



Jersey

# **INVESTIGATORY POWERS TRIBUNAL RULES 2007**

## **Official Consolidated Version**

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# INVESTIGATORY POWERS TRIBUNAL RULES 2007

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Jersey

## INVESTIGATORY POWERS TRIBUNAL RULES 2007

**THE BAILIFF**, in pursuance of Article 50 of the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#), has made the following rules –

Commencement [[see endnotes](#)]

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### 1 Interpretation

In these rules –

“Article 8 proceedings” means proceedings under Article 8(1)(a) of the [Human Rights \(Jersey\) Law 2000](#) brought before the Tribunal by virtue of Article 46(2) of the Law;

“complainant” means a person who brings Article 8 proceedings or, as the case may be, makes a complaint;

“complaint” means a complaint for which the Tribunal is the forum by virtue of Article 46(3)(a) and Article 46(5) of the Law;

“Convention right” has the same meaning as in the [Human Rights \(Jersey\) Law 2000](#); and

“Law” means the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#).

### 2 Application

These rules apply to Article 8 proceedings, and to complaints.

### 3 Exercise of Tribunal's jurisdiction

- (1) The jurisdiction of the Tribunal may be exercised by any 2 or more members of the Tribunal designated for the purpose by the president.
- (2) Different members of the Tribunal may carry out functions in relation to different complaints at the same time.

#### **4 Functions exercisable by single member**

The following powers and duties may be exercised or performed by a single member of the Tribunal –

- (a) the power under rule 6(4) or rule 7(4) to invite the complainant to supply information or make representations;
- (b) the power under Article 49(2) of the Law to require the Commissioner to provide assistance;
- (c) the power under Article 49(6) of the Law to require the disclosure or provision of documents or information;
- (d) the power under paragraph 3(2) of Schedule 3 to the Law to authorize an officer to obtain documents or information on the Tribunal's behalf;
- (e) the power under Article 8(3)(b) of the [Human Rights \(Jersey\) Law 2000](#) to extend the time limit for Article 8 proceedings;
- (f) the power under Article 48(5) of the Law to extend the time limit for complaints;
- (g) the duty under rule 12 to notify the complainant of any of the determinations described in that rule; and
- (h) the duty, in considering a complaint, to investigate the matters described in Article 48(3) (a) and (b) of the Law.

#### **5 Disclosure of Information**

- (1) The Tribunal shall carry out its functions in such a way as to secure that information is not disclosed to an extent or in a manner contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime or the economic well-being of Jersey.
- (2) Without prejudice to this general duty, but subject to paragraphs (3) and (4), the Tribunal may not disclose to the complainant or to any other person –
  - (a) the fact that the Tribunal has held, or proposes to hold, an oral hearing under rule 8(4);
  - (b) any information or document disclosed or provided to the Tribunal in the course of that hearing, or the identity of any witness at that hearing;
  - (c) any information or document otherwise disclosed or provided to the Tribunal by any person pursuant to Article 49(6) of the Law (or provided voluntarily by a person specified in Article 49(7) of the Law);
  - (d) any information or opinion provided to the Tribunal by the Commissioner pursuant to Article 49(2) of the Law; or
  - (e) the fact that any information, document, identity or opinion has been disclosed or provided in the circumstances mentioned in sub-paragraphs (b) to (d).
- (3) The Tribunal may disclose anything described in paragraph (2) with the consent of –
  - (a) in the case of sub-paragraph (a), the person required to attend the hearing;

- (b) in the case of sub-paragraphs (b) and (c), the witness in question or the person who disclosed or provided the information or document;
  - (c) in the case of sub-paragraph (d), the Commissioner and, to the extent that the information or opinion includes information provided to the Commissioner by another person, that other person; or
  - (d) in the case of sub-paragraph (e), the person whose consent is required under this rule for disclosure of the information, document or opinion in question.
- (4) The Tribunal may also disclose anything described in paragraph (2) as part of the information provided to the complainant under rule 12(2), subject to the restrictions contained in rule 12(4) and (5).
- (5) The Tribunal may not order any person to disclose any information or document which the Tribunal would be prohibited from disclosing by virtue of this rule, had the information or document been disclosed or provided to the Tribunal by that person.
- (6) The Tribunal may not, without the consent of the complainant, disclose to any person other than the Commissioner anything to which paragraph (7) applies.
- (7) This paragraph applies to any information or document disclosed or provided to the Tribunal by or on behalf of the complainant, except for the statements described in rule 6(2)(a) and (b) or, as the case may be, rule 7(2)(a) and (b).

## **6 Bringing Article 8 proceedings**

- (1) Article 8 proceedings are brought by a complainant sending to the Tribunal a form and other information in accordance with this rule.
- (2) The form must be signed by the complainant and must –
  - (a) state the name, address and date of birth of the complainant;
  - (b) state the public authority (including, where appropriate, the States Assembly) against which the proceedings are brought;
  - (c) describe the nature of the claim (including details of the Convention right which it is alleged has been infringed) and of the complainant's interest; and
  - (d) specify the remedy which the complainant seeks.
- (3) The complainant must also supply, either in or with the form, a summary of the information on which the claim is based.
- (4) At any time, the Tribunal may invite the complainant to supply further information or to make written representations on any matter.

## **7 Making a complaint**

- (1) A complaint is brought by a complainant sending to the Tribunal a form in accordance with this rule.
- (2) The form must be signed by the complainant and must –
  - (a) state the name, address and date of birth of the complainant;
  - (b) state the person or authority whose conduct, to the best of the complainant's knowledge or belief, is the subject of the complaint; and

- (c) describe, to the best of the complainant's knowledge or belief, that conduct.
- (3) The complainant must also supply, either in or with the form, a summary of the information on which the claim is based.
- (4) At any time, the Tribunal may invite the complainant to supply further information or to make written representations on any matter.

## **8 Form of hearing and consideration**

- (1) The Tribunal's power to determine its own procedure in relation to Article 8 proceedings and complaints shall be subject to this rule.
- (2) The Tribunal shall be under no duty to hold oral hearings, but may do so in accordance with this rule (and not otherwise).
- (3) The Tribunal may at any stage hold oral hearings at which the complainant may make representations, give evidence and call witnesses.
- (4) The Tribunal may hold separate oral hearings which –
  - (a) the person whose conduct is the subject of the complaint;
  - (b) the public authority against which the Article 8 proceedings are brought; or
  - (c) any other person specified in Article 49(7) of the Law,may be required to attend and at which that person or authority may make representations, give evidence and call witnesses.
- (5) Within a period notified by the Tribunal for the purpose of this rule, the complainant, person or authority in question must inform the Tribunal of any witnesses he or it intends to call.
- (6) No other witnesses may be called without the leave of the Tribunal.
- (7) The Tribunal's proceedings, including any oral hearings, shall be conducted in private.

## **9 Representation**

- (1) A person entitled to make representations at an oral hearing may appear in person or may be represented by any person he or she may appoint for that purpose, subject to paragraph (2).
- (2) The leave of the Tribunal is required except where the representative is an advocate or a solicitor of the Royal Court.

## **10 Evidence**

- (1) The Tribunal may receive evidence in any form, and may receive evidence that would not be admissible in a court of law.
- (2) The Tribunal may require a witness to give evidence on oath.
- (3) No person shall be compelled to give evidence at an oral hearing under rule 8(3).

## **11 Remedies**

- (1) Before exercising power under Article 48(7) of the Law, the Tribunal shall invite representations in accordance with this rule.
- (2) If the Tribunal proposes to make an award of compensation, it shall give the complainant and the person who would be required to pay the compensation an opportunity to make representations as to the amount of the award.
- (3) If the Tribunal proposes to make any other order (including an interim order) affecting the public authority against whom the Article 8 proceedings are brought, or the person whose conduct is the subject of the complaint, the Tribunal shall give that authority or person an opportunity to make representations on the proposed order.

## **12 Notification to the complainant**

- (1) In addition to any statement under Article 49(4) of the Law, the Tribunal shall provide information to the complainant in accordance with this rule.
- (2) If the Tribunal makes a determination in favour of the complainant, it shall provide to the complainant a summary of that determination including any findings of fact.
- (3) If the Tribunal makes a determination –
  - (a) that the bringing of the Article 8 proceedings or the making of the complaint is frivolous or vexatious;
  - (b) that the Article 8 proceedings have been brought, or the complaint made, out of time and that the time limit should not be extended; or
  - (c) that the complainant does not have the right to bring the Article 8 proceedings or make the complaint,it shall notify the complainant of that fact.
- (4) The duty to provide information under this rule is in all cases subject to the general duty imposed on the Tribunal by rule 5(1).
- (5) No information may be provided under this rule whose disclosure would be restricted under rule 5(2) unless the person whose consent would be needed for disclosure under that rule has been given the opportunity to make representations to the Tribunal.

## **13 Citation**

These rules may be cited as the Investigatory Powers Tribunal Rules 2007.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Investigatory Powers Tribunal Rules 2007	<a href="#">R&amp;O.55/2007</a>	5 April 2007

### Table of Endnote References

*There are currently no endnote references*