICE and GUIDANCE STATEMENT (CI-6) Appeals on error of law against final decision of the Tribunal**

None of the tariff based Schemes and the Rules applicable to decisions made by the First-tier Tribunal in this jurisdiction provide for a final decision of the Tribunal to be reviewed, appealed, amended or otherwise interfered with, apart from

- (i) the right to apply for re-instatement (a) where proceedings, or part of them, have been struck out (Rule 8(5)-(7)) or (b) where proceedings or part of them have been withdrawn (Rule 17(4));
- (ii) the right to apply for a decision to be reconsidered at a hearing where the Tribunal makes a decision which disposes of proceedings without a hearing, other than decisions to which Rule 27(5) apply (Rule 27(4));
- (iii) the right to apply for a rehearing where the tribunal proceeded with a hearing in a party's absence (Rule 31);
- (iv) the correction of a clerical or other accidental slip or omission in a decision (Rule 36);
- (v) the right to apply for a decision, or part of a decision, to be set aside subject to certain conditions (Rule 37).

Other than these above-mentioned specific exceptions, the only legal remedy open to an appellant who wishes to challenge the final decision of the Tribunal in this jurisdiction is to apply to bring judicial review proceedings of the decision:-

- (in respect of incidents occurring and decisions made in England & Wales) to the Upper Tribunal\*, or
- (in respect of incidents and decisions made in Scotland) to the Outer House of the Court of Session

on the grounds that the decision was “**erroneous in law**”.

**Parties who are contemplating making application to bring judicial review proceedings should follow the guidance below.**

1. (Unless the Tribunal has already provided a full written statement of reasons for the decision), as soon as possible and in any event no later than 1 month after notification of the final decision, a party must make a written request for a full statement of reasons for the decision complained about, addressed to **The Tribunals Service – Criminal Injuries, Wellington House, 134-136 Wellington Street, Glasgow G2 2XL**. The request must quote the name of the appellant and the Tribunal's full case reference.
2. A party contemplating making an application to bring judicial review proceedings is requested without delay to provide to the First-tier Tribunal at the address above, written details of the alleged error of law, and all facts and matters relied on in support of the alleged error. The First-tier Tribunal's Principal Judge or nominated Tribunal Judge will scrutinise the allegation and, where satisfied that it is appropriate to do so in accordance with the paragraphs 36 or 37 of the Tribunal Procedure (First-tier Tribunal)(Social Entitlement Chamber) Rules 2008, will consider correcting or setting aside the decision or part of it.
3. Without prejudice to the above two paragraphs, the burden is on the dissatisfied party to make application to bring judicial review proceedings in accordance with applicable Upper Tribunal or Court of Session Rules.

#### **Where incident occurred in Scotland and any hearing took place in Scotland**

4. Application for judicial review must be made to the Outer House of the Court of Session, Court of Session, Parliament House, Parliament Square, Edinburgh EH1 1RQ in accordance with Chapter 58 of the Rules of the Court of Session. Note that whilst there is no prescribed time limit for lodging an application for judicial review in Scotland, objections may be taken if there is undue delay in lodging a petition.

#### **Where the claimant lives in England or Wales, the incident occurred in England or Wales and any hearing took place in England or Wales**

5. Any application for judicial review must be made in accordance with Rule 27 of the Tribunal Procedure (Upper Tribunal) Rules 2008 S.I. 2008/2698) on a prescribed claim form JR1. The time limit is 3 months after the date of the decision complained of, or 1 month after the date written reasons were given or the applicant was notified that an application for the setting aside of the decision had been unsuccessful, whichever period ends latest. The applicant may apply for an extension of time to the Upper Tribunal but must give reasons. The address of the Upper Tribunal is: The Upper Tribunal (Administrative Appeals Chamber), 1<sup>st</sup> floor, Procession House, 55 Ludgate Hill, London EC4M 7JW. If the claimant lives in Wales or any hearing was in Wales, the application may be sent or delivered to: The Upper Tribunal (Wales), Columbus House, Langstone Business Park, Chepstow Road, Newport NP18 2LX. The application form JR1 may be obtained from the London Office or on its website [www.administrativeappeals.tribunals.gov.uk](http://www.administrativeappeals.tribunals.gov.uk).

#### **Where the case has connections with both Scotland and England & Wales**

6. An application to bring judicial review proceedings may be made to whichever of the Court of Session or the Upper Tribunal is more appropriate in the circumstances of the case, having particular regard to the convenience of the parties and the issues arising on the application for judicial review. The other party or parties may object to the choice made by the applicant but it should be borne in mind that the Upper Tribunal may sit in Scotland as well as in England and Wales and that the Court of Session may refer a case to the Upper Tribunal who would then be able to hear it in either Scotland or England & Wales

#### **Correct Defendant and address for service**

7. The Defendant in all judicial review proceedings in tariff based Scheme cases is **First-tier Tribunal**; the address for service is **The Tribunals Service, Criminal Injuries, Wellington House, 134-136 Wellington Street, Glasgow G2 2XL**. Applications for judicial review in tariff based Scheme cases served at any other address will not be accepted. An appellant should consider joining the Criminal Injuries Compensation Authority as a Defendant or Interested Party. Where there is a challenge to a tariff based Scheme itself, the appellant will need to consider whether to add as Defendant the Secretary of State for the Ministry of Justice.

14 May 2009

Roger Goodier

Principal Judge

Social Entitlement Chamber – criminal injuries compensation.

\* pursuant to Order of Lord Chief Justice of England & Wales – classes of cases specified under section 18(6) of the Tribunals & Courts & Enforcement Act 2007 (the 2007 Act) – direction in relation to an application made to the High Court of Upper Tribunal on or after 3 November 2008 that seeks relief of a kind mentioned in section 15(1) of the 2007 Act; direction that the following classes of case are specified for the purposes of section 18(6) of the 2007 Act:-

- (a) any decision of the First-Tier Tribunal on an appeal made in exercise of a right conferred by the Criminal Injuries Compensation Scheme in compliance with section 5 of the Criminal Injuries Compensation Act 1995 (appeals against decisions on review);
- (b) any decision of the First-Tier Tribunal made under Tribunal Procedure Rules or section 9 of the 2007 Act where there is no right of appeal to the Upper Tribunal and that decision is not an excluded decision within paragraph (b), (c), or (f) of section 11(5) of the 2007 Act.