

2022 No.

TRIBUNALS AND INQUIRIES

**The First-tier Tribunal for Scotland Local Taxation Chamber
(Rules of Procedure) Regulations 2022**

Made - - - - - ***

Coming into force - - - - - *1st January 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 43(3)(b)(ii) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014(a) and all other powers enabling them to do so.

In accordance with paragraph 4(3) of schedule 9 of that Act, the Scottish Ministers have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 and the Rules set out in the schedule may be cited as the First-tier Tribunal for Scotland Local Taxation Chamber Rules of Procedure 2022.

(2) These Regulations come into force on 1st January 2023.

(a) 2014 asp 10.

Application of the Rules set out in the schedule

2. The Rules in the schedule apply to proceedings before the First-tier Tribunal for Scotland Local Taxation Chamber^(a) when exercising the functions conferred on it by regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2022^(b) or by regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2022^(c).

St Andrew's House,
Edinburgh
[DATE]

Name
A member of the Scottish Government

(a) The Local Taxation Chamber of the First-tier Tribunal for Scotland was brought into being by S.S.I. 2021/**.
(b) S.S.I. 2022/**.
(c) S.S.I. 2022/**.

SCHEDULE

Regulation 2

THE FIRST-TIER TRIBUNAL FOR SCOTLAND LOCAL TAXATION CHAMBER RULES OF PROCEDURE 2022

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PART 1

Rules common to all proceedings before the First-tier Tribunal

Interpretation

1. In these Rules—

“the 1992 Act” means the Local Government Finance Act 1992(a)

“the 2014 Act” means the Tribunals (Scotland) Act 2014(b),

“the 2020 Act” means the Non-Domestic Rates (Scotland) Act 2020(c),

“the Valuation Acts” means the Lands Valuation (Scotland) Act 1854(d), the Acts amending that Act and any other enactment relating to valuation except the 2020 Act,

“the 1993 Regulations” means the Council Tax (Alteration of Lists and Appeals) (Scotland) Regulations 1993(e)

“the 2012 State Pension Credit Regulations” means the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(f)

“the 2021 Regulations” means the Council Tax Reduction (Scotland) Regulations 2021(g),

“appeal” includes complaint, where such an appeal is under the Valuation Acts, and “appellant” shall be construed accordingly;

“appellant” means the person bringing the appeal,

“assessor” means—

- (a) in relation to a non-domestic rates appeal, the person who has the function of valuing the lands and heritages to which any appeal relates,
- (b) in relation to a valuation list for the purposes of council tax, the local assessor charged with its maintenance under section 84(1) of the 1992 Act;
- (c) in relation to penalty notice appeals under the Non-Domestic Rates Act 2020, the assessor or depute assessor for a valuation area appointed under section 27 of the Local Government etc. (Scotland) Act 1994

“authorised representative” means a person who is entitled to sign documents on behalf of the appellant and to send and receive documents on the appellant’s behalf,

“case management system” means the electronic system used by the First-tier Tribunal in the management of appeal cases and to which parties may be permitted limited access via a secure, dedicated website to view case-specific information or submit documentation,

“Chamber President” means the Chamber President of the First-tier Tribunal,

“application for council tax reduction” means an application for a reduction in liability for council tax calculated in accordance with the 2012 State Pension Credit Regulations or the 2021 Regulations;

“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000(h) and “electronic signature” has the same meaning as in section 7 of that Act(i),

(a) 1992 c. 14.

(b) 2014 asp 10.

(c) 2020 asp 4.

(d) 1854 c. 91

(e) S.I. 1993/355

(f) S.S.I. 2012/319

(g) S.S.I. 2021/12

(h) 2000 c.7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

(i) Section 7 was amended by paragraph 1 of schedule 3 of the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016/696.

“First-tier Tribunal” means the Local Taxation Chamber^(a) of the First-tier Tribunal for Scotland as defined by section 1(1) of the 2014 Act,

“hearing” means an oral hearing and includes a form of hearing conducted in whole or in part by video link, telephone or other means of instantaneous multi-party electronic communication,

“party” means the appellant or respondent, and “parties” is to be construed accordingly;

“proceedings” means proceedings before the First-tier Tribunal,

“respondent” means—

- (a) in respect of an appeal under the Valuation Acts, a council tax appeal under Part II of the 1993 Regulations or under paragraph 2 of Schedule 6 to the 1992 Act, the assessor,
- (b) in respect of an appeal against the imposition of a penalty notice under section 31 of the 2020 Act, the assessor who issued a notice under section 30 of that Act,
- (c) in respect of an appeal against the amount of a penalty notice under section 34 of the 2020 Act, the authorised officer who issued a notice under section 33 of that Act,
- (d) in respect of a council tax reduction appeal, the local authority administering council tax reduction, and
- (e) in the case of any other council tax appeal, the levying authority,

“review” means the internal review provided for by section 43(1) of the 2014 Act,

“Upper Tribunal” means the Upper Tribunal for Scotland as established by section 1(1) of the 2014 Act.

2. In this Part—

“appeal” means an appeal under—

- (a) the Valuation Acts,
- (b) section 4(8) or 5(7) of the Rating (Disabled Persons) Act 1978^(b)
- (c) section 81(1), 87(6), schedule 3, paragraph 3 or schedule 6, paragraph 2(1) of the 1992 Act (council tax appeals),
- (d) part II of the 1993 Regulations,
- (e) regulation 70B of the 2012 State Pension Credit Regulations or regulation 94 of the 2021 Regulations (appeals against a determination on an application), or
- (f) section 31(1) (assessor penalty notice appeals) or section 34(1) (local authority penalty notice appeals) of the 2020 Act.

Overriding objective

3.—(1) The overriding objective of the First-tier Tribunal is to deal with the proceedings fairly and justly.

(2) Dealing with proceedings fairly and justly includes—

- (a) dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties,
- (b) avoiding unnecessary formality and seeking flexibility in the proceedings,
- (c) ensuring, so far as practicable, that the parties are able to participate fully in proceedings,
- (d) using any special expertise of the First-tier Tribunal effectively, and
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

(a) The First-tier Tribunal for Scotland Local Taxation Chamber was brought into being by S.S.I. 2021/**.

(b) 1978 c. 40

(3) The First-tier Tribunal must seek to give effect to the overriding objective when it—

- (a) exercises any power under these Rules, or
- (b) interprets any rule or practice direction.

(4) In particular, the First-tier Tribunal must actively manage proceedings in accordance with the overriding objective.

Delegation to staff

4.—(1) Staff of the Scottish Courts and Tribunals Service^(a) may, with the approval of the Chamber President, carry out functions of a judicial nature permitted or required to be undertaken by the First-tier Tribunal, provided the functions are of a preliminary or an incidental nature.

(2) The approval referred to in paragraph (1) may apply generally to the carrying out of specified functions by members of staff of a specified description in specified circumstances.

Case management powers

5.—(1) Subject to the provisions of the 2014 Act and these Rules, the First-tier Tribunal may regulate its own procedure.

(2) The First-tier Tribunal may give an order in relation to the conduct or disposal of proceedings at any time, including an order amending, suspending or setting aside an earlier order.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the First-tier Tribunal may by order—

- (a) extend or shorten the time for complying with any rule, practice direction or order,
- (b) permit or require a party to amend a document,
- (c) permit or require a party to provide documents, information, evidence or submissions to the First-tier Tribunal or to another party,
- (d) deal with an issue in the proceedings as a preliminary issue,
- (e) hold a hearing to consider any matter, including a case management hearing,
- (f) decide the form of any hearing having considered both parties' preferences,
- (g) adjourn or postpone a hearing, on its own initiative or following a request by any party, giving parties such notice as it considers reasonable,
- (h) with the agreement of the parties, bring forward a hearing,
- (i) require a party to produce a file of documents for a hearing,
- (j) sist proceedings, and
- (k) suspend the effect of its own decision pending determination by the First-tier Tribunal, Upper Tribunal, or other tribunal as the case may be, of—
 - (i) any application to appeal against or have that decision reviewed, and
 - (ii) such appeal or review as the applicable tribunal may subsequently conduct.

Conjoining of appeals

6.—(1) Where there are pending two or more appeals before the First-tier Tribunal and at any time it appears to the First-tier Tribunal that—

- (a) some common question of law or fact arises in both or all of the appeals, and
- (b) it is in all the circumstances appropriate to make an order under this rule,

(a) The Scottish Courts and Tribunals Service was established by section 60 of the Judiciary and Courts (Scotland) Act 2008 (2008 asp 6).

the First-tier Tribunal may order that some or all of the appeals as may be specified in the order are to be considered together and may give such consequential orders as it considers necessary.

(2) An order is not to be made under this rule unless all parties have been given an opportunity to make representations about the making of such an order.

Dismissal of a case

7.—(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if—

- (a) the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them, or
- (b) the First-tier Tribunal considers that the appellant has failed to co-operate with it to such an extent that the First-tier Tribunal cannot deal with the proceedings fairly and justly.

(2) The First-tier Tribunal may dismiss the whole or a part of the proceedings if—

- (a) it considers there is no reasonable prospect of the appellant's case, or part of it, succeeding, or
- (b) the appellant has failed to comply with an order which stated that failure by the appellant to comply with the order could lead to the dismissal of the proceedings or part of them.

(3) The First-tier Tribunal may not dismiss the whole or a part of the proceedings under paragraphs (1) or (2) without first giving the appellant an opportunity to make representations in relation to the proposed dismissal.

(4) Any representations in relation to a proposed dismissal must be made by the appellant or their representative within 14 days of receipt of notification of proposal to dismiss in accordance with (3), or such longer period as the First-tier Tribunal may in special circumstances allow.

Further representations

8.—The First-tier Tribunal may invite either party to send to the First-tier Tribunal representations dealing with any matter relating to an appeal within such time, and in such a manner, as may be specified.

(1) Where a party fails to respond to an invitation under paragraph 8, the First-tier Tribunal may draw such inferences as appear to it proper.

(2) Any representations sent under this rule must be signed by the party concerned or the authorised representative.

(3) Where the appellant sends representations to the First-tier Tribunal under this rule, the First-tier Tribunal must thereafter send, or make electronically available, a copy of the representations to the respondent.

(4) Where the respondent sends representations to the First-tier Tribunal under this rule, the respondent must at the same time send, or make electronically available, a copy of the representations to the appellant.

Attendance of witnesses

9.—(1) The First-tier Tribunal may, on the motion of any party to the proceedings or on its own initiative —

- (a) by citation require any person to attend, at a time and place specified in the citation, to answer any questions as a witness, or
- (b) order any person to produce any document in the person's custody or control which relates to any matter in the proceedings.

(2) No person shall be required under paragraph (1) to attend at any place which is more than 10 miles from the place where he resides unless the necessary expenses are paid or tendered to him by

the party at whose instance his attendance has been required or by the First-tier Tribunal, as the case may be.

(3) A person receiving a citation under paragraph (1) may apply to the First-tier Tribunal to vary or set aside the citation.

(4) A person is not bound to comply with a citation unless the person has been given at least 7 clear days' notice of the hearing or, if given less than 7 clear days' notice, the person has informed the First-tier Tribunal that they accept the notice period given.

(5) A person, other than the parties, is not bound to comply with a citation under paragraph (1) unless the necessary expenses of the person's attendance are paid or tendered to them.

(6) No person is required under paragraph (1) to give any evidence or produce any document which that person would be entitled to refuse to give or produce in proceedings in a court.

Disposal of an appeal without a hearing

10.—(1) This rule applies to appeals other than an appeal against a determination of an application for council tax reduction (for which provision is made in rule 40).

(2) An appeal may be disposed of on the basis of written representations, without a hearing, if

- (a) all the parties have given their agreement in writing, and
- (b) the First-tier Tribunal considers that it is able to decide the matter without a hearing.

(3) Where an appeal is to proceed without a hearing, in accordance with paragraph (2), the First-tier Tribunal shall serve notice on the parties accordingly.

(4) Any party may, at any time before an appeal is determined under this rule, withdraw their agreement under paragraph (2)(a) by serving notice on the First-tier Tribunal.

(5) Where a party withdraws their agreement in accordance with (8) a hearing must be held for the purpose of deciding the appeal.

(6) The First-tier Tribunal may dispose of proceedings, or a part of proceedings, under rule 7 (dismissal of a case) without a hearing.

(7) An appeal, or part of an appeal, disposed of by virtue of paragraph (10) is not subject to paragraphs (2) to (9) of this rule.

Notice of hearings

11.—(1) This rule has effect where a hearing is to be held for the purpose of deciding an appeal.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a hearing, (including any adjourned or postponed hearing) and any changes to the date, time and place of a hearing.

(3) The notice period for a hearing must be no less than 28 days from the date of receipt by the parties of the notice, unless the parties consent to a shorter period or there are urgent or exceptional circumstances.

(4) The notice period for any changes to the date, time and place of a hearing must be no less than 7 days from the date of receipt by the parties of the notice, unless the parties consent to a shorter period or there are urgent or exceptional circumstances..

Procedure at hearing

12.—(1) At the beginning of a hearing the First-tier Tribunal must explain the procedure that will be followed during the hearing.

(2) A hearing must be held in public unless the First-tier Tribunal, on its own initiative or following an application by an appellant, decides that it is necessary that the hearing be held in private to ensure a fair hearing.

(3) Where, in accordance with paragraph (2), a hearing is to be held in private, the First-tier Tribunal may, with the agreement of both parties, permit any other person to attend.

(4) The First-tier Tribunal may, with the agreement of both parties, receive evidence by telephone, through a video link or by using any other appropriate method of communication, if satisfied that doing so will not prejudice the administration of justice and that there is no important public interest consideration which requires a hearing in person.

(5) The First-tier Tribunal may exclude from a hearing, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the First-tier Tribunal, to disrupt the hearing.

(6) The First-tier Tribunal may exclude from the hearing a person who is to appear as a witness until such time as that person gives evidence if it considers it is fair in all the circumstances to do so.

(7) Subject to paragraphs (8) and (9), a party at a hearing may conduct the case themselves (with the assistance of a supporter if they wish, in accordance with rule 13) or may be represented by any person, whether or not legally qualified.

(8) A member of the First-tier Tribunal may not represent any party to an appeal.

(9) If the First-tier Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a particular person to assist or represent a party at the hearing.

(10) Where a party to an appeal has in accordance with paragraph (7) elected to be represented by another person at that appeal, that representative must as soon as practicable—

- (a) notify the First-tier Tribunal and any other parties that they are so acting, and
- (b) in the event that they cease to act for that party, notify the First-tier Tribunal and any other parties that they are no longer so acting and intimate to them, if known, the name and address of any new representative.

(11) At the hearing of an appeal—

- (a) the parties are entitled to give evidence, to call witnesses, to question any witnesses and to address the First-tier Tribunal both on the evidence and generally on the subject matter of the appeal, and

(12) Where a party wishes a record to be made of the evidence led at the hearing, they—

- (a) may make arrangements for the taking, at their expense, of such a record, and
- (b) shall inform the First-tier Tribunal accordingly.
- (c) shall, in accordance with arrangements approved by the First-tier Tribunal, retain the record for so long as may be required for the purposes of paragraph (13).

(13) If a record has been taken in accordance with (12) and is required in connection with the preparation of a case to be stated for the opinion of the Lands Valuation Appeal Court, the First-tier Tribunal may require the party on whose behalf the said record was taken to provide a certified transcript of the record, at the expense of the First-tier Tribunal, and the First-tier Tribunal shall on request make available a copy of such transcript to the other party to the appeal.

Supporters

13.—(1) A party who is an individual may be accompanied by another person to act as a supporter.

(2) A supporter may assist the party by—

- (a) providing moral support;
- (b) helping to manage tribunal documents and other papers;
- (c) taking notes of the proceedings;
- (d) quietly advising on—
 - (i) points of law and procedure;
 - (ii) issues which the party might wish to raise with the tribunal.

(3) The party may show any document or communicate any information about the proceedings to that party's supporter without contravening any prohibition or restriction on disclosure of the document or information.

(4) Where a document or information is disclosed under paragraph (3), the supporter is subject to any prohibition or restriction on disclosure in the same way that the party is.

(5) A supporter may not represent the party.

(6) The First-tier Tribunal may order that a person is not to act as a supporter of a party if—

- (a) it is of the opinion that the supporter is an unsuitable person to act as a supporter (whether generally or in the proceedings concerned); or
- (b) it is satisfied that to do so would be in the interests of the efficient administration of justice.

Evidence and submissions

14.—(1) Without restriction on the general powers in rule 5(1) and (2) (case management powers), the First-tier Tribunal may give orders as to—

- (a) any issue on which it requires evidence or submission, and
- (b) the nature of the evidence or submission it requires.

Decision of the First-tier Tribunal

15.—(1) Where there are two or more members, the decision of the First-tier Tribunal must be made by majority, but in the event of a tie the chairing member has a casting vote.

(2) Where an appeal is decided at a hearing, the decision of the First-tier Tribunal may be given orally at the end of the hearing or reserved until a later date.

(3) The First-tier Tribunal may make such a decision as it thinks fit where, in advance of its reaching a decision—

- (a) the parties reach agreement in writing, or
- (b) either party agrees to concede their position in writing.

(4) As soon as possible after making a decision in an appeal, the First-tier Tribunal must issue that decision in writing to the parties, including a statement of facts and the findings and reasons for the decision.

(5) The decision referred to in paragraph (4) must be—

- (a) signed and dated by the legal member of the First tier-Tribunal who conducted the hearing where practicable, and in any case by a legal member of the First-tier Tribunal, and
- (b) accompanied by a notice explaining the parties' right to request a review of the decision or to request permission to appeal on a point of law, specifying the time within which, and the manner in which, such right to request a review or permission to appeal may be exercised.

(6) Except where a decision is given orally at the end of the hearing, it is treated as having been made on the date on which it is signed and dated in accordance with paragraph (4)(a).

Publication of decisions

16.—(1) Subject to the rest of this rule, the First-tier Tribunal must publish its decisions in writing.

(2) Where any decision refers to any evidence that has been heard in private, in accordance with rule 12, the reference to that evidence must be omitted from the decision and the First-tier Tribunal may make any necessary amendments to the text of the decision for the purposes of publication.

(3) A decision may be published in such edited form, or subject to such deletion or redaction of sensitive data and information, as the First-tier Tribunal considers appropriate, taking into account any representations on the matter which any person has provided in writing to the First-tier Tribunal at any time prior to publication.

Review of a decision

17.—(1) Subject to paragraph (2), the First-tier Tribunal may, at its own instance or at the request of a party, review a decision it has made.

(2) No appeal to which Part 2 of these Regulations relates may be reviewed.

(3) The grounds on which a decision may be reviewed are that—

- (a) a party claims, or the First-Tier Tribunal has cause to suspect, that the decision has been wrongly made as a result of an internal administrative error,
- (b) an appellant who failed to appear or be represented at a hearing had good and sufficient reason for doing so,
- (c) new evidence has become available since the decision was made, the existence of which could not have been reasonably known about or foreseen when the decision was made, or
- (d) the interests of justice require such a review.

(4) A request for a review by a party must—

- (a) be made in writing and copied to the other party or parties.
- (b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to parties, and
- (c) set out why a review of the decision is necessary.

(5) If the First-tier Tribunal considers a request for review is wholly without merit, it must refuse the request and inform the parties of the reasons for refusal.

(6) Except where a request is rejected under paragraph (4), where a request for review is received the First-tier Tribunal must send a notice to the parties setting a time limit for any response by the parties to the request for review and seeking the views of the parties on whether the request should be determined with or without a hearing.

(7) Where the First-tier Tribunal proposes to review a decision at its own instance, it must—

- (a) inform the parties in writing within 14 days of the date on which the decision was made or within 14 days of the date that the written reasons (if any) were sent to the parties, of the reasons why the decision is being reviewed, and
- (b) review the decision as if a request for a review has been made and not refused.

(8) Where a decision is reviewed under this rule—

- (a) rule 10 applies for the purposes of determining whether or not a hearing is required, with the word “appeal” substituted with the word “review”, and the words “four weeks” substituted with words “two weeks”, and
- (b) where rule 11 applies the word “appeal” is substituted with the word “review”, and the numbers “28” and “7” are substituted with the numbers “14” and “5” respectively.

(9) Where practicable, the review must be undertaken by a different member of the First-tier Tribunal from the member who made the original decision to which the review relates.

Expenses

18.—(1) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.

(2) Where expenses are awarded under paragraph (1) the amount of the expenses awarded under that paragraph must be the amount of expenses required to cover any unnecessary or unreasonable expense incurred by the party in whose favour the order for expenses is made.

(3) An order is not to be made under paragraph (1) against a party unless that party has been given an opportunity to make representations.

Correction of clerical mistakes or accidental slips or omissions

19. The First-tier Tribunal may at any time correct any clerical mistake or other accidental slip or omission contained in a decision, order or any other document of the First-tier Tribunal, or any document produced by it, by—

- (a) sending notification of the amended decision or order, or a copy of the amended document, to all parties, and
- (b) making any necessary amendment to any information published in relation to the decision, order or document.

Signature of documents

20. Where any of these Rules requires a document to be signed, that requirement will be satisfied—

- (a) if the signature is written, or
- (b) in the case of a document which is communicated electronically in accordance with these Rules—
 - (i) by the electronic signature of the individual who is required to sign it, or
 - (ii) by authentication through a case management system.

Sending and delivery of notices and documents

21.—(1) This rule has effect in relation to any notice or other document required or authorised to be provided under a practice direction, an order or these Rules.

(2) Any such notice or document must be—

- (a) sent by pre-paid post properly addressed, delivered by hand or transmitted by electronic communication including through the electronic case management system, or
- (b) sent or delivered by such other method as the First-tier Tribunal may permit or direct.

(3) Subject to paragraph (4), where a party or authorised representative provides an email address, or other details for the electronic transmission of documents to them, and agreement in writing that they will accept notices and documents transmitted in that manner to that specified email address, that party or authorised representative must accept delivery of documents by that method.

(4) If a party informs the First-tier Tribunal and all other parties that a particular form of communication (other than pre-paid post or delivery by hand) should not be used to provide documents to that party, that form of communication must not be so used.

(5) If the First-tier Tribunal or a party sends by email, or any other means of electronic communication, to a party or the First-tier Tribunal—

- (a) a document, or
- (b) notification of a document's availability for electronic viewing including through the case management system,

the recipient may request that the sender provide a paper copy of the document to the recipient provided that such a request is made by the recipient within 14 days of receiving said document or notification electronically.

(6) The First-tier Tribunal and each party may assume that the address provided by a party or its authorised representative is and remains the address to which documents should be sent or delivered until receiving notification to the contrary.

PART 2

Procedure in respect of non-domestic rates appeals

Interpretation

22. In this Part—

“assessor” means the person who has the function of valuing the lands and heritages to which any appeal relates,

“appeal” means an appeal under the Valuation Acts,

“lands and heritages” is to be construed in accordance with section 42 of the 1854 Act,

“non-domestic rates” means non-domestic rates levied under section 7B of the 1975 Act.

Notice of appeal

23.—(1) An appeal to the First-tier Tribunal is to be made by giving written notice to the First-tier Tribunal in accordance with the following paragraphs.

(2) A notice of appeal must include, and may only include—

- (a) the full name and address of the appellant,
- (b) where applicable, the full name and address of any authorised representative,
- (c) where applicable, any other specified address as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
- (d) the address of the lands or heritages to which the appeal relates,
- (e) the valuation area in which the lands or heritages are situated,
- (f) a statement that the notice is a notice of appeal,
- (g) notice of whether the appeal is brought under section 3ZA(6)(b) or (c) of the 1975 Act,
- (h) subject to paragraph (3), the details of the proposal made by the appellant to alter an entry in the valuation roll under section 3ZA of the 1975 Act,
- (i) the details of the period within which the proposal under (h) was made,
- (j) notice sent under regulations made under s.3ZA(7)(d) (unless the appellant does not have that notice),
- (k) the details of the assessor for that valuation area, and
- (l) the signature of the appellant or the authorised representative, as the case may be.

(3) Information under paragraph (2)(h) may only be included with any notice of appeal to the First-tier Tribunal if it falls within one of the following categories—

- (a) information (including documents if applicable) that was exchanged at the proposal stage prior to a proposal determination date in accordance with the Procedures in Proposals Regulations 2022(a),
- (b) any relevant new information that has become available since the proposal determination date, which did not exist at the time the determination was made.

(4) A notice of appeal is to be served on the First-tier Tribunal within the period of time specified in the schedule of the Valuation Timetable (Scotland) Order 1995(b), as amended from time to time.

(a) S.S.I. 2022/xx
(b) S.I. 1995/164

Confirmation of receipt of appeal by the First-tier Tribunal

- 24.**—(1) Within 14 days of receipt of the notice of appeal, the First-tier Tribunal must—
- (a) send an acknowledgement of receipt of the notice of appeal to the appellant, and
 - (b) send to the assessor a copy of the notice of appeal and any order extending the time limit for appealing.
- (2) Upon receiving a copy of the notice of appeal sent in accordance with paragraph (1), the assessor must within 21 days—
- (a) send to the First-tier Tribunal a copy of—
 - (i) the original valuation of the lands or heritages to which the appeal relates,
 - (ii) the proposal made by the appellant,
 - (iii) the decision taken by the assessor in accordance with section 3ZB(6) of the 1975 Act,
 - (b) notify the First-tier Tribunal as to the assessor’s preferred form for a hearing or, if no preference, notification of such, and
 - (c) send to the appellant a copy of the documents set out in (a).
- (3) Upon receipt of the documents in paragraph (2)(a) and notification in accordance with paragraph (2)(b), the First-tier Tribunal must within 14 days invite the appellant’s views as to the appellant’s preferred form for a hearing.

Withdrawal of appeal

- 25.**—(1) The appellant may submit a request to the First-tier Tribunal to withdraw an appeal—
- (a) at any time before the hearing of the appeal by sending a notice requesting withdrawal in writing to the First-tier Tribunal, or
 - (b) at the hearing of the appeal.
- (2) An appeal may not be withdrawn unless and until the First-tier Tribunal, either in writing or during the course of an appeal hearing, gives its permission for such a withdrawal.
- (3) Without prejudice to paragraph (2), the First-tier Tribunal may take into account whether or not the appellant and the assessor have reached an agreement as to the alteration of the entry to which the appeal relates, and may take into account the terms of any such agreement.

Application for referral to the Upper Tribunal

- 26.**—(1) The assessor or the appellant may make application to the First-tier Tribunal seeking referral of the appeal to the Upper Tribunal for determination under section 1(3A) of the 1949 Act^(a), but any such application must be made more than 14 days prior to any date set for the hearing of the appeal.
- (2) An application under paragraph (1) shall include representations by the applicant as to which of the criteria set out in sub-paragraphs (a) to (e) of paragraph (1) of rule 27 apply to the appeal.
- (3) The party who makes an application under paragraph (1) shall, at the same time as they make that application, send a copy of it to the other party, and that other party may make written representations to the First-tier Tribunal on the application, and shall send a copy of any such representations to the applicant.
- (4) The assessor and the appellant may make a joint application to the First-tier Tribunal in accordance with the terms of section 15(2AA) of the Local Government (Financial Provisions) (Scotland) Act 1963 seeking referral of an appeal to the Upper Tribunal for determination under section 1(3A) of the 1949 Act, but any such application must be made more than 14 days prior to any date set for the hearing of the appeal.

(a) Section 1(3A) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

(5) The First-tier Tribunal may on its own initiative refer an appeal to the Upper Tribunal for determination under section 1(3A) of the 1949 Act where it is satisfied that one or more of the criteria set out in sub-paragraphs (a) to (e) of paragraph (1) of rule 27 is met.

Decision on referral to the Upper Tribunal

27.—(1) Where an application under rule 26(1) or (4) has been made, and it appears to the First-tier Tribunal that—

- (a) the facts of the case are complex or highly technical;
- (b) the evidence to be given by expert opinion is complex or highly technical;
- (c) the law applicable to the case is uncertain or difficult to apply;
- (d) the case raises a fundamental or general issue likely to be used as a precedent in other cases; or
- (e) the lands and heritages to which the appeal relates are part of larger subjects situated in more than one valuation area and the valuation of those subjects is appealed in more than one such area,

the First-tier Tribunal shall refer the appeal to the Upper Tribunal for determination, and shall notify the parties accordingly.

(2) Not later than 42 days after receiving an application under rule 26(1) or 26(4), the First-tier Tribunal shall decide, without hearing the parties in person, whether the appeal is to be heard by the First-tier Tribunal or referred to the Upper Tribunal for determination and, in so deciding, the First-tier Tribunal shall have regard to the application and any written representations thereon, including any further representations the First-tier Tribunal may request of either of the parties.

(3) Where an application has been made under rule 26(1) or 26(4) and the First-tier Tribunal has decided not to refer the appeal to the Upper Tribunal, the First-tier Tribunal shall within 14 days of making its decision notify that decision with reasons in writing to both parties, and shall, subject to paragraph (4), proceed with the appeal as if no such application had been made, save that no further application may be made under rule 26.

(4) No hearing of an appeal by the First-tier Tribunal shall proceed, except by agreement of the parties to the appeal, within 35 days after the date of notification in accordance with paragraph (3) of the First-tier Tribunal's decision not to refer the appeal to the Upper Tribunal.

(5) Where an application has been made under rule 26(1) or 26(4) and the First-tier Tribunal has decided to refer the appeal to the Upper Tribunal for determination, or where the First-tier Tribunal has referred an appeal on its own initiative under rule 26(5), but the Upper Tribunal, in accordance with section 1(3B) of the 1949 Act^(a), declines to proceed to determine it, the appeal shall be remitted to the First-tier Tribunal which shall proceed with the appeal as if no such reference had been made, save that no further application may be made under rule 26.

(6) Where the Upper Tribunal has in accordance with paragraph (5) declined to proceed to determine the appeal, the First-tier Tribunal shall (subject to rule 10) of new issue to each party, in accordance with the provisions of rule 11, a notice of the date of the hearing of the appeal by the First-tier Tribunal, and these Rules shall thereafter operate as if the date so set were the date originally set for the hearing.

Appeal against refusal to refer to the Upper Tribunal

28.—(1) Where an application has been made under rule 26(1) or 26(4) and the First-tier Tribunal has decided not to refer the appeal (hereinafter in this rule referred to as “the original appeal”) to the Upper Tribunal, the applicant may lodge with the Upper Tribunal an appeal against that decision of the First-tier Tribunal^(b).

(a) Section 1(3B) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

(b) Section 1(3BA) of the 1949 Act was inserted by the Local Government and Housing Act 1989, Schedule 6, paragraph 1, and empowers the Tribunal to determine appeals to which rule 28 refers.

(2) An appeal to the Upper Tribunal as provided for in paragraph (1) shall be made by way of notice given by the applicant to the Upper Tribunal within 21 days after the date of notification in accordance with rule 27(3) of the First-tier Tribunal's decision not to refer the original appeal to the Upper Tribunal.

(3) The notice of appeal referred to in paragraph (2) shall specify the grounds on which the appeal is made, and shall be accompanied by a copy of the First-tier Tribunal's decision in respect of the application made under rule 26(1) or 26(4) as the case may be and its reasons for that decision.

(4) The applicant shall, at the same time as he gives notice to the Upper Tribunal under paragraph (2), send a copy of that notice to the other party.

(5) Where an appeal has been made under paragraph (1) and the Upper Tribunal has decided to refuse it, the First-tier Tribunal shall—

- (a) proceed with the original appeal as if no appeal under paragraph (1) had been made, save that no further appeal under that paragraph or further application to or referral from the First-tier Tribunal under rule 26 may be made; and
- (b) (subject to rule 10) of new issue to each party, in accordance with the provisions of rule 11, a notice of the date of the hearing in respect of the original appeal by the First-tier Tribunal, and these rules shall thereafter operate as if the date so set were the date originally set for the hearing.

Appeal to the Lands Valuation Appeal Court

29.—(1) A decision of the First-Tier Tribunal may be appealed to the Lands Valuation Appeal Court under section 7 of the Valuation of Lands (Scotland) Amendment Act 1879.

(2) A party seeking to appeal a decision of the First-tier Tribunal may make a written application to the First-tier Tribunal for a written statement of the reasons for the decision, where this has not already been issued.

(3) An appeal under (1) must be lodged in accordance with the Act of Sederunt (Valuation Appeal Rules Amendment) 1982 as amended from time to time.

PART 3

Procedure in respect of council tax appeals

Interpretation

30.—(1) In this Part,

“appeal” means an appeal under—

- (i) Part II of the 1993 Regulations,
- (ii) section 81(1) of the 1992 Act,
- (iii) paragraph 3 of Schedule 3 of the 1992 Act, or
- (iv) paragraph 2 of Schedule 6 of the 1992 Act,

“assessor”, in relation to a list, means the local assessor charged with its maintenance under section 84(1) of the 1992 Act,

“levying authority”, in relation to a dwelling, means the local authority in whose area the dwelling is situated,

“list” means a valuation list compiled under section 84 of the 1992 Act,

“proposal” means a proposal for the alteration of a list;

(2) Any reference in this Part to a party to an appeal means the person or persons who made the appeal and—

- (a) in the case of an appeal under Part II of the 1993 Regulations or under paragraph 2 of Schedule 6 to the 1992 Act, the assessor,
- (b) in the case of any other appeal, the levying authority.

Notice of appeal

31.—(1) An appeal to the First-tier Tribunal is to be made by giving written notice to the First-tier Tribunal in accordance with the following paragraphs.

(2) A notice of appeal must include—

- (a) the full name and address of the appellant,
- (b) where applicable, the full name and address of any authorised representative,
- (c) where applicable, any other specified address as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
- (d) the address of the lands or heritages to which the appeal relates,
- (e) a statement that the notice is a notice of appeal,
- (f) where the appeal is brought under regulation 5 of the 1993 Regulations, in relation to a proposal—
 - (i) where the appeal is against a proposal treated as invalid for lack of title or out of time under regulation 8 of the 1993 Regulations, either—
 - (aa) a copy of the notice issued in accordance with paragraph (2) of that regulation, or
 - (bb) where such notice has not been received by the appellant, a statement to that effect,
 - (ii) where the appeal is against a proposal treated as invalid for lack of information under regulation 9 of the 1993 Regulations, either—
 - (aa) a copy of the notice issued in accordance with paragraph (2) of that regulation, or
 - (bb) where such notice has not been received by the appellant, a statement to that effect,
 - (iii) where the appeal is against the assessor’s decision in respect of a proposal under regulation 15(1A)(a) of the 1993 Regulations—
 - (aa) the proposed alteration of the list,
 - (bb) the date of service of the proposal, and
 - (cc) the grounds on which the proposal was made,
- (g) where the appeal is under section 81(1) of the 1992 Act—
 - (i) the grounds on which the appeal is made, and
 - (ii) the date on which the aggrieved person’s notice under section 81(4) of the Act was served on the levying authority,
- (h) where the appeal is under paragraph 3 of Schedule 3 to the 1992 Act in relation to a penalty imposed under paragraph 1 or 2 of that schedule—
 - (i) the grounds on which the appeal is made, and
 - (ii) the date on which the penalty was imposed,
- (i) where the appeal is under paragraph 2 of Schedule 6 to the Act in relation to a completion notice,

(a) Regulation 15 of the 1993 Regulations is amended by S.S.I. 2022/xx [The First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2022]

- (i) a copy of the completion notice which is the subject of the appeal, and
 - (ii) a statement of the grounds on which the appeal is made,
 - (iii) any additional representations the appellant wishes to make,
 - (iv) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
 - (v) the signature of the appellant or the authorised representative, as the case may be.
- (3) A notice of appeal must be served on the First-tier Tribunal—
- (a) where the appeal is against a proposal treated as invalid for lack of title or out of time under regulation 8 of the 1993 Regulations, within 28 days of the date of service by the assessor on the appellant of notice under paragraph (1) of that regulation or where such notice is not served on the appellant within 10 weeks of the service of the proposal in accordance with regulation 6 of the 1993 Regulations,
 - (b) where the appeal is against a proposal treated as invalid for lack of information under regulation 9 of the 1993 Regulations, within 28 days of the date of service by the assessor on the appellant of notice under paragraph (1) of that regulation or where such notice is not served on the appellant within 10 weeks of the service of the proposal in accordance with regulation 6 of the 1993 Regulations,
 - (c) where the appeal is against the assessor’s decision in respect of a proposal under regulation 15(1A) of the 1993 Regulations within the later of—
 - (i) 28 days of the end of the period of six months referred to in paragraphs (2) to (6) of that regulation, and
 - (ii) 28 days of 1st January 2023,
 - (d) where the appeal is under section 81(1) of the 1992 Act, within 4 months of the date of service by the appellant of the first notice under subsection (4) of that section bringing the grievance in question to the attention of the levying authority,
 - (e) where the appeal is brought under paragraph 3 of Schedule 3 to the 1992 Act in relation to a penalty imposed under paragraph 1 or 2 of that schedule, within 2 months of the date on which the penalty was imposed, and
 - (f) where the appeal is brought under paragraph 2 of Schedule 6 to the Act in relation to a completion notice, within 21 days of the service on the appellant of such notice.
- (4) If the appellant sends the notice of appeal after the end of the relevant period specified in paragraph (3), the notice of appeal must include a statement of the reasons on which the appellant relies for justifying the delay, and the First-tier Tribunal must treat any such statement as a request for extending that time limit.

Confirmation of receipt of appeal by the First-tier Tribunal

- 32.—**(1) On receipt of notice an appeal under this Part, the First-tier Tribunal—
- (a) must within 14 days send an acknowledgement of receipt of the notice of appeal to each party,
 - (b) must invite the appellant to make further representations in respect of the appeal, and to provide any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
 - (c) may require either party to the appeal to provide it with such information, evidence or documents as it considers necessary.

Withdrawal of appeal

- 33.—**(1) The appellant may withdraw the appeal—
- (a) at any time before the hearing of the appeal by sending a notice of withdrawal in writing to the First-tier Tribunal, or

(b) with leave of the First-tier Tribunal, by giving intimation to that effect at a hearing.

(2) Where an appellant withdraws an appeal in accordance with paragraph (1), the First-tier Tribunal must immediately notify the respondent.

(3) Where, after an appeal under Part II of the 1993 Regulations has been lodged, the assessor decides that the proposal to which the appeal relates is well-founded, he shall—

- (a) proceed in accordance with regulation 14 of those Regulations (alterations agreed by assessor); and
- (b) inform the First-tier Tribunal accordingly.

(4) On receipt of a notification under paragraph (1) or (3) the First-tier Tribunal must treat the appeal as withdrawn.

(5) Where an appeal is withdrawn, no further appeal may be made in relation to the same dwelling and arising from the same matter and facts.

Orders

34.—(1) On deciding an appeal, other than an appeal under Part II of the 1993 Regulations, the First-tier Tribunal may in consequence of the decision by order require—

- (a) the reversal of a decision of a levying authority,
- (b) the quashing of a calculation of an amount payable as council tax or council water charge,
- (c) where the calculation of an amount has been quashed, the re-calculation of that amount,
- (d) the quashing of a penalty imposed under paragraph 2 of Schedule 3 to the 1992 Act,
- (e) the quashing of a council tax completion notice,
- (f) the alteration of a list (prospectively or retrospectively).

(2) On deciding an appeal under Part II of the 1993 Regulations, the First-tier Tribunal may in consequence of the decision by order require an assessor to alter a list in accordance with any provision made by or under the 1992 Act.

(3) The assessor shall comply with any order under sub-paragraph (e) of paragraph (1) or under paragraph (2) within six weeks beginning on the day of its making.

(4) An order under this rule may require any matter ancillary to its subject-matter to be attended to.

Consideration of application for permission to appeal to the Upper Tribunal

35.—(1) A party seeking permission to appeal under section 46(3)(a) of the 2014 Act must make a written application to the First-tier Tribunal.

(2) For the purposes of this rule, the definition of “appeal” set out in rule 30 (interpretation) of this Part is not to apply.

(3) An application under paragraph (1) must—

- (a) identify the decision of the First-tier Tribunal to which it relates,
- (b) identify the alleged point or points of law on which the party making the application wishes to appeal, and
- (c) state the result the party making the application is seeking.

(4) The First-tier Tribunal must decide whether to give permission to appeal to the Upper Tribunal on any point of law.

(5) The First-tier Tribunal must issue its decision in writing as soon as reasonably practicable to the parties.

(6) If the First-tier Tribunal refuses permission to appeal, it must provide the parties with its decision under paragraph (5)—

- (a) a statement of its findings and reasons for the refusal, and
 - (b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such an application must be made.
- (7) The time limits^(a) within which an application under paragraph (1) can be made exclude any review period in terms of rule 17 (review of a decision).
- (8) For the purposes of this rule, a review period—
- (a) starts on the day the request for review under rule 17 is received by the First-tier Tribunal or, if the review is at the instance of the First-tier Tribunal, the day on which notice is sent to the parties, and
 - (b) ends on the day that the First-tier Tribunal decision on the review is sent to the parties.

PART 4

Procedure in respect of council tax reduction appeals

Interpretation

36. In this Part—

“appeal” means an appeal against a determination on an application for council tax reduction under—

- (a) regulation 70B the 2012 State Pension Credit Regulations, or
- (b) regulation 94 of the 2021 Regulations;

“relevant authority” means a local authority administering council tax reduction.

Notice of appeal

37.—(1) An appeal to the First-tier Tribunal under this Part is to be made by giving written notice to the First-tier Tribunal in accordance with the following paragraphs.

(2) A notice of appeal must include—

- (a) the full name and address of the appellant,
- (b) where applicable, the full name and address of any authorised representative,
- (c) where applicable, any other specified address as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
- (d) a statement that the notice is a notice of appeal,
- (e) the ground or grounds on which the appeal is made,
- (f) a copy of—
 - (i) the written notice requesting a review served by the appellant on the relevant authority in accordance with regulation 70A(2) of the 2012 State Pension Credit Regulations or regulation 93(2) of the 2021 Regulations as the case may be, and
 - (ii) the written notification of the decision in respect of the requested review issued by the relevant authority, if such a notification was received by the appellant.
- (g) a statement indicating whether the appellant requires a hearing to be arranged,
- (h) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and

^(a) The time limits for applying for permission to appeal are set out in regulation 2(1) of S.S.I. 2016/231.

- (i) the signature of the appellant or the authorised representative, as the case may be.
- (3) A notice of appeal is to be served on the First-tier Tribunal—
- (a) within 42 days of the date of service by the respondent on the appellant of the decision that is the subject of the appeal, or
 - (b) where such notice has not been received, within 42 days of the elapsing of the two month period within which the relevant authority was required to issue its decision, in accordance with regulation 70A(4)(b) of the 2012 State Pension Credit Regulations or regulation 93(4)(b) of the 2021 Regulations as the case may be.

(4) If the appellant sends the notice of appeal after the end of the applicable 42-day period in paragraph (3), the notice of appeal must include a statement of the reasons on which the appellant relies for justifying the delay, and the First-tier Tribunal must treat any such statement as a request for extending that time limit.

Confirmation of receipt of appeal by the First-tier Tribunal

- 38.**—(1) On receipt of notice an appeal under this Part, the First-tier Tribunal—
- (a) must within 14 days send an acknowledgement of receipt of the notice of appeal to each party,
 - (b) must invite the appellant to make further representations in respect of the appeal, and to provide any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
 - (c) may require either party to the appeal to provide it with such information, evidence or documents as it considers necessary.

Withdrawal of appeal

- 39.**—(1) The appellant may withdraw the appeal—
- (a) at any time before the hearing of the appeal by sending a notice of withdrawal in writing to the First-tier Tribunal, or
 - (b) at the hearing of the appeal, by notifying the First-tier Tribunal in writing or in person.
- (2) Where an appellant withdraws an appeal in accordance with paragraph (1), the First-tier Tribunal must immediately notify the respondent.
- (3) On receipt of a notification under paragraph (1) the First-tier Tribunal must treat the appeal as withdrawn.
- (4) Where an appeal is withdrawn, no further appeal may be made in relation to the same matter.

Disposal of an appeal without a hearing

- 40.**—(1) An appeal under this Part may be disposed of on the basis of written representations, without a hearing, if—
- (a) all the parties have given their agreement in writing, and
 - (b) the First-tier Tribunal considers that it is able to decide the matter without a hearing.
- (2) Where the First-tier Tribunal decides to proceed without a hearing it must notify parties of that decision in writing.
- (3) The First-tier Tribunal must not determine the outcome of the appeal earlier than 14 days from the date of notifying the parties in accordance with paragraph (2), unless an earlier period is agreed by the parties in writing.
- (4) The First-tier Tribunal does not require to specify a date on which it will determine the outcome of the appeal.

(5) Either party to an appeal may submit further evidence or make further representations in writing to the First-tier Tribunal within the 14 day period (or otherwise earlier period if so agreed) specified in paragraph (3).

(6) If a party makes submissions in respect of an appeal outwith the 14 day period (or otherwise earlier period if so agreed) specified in paragraph (3) the First-tier Tribunal may, having consulted with the parties to the extent it considers necessary, at its discretion but in accordance with the overriding objective, accept or reject such submissions.

(7) If the First-tier Tribunal considers it necessary, having regard to the overriding objective, for another party to have the opportunity to view and respond to submissions made under paragraphs (5) or (6), it may determine such additional period to that specified in paragraph (3) as it considers appropriate.

(8) The First-tier Tribunal may adjourn its own consideration of the appeal in order to clarify any matter or if it considers doing so to be otherwise in the interests of justice.

(9) The First-tier Tribunal may, at any time before reaching a decision in respect of an appeal—

- (a) direct parties to address it on a specific issue,
- (b) request any additional documentation,
- (c) decide to proceed instead by way of an oral hearing.

(10) Any party may, at any time before an appeal is determined under this rule, withdraw their agreement under paragraph (1) by serving notice on the First-tier Tribunal.

(11) The First-tier Tribunal may dispose of proceedings, or a part of proceedings, under rule 7(d)(dismissal of a case) without a hearing.

(12) An appeal, or part of an appeal, disposed of by virtue of paragraph (11) is not subject to paragraphs (1) to (10) of this rule.

Appeal procedure – further provision

41. A party to an appeal must, if requested, advise the First-tier Tribunal whether the appellant has appealed any application for housing benefit that may be relevant to the consideration of the appeal, and if so whether that housing benefit appeal has been determined (insofar as these matters are within the party’s knowledge).

Decision of the First-tier Tribunal – further provision

42. The First-tier Tribunal may uphold or reject an appeal under this Part, in full or in part, but must remit any calculation of the amount of an applicant’s entitlement to a council tax reduction to the relevant authority.

43. On receipt of the decision of the First-tier Tribunal in respect of an appeal, the relevant authority must implement the decision of the First-tier Tribunal as soon as is reasonably practicable, including any calculation of the amount of an applicant’s entitlement to a council tax reduction that is required.

Consideration of application for permission to appeal to the Upper Tribunal

44.—(1) A party seeking permission to appeal under section 46(3)(a) of the 2014 Act must make a written application to the First-tier Tribunal.

(2) For the purposes of this rule, the definition of “appeal” set out in rule 36 (interpretation) of this Part is not to apply.

(3) An application under paragraph (1) must—

- (a) identify the decision of the First-tier Tribunal to which it relates,
- (b) identify the alleged point or points of law on which the party making the application wishes to appeal, and
- (c) state the result the party making the application is seeking.

(4) The First-tier Tribunal must decide whether to give permission to appeal to the Upper Tribunal on any point of law.

(5) The First-tier Tribunal must issue its decision in writing as soon as reasonably practicable to the parties.

(6) If the First-tier Tribunal refuses permission to appeal, it must provide the parties with its decision under paragraph (5)—

- (a) a statement of its findings and reasons for the refusal, and
- (b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such an application must be made.

(7) The time limits^(a) within which an application under paragraph (1) can be made exclude any review period in terms of rule 17 (review of a decision).

(8) For the purposes of this rule, a review period—

- (a) starts on the day the request for review under rule 17 is received by the First-tier Tribunal or, if the review is at the instance of the First-tier Tribunal, the day on which notice is sent to the parties, and
- (b) ends on the day that the First-tier Tribunal decision on the review is sent to the parties.

PART 5

Procedure in respect of penalty notice appeals under the 2020 Act

Interpretation

45. In this Part—

“appeal” means an appeal under section 31(1) (assessor penalty notice appeals) or section 34(1) (local authority penalty notice appeals) of the 2020 Act,

“assessor” means an assessor appointed under section 27(2) of the Local Government etc. (Scotland) Act 1994⁽¹⁾ and includes a depute assessor,

“authorised officer” has the same meaning as in section 27 of the 2020 Act (see subsection (5) of that section),

“penalty notice” means a notice issued under section 30 (assessor penalty notices) or section 33 (local authority penalty notices) of the 2020 Act,

Notice of appeal

46.—(1) An appeal to the First-tier Tribunal is to be made by giving written notice to the First-tier Tribunal in accordance with the following paragraphs.

(2) A notice of appeal must include—

- (a) the full name and address of the appellant,
- (b) where applicable, the full name and address of any authorised representative,
- (c) where applicable, any other specified address as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
- (d) a statement that the notice is a notice of appeal,
- (e) the ground or grounds on which the appeal is made,

(a) The time limits for applying for permission to appeal are set out in regulation 2(1) of S.S.I. 2016/231.

- (f) a copy of—
 - (i) the relevant assessor information notice or local authority information notice (unless the appellant does not have that notice), and
 - (ii) the penalty notice,
- (g) a statement indicating whether the appellant requires a hearing to be arranged,
- (h) where the appeal is based on, or includes, the appellant having a reasonable excuse for not complying with the notice, an explanation of what that excuse is,
- (i) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
- (j) the signature of the appellant or the authorised representative, as the case may be.

(3) A notice of appeal is to be received by the First-tier Tribunal within 28 days of the date of service by the respondent on the appellant of the penalty notice that is the subject of the appeal.

(4) If the appellant sends the notice of appeal after the end of the 28-day period in paragraph (3), the notice of appeal must include a statement of the reasons on which the appellant relies for justifying the delay, and the First-tier Tribunal must treat any such statement as a request for extending that time limit.

Confirmation of receipt of appeal by the First-tier Tribunal

47.—(1) Within 14 days of receipt of the notice of appeal, the First-tier Tribunal must—

- (a) send an acknowledgement of receipt of the notice of appeal to the appellant, and
- (b) send to the respondent a copy of the notice of appeal and where applicable any order extending the time limit for appealing.

(2) Upon receiving a copy of the notice of appeal sent in accordance with paragraph (1)(b), the respondent must within 21 days—

- (a) advise the First-tier Tribunal whether or not the respondent requires a hearing to be arranged, if the appellant has not required a hearing,
- (b) provide the First-tier Tribunal with a statement of—
 - (i) what information the respondent considers has not been provided,
 - (ii) why the respondent believes the appellant should have been able to provide that information, and
 - (iii) why it was considered reasonable to require the appellant to provide that information,
- (c) where the appellant has not provided a copy of the relevant assessor information notice or local authority information notice, provide the First-tier Tribunal with a copy of that notice, and
- (d) provide the First-tier Tribunal with any further material to which the respondent wishes the First-tier Tribunal to have regard.

(3) Upon receipt of the documents in paragraph (b), (c) and if applicable (d), the First-tier Tribunal must within 14 days invite the appellant's views as to the appellant's preferred form for a hearing.

Payment of penalties while appeal is pending

48. Until an appeal under section 31(1) or section 34(1) of the 2020 Act is decided or withdrawn an appellant is not obliged to pay—

- (a) any penalty being appealed,
- (b) any further penalty under section 30(4) or (5) of the 2020 Act to which the appeal relates,
- (c) where the appeal relates to a penalty under section 33 of that Act, any other penalty under that section in relation to the same information.

Withdrawal of appeal

49.—(1) The appellant may withdraw the appeal—

- (a) at any time before the hearing of the appeal by sending a notice of withdrawal in writing to the First-tier Tribunal, or
- (b) at the hearing of the appeal, by notifying the First-tier Tribunal in writing or in person.

(2) Where an appellant withdraws an appeal in accordance with paragraph (1), the First-tier Tribunal must immediately notify the respondent.

(3) If, after receiving notice of an appeal, the respondent decides to remit the penalty that is being appealed, along with any further penalty to which the appellant may be subject under section 30(4) or (5) of the 2020 Act or, as the case may be, any other penalty under section 33 of that Act, the respondent must immediately notify the First-tier Tribunal and the appellant.

(4) On receipt of a notification under paragraph (1) or (3) the First-tier Tribunal must treat the appeal as withdrawn.

(5) Where an appeal is withdrawn, no further appeal may be made in relation to the same matter.

Decisions of the First-tier Tribunal – further provision

50.—(1) A decision in respect of an appeal issued in accordance with rule 15 must, if mitigating or remitting any penalty imposed under section 30 (assessor information notices) of the 2020 Act, state which of the grounds described in section 31(5) of that Act the First-tier Tribunal considers to be established.

Consideration of application for permission to appeal to the Upper Tribunal

51.—(1) A party seeking permission to appeal under section 46(3)(a) of the 2014 Act must make a written application to the First-tier Tribunal.

(2) For the purposes of this rule, the definition of “appeal” set out in rule 45 (interpretation) of this Part is not to apply.

(3) An application under paragraph (1) must—

- (a) identify the decision of the First-tier Tribunal to which it relates,
- (b) identify the alleged point or points of law on which the party making the application wishes to appeal, and
- (c) state the result the party making the application is seeking.

(4) The First-tier Tribunal must decide whether to give permission to appeal to the Upper Tribunal on any point of law.

(5) The First-tier Tribunal must issue its decision in writing as soon as reasonably practicable to the parties.

(6) If the First-tier Tribunal refuses permission to appeal, it must provide the parties with its decision under paragraph (5)—

- (a) a statement of its findings and reasons for the refusal, and
- (b) notification of the right to make an application to the Upper Tribunal for permission to appeal and the time within which, and the method by which, such an application must be made.

(7) The time limits^(a) within which an application under paragraph (1) can be made exclude any review period in terms of rule 17 (review of a decision).

(8) For the purposes of this rule, a review period—

(a) The time limits for applying for permission to appeal are set out in regulation 2(1) of S.S.I. 2016/231.

- (a) starts on the day the request for review under rule 17 is received by the First-tier Tribunal or, if the review is at the instance of the First-tier Tribunal, the day on which notice is sent to the parties, and
- (b) ends on the day that the First-tier Tribunal decision on the review is sent to the parties.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

The Tribunals (Scotland) Act 2014 created a new structure for tribunals dealing with devolved matters under the judicial leadership of the Lord President of the Court of Session as head of the Scottish Tribunals.

It provided for a First-tier Tribunal and an Upper Tribunal and for the First-tier Tribunal to be divided into chambers dependent on the subject-matter of the case before it and similarly for the Upper Tribunal to be divided into divisions. The First-tier Tribunal has been divided into chambers, one of which is the Local Taxation Chamber.

Paragraph 4 of schedule 9 of the Tribunals (Scotland) Act 2014 enables the Scottish Ministers, by regulations, to make Tribunal Rules until such time as the provisions of the 2014 Act conferring responsibility on the Scottish Civil Justice Council and the Court of Session for the making of Tribunal Rules are commenced.

These Regulations provide for the rules of procedure which are to apply in the Local Taxation Chamber when hearing appeals under the Valuation Acts, council tax appeals, appeals against a determination of an application for council tax reduction, and penalty notice appeals under the Non-Domestic Rates Act 2020 Act. The rules of procedure are set out in the schedule of the Regulations.