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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 364**

**TRIBUNALS AND INQUIRIES**

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

*Made* - - - - *8th December 2022*  
*Laid before the Scottish*  
*Parliament* - - - - *12th December 2022*  
*Coming into force* - - *1st April 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 41(1) and 43(3)(b) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014<sup>(1)</sup> 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 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 1 April 2023.

**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<sup>(2)</sup> when exercising the functions conferred on it by—

- (a) regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023<sup>(3)</sup>, or
- (b) regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2023<sup>(4)</sup>.

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(1) 2014 asp 10.

(2) The Local Taxation Chamber of the First-tier Tribunal for Scotland was brought into being by S.S.I. 2021/448.

(3) S.S.I. 2023/XXX.

(4) S.S.I. 2023/XXX.

St Andrew's House,  
Edinburgh  
8th December 2022

*ELENA WHITHAM*  
Authorised to sign by the Scottish Ministers

## 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<sup>(5)</sup>,

“the 2014 Act” means the Tribunals (Scotland) Act 2014<sup>(6)</sup>,

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<sup>(5)</sup> 1992 c. 14.

<sup>(6)</sup> 2014 asp 10.

- “the 1975 Act” means the Local Government (Scotland) Act 1975(7),
- “the 2020 Act” means the Non-Domestic Rates (Scotland) Act 2020(8),
- “the Valuation Acts” means the Lands Valuation (Scotland) Act 1854(9), 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(10),
- “the 2010 Order” means the Water Services Charges (Billing and Collection) (Scotland) Order 2010(11),
- “the 2012 Regulations” means the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012(12),
- “the 2020 Order” means the Water and Sewerage Services to Dwellings (Collection of Unmetered Charges by Local Authority) (Scotland) Order 2020(13),
- “the 2021 Regulations” means the Council Tax Reduction (Scotland) Regulations 2021(14),
- “appeal”, except where otherwise specified, means—
- (a) an appeal or complaint under the Valuation Acts,
  - (b) an appeal under—
    - (i) section 4(8) (rebates for lands and heritages with special facilities for disabled persons) or 5(7) (rebates for institutions in Scotland for the disabled) of the Rating (Disabled Persons) Act 1978(15),
    - (ii) a council tax appeal,
    - (iii) part II (alteration of valuation list) of the 1993 Regulations,
    - (iv) regulation 70B (request for further review) of the 2012 Regulations or regulation 94 (appeals against a determination on an application) of the 2021 Regulations,
    - (v) section 31(1) (assessor penalty notice appeals) or 34(1) (local authority penalty notice appeals) of the 2020 Act,
    - (vi) article 9 (appeals) of the 2010 Order,
    - (vii) article 9 (appeals) of the 2020 Order,
- “appellant” means the person bringing the appeal,
- “application for council tax reduction” means an application for a reduction in liability for council tax calculated in accordance with the 2012 Regulations or the 2021 Regulations,
- “assessor” means—
- (a) in relation to a non-domestic rates appeal, or a penalty notice appeal under the 2020 Act, the assessor or depute assessor for a valuation area appointed under section 27(2) (valuation areas and authorities and appointment of assessors etc.) of the Local Government etc. (Scotland) Act 1994(16),

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(7) 1975 c. 30.

(8) 2020 asp 4.

(9) 1854 c. 91.

(10) S.I. 1993/355. Relevantly amended by S.I. 1996/580.

(11) S.S.I. 2010/10.

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

(13) S.S.I. 2020/4.

(14) S.S.I. 2021/249.

(15) 1978 c. 40.

(16) 1994 c. 39.

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(b) in relation to a valuation list for the purposes of council tax, the local assessor charged with its maintenance under section 84(1)(17) (compilation and maintenance of valuation lists) of the 1992 Act,

“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,

“chairing member” means the chairing member of the First-tier Tribunal and is the legal member where a hearing is heard by two or more members,

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

“council tax appeal” means an appeal under section 81(1) (appeal to valuation committee), 87(6) (alteration of lists), schedule 3, paragraph 3 (penalties) or schedule 6, paragraph 2(1) (completion of new buildings: Scotland) of the 1992 Act,

“electronic communication” has the meaning given to it by section 15(1) (general interpretation) of the Electronic Communications Act 2000(18) and “electronic signature” has the same meaning as in section 7 (electronic signatures and related certificates) of that Act(19),

“First-tier Tribunal” means the Local Taxation Chamber(20) of the First-tier Tribunal for Scotland as established by section 1(1) (establishment of the Tribunals) 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 such 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 such 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 in accordance with rule 33,

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

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

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(17) Section 84(1) was amended by schedule 14 of the Local Government etc. (Scotland) Act 1994 (c. 39).

(18) 2000 c. 7. Section 15(1) was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

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

(20) The First-tier Tribunal for Scotland Local Taxation Chamber was brought into being by S.S.I. 2021/448.

### **Overriding objective**

2.—(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,
- (e) avoiding delay, so far as compatible with proper consideration of the issues.

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

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

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

### **Performance of the Tribunal's functions**

3. The Chamber President may authorise any member of the staff of the Tribunal to exercise such administrative functions under these Rules as the Chamber President specifies.

### **Case management powers**

4.—(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, notwithstanding that that time may have expired,
- (b) where there are two or more cases before the First-tier Tribunal—
  - (i) specify one or more cases as a lead case or lead cases where—
    - (aa) in each such case the proceedings have not been finally determined, and
    - (bb) the cases give rise to common or related issues of fact or law, and
  - (ii) sist the other cases until the common or related issues have been determined,
- (c) permit or require a party to amend a document,
- (d) permit or require a party to provide documents, information, evidence or submissions to the First-tier Tribunal or to another party,
- (e) deal with an issue in the proceedings as a preliminary issue,
- (f) hold a hearing to consider any matter, including a case management hearing,
- (g) decide the form of any hearing having considered parties' preferences,
- (h) in respect of any appeal that was in progress prior to 1 April 2023 and was transferred to the First-tier Tribunal for completion—

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- (i) if the First-tier Tribunal considers it would be appropriate to do so, determine that the appeal is to be re-heard of new, and
- (ii) in any such appeal that is to be re-heard, determine that such evidence relating to the appeal as parties agree on, and the First-tier Tribunal considers appropriate, be accepted,
- (i) adjourn or postpone a hearing, on its own initiative or following a request by any party, giving parties such notice as it considers reasonable,
- (j) with the agreement of the parties, bring forward a hearing,
- (k) require a party to produce a file of documents for a hearing, and, if it is satisfied that it is consistent with the overriding objective to do so, may stipulate in the order that such file be paginated and indexed,
- (l) sist proceedings,
- (m) 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**

5.—(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,

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 parties have been given an opportunity to make representations about the making of such an order.

### **Dismissal of a case**

6.—(1) The First-tier Tribunal must dismiss an appeal if—

- (a) it considers the appeal to be frivolous or vexatious, or
- (b) the appellant has previously made an identical or substantially similar appeal and in the opinion of the First-tier Tribunal there has been no significant change in any material considerations since the identical or substantially similar appeal was determined.

(2) The First-tier Tribunal must, subject to paragraph (5), dismiss the whole or a part of the proceedings if—

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

(3) The First-tier Tribunal may dismiss the whole or a part of the proceedings if it is satisfied that the appellant has failed to—

- (a) provide relevant information where duly requested to, or
- (b) respond timeously to correspondence,

and having regard to that failure the First-tier Tribunal considers that it would not be appropriate for the proceedings or that part of them to continue.



(4) The First-tier Tribunal may, subject to paragraph (5), 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.

(5) The First-tier Tribunal may not dismiss the whole or a part of the proceedings under paragraphs (2) or (4) without first—

- (a) sending written notice to parties that it intends to dismiss the case, and
- (b) giving the appellant an opportunity to make representations in relation to the proposed dismissal.

(6) 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 the intention to dismiss in accordance with paragraph (5), or such longer period as the First-tier Tribunal may in special circumstances allow.

(7) Where the proceedings, or part of them, have been dismissed under paragraph (3)—

- (a) the appellant may apply for the proceedings, or that part of them, to be reinstated,
- (b) if the appellant can satisfy the First-tier Tribunal that—
  - (i) the appellant has good reason for the failure under that paragraph, and
  - (ii) having regard to that reason it would be appropriate for the proceedings or that part of them to continue,

the First-tier Tribunal may reinstate the proceedings or part thereof.

(8) Paragraphs (9) to (14) apply only in respect of proceedings under Part 4.

(9) Where the proceedings, or part of them, have been dismissed under subparagraph (2)(b)—

- (a) the appellant may apply for the proceedings, or that part of them, to be reinstated,
- (b) if the appellant can satisfy the First-tier Tribunal that the appellant has good reason for the failure to co-operate under that subparagraph the First-tier Tribunal may reinstate the proceedings or part thereof.

(10) An application under paragraph (9) must be made in writing and received by the First-tier Tribunal within the period of 31 days beginning with the day on which notification of the dismissal sent to the appellant under paragraph (14) is presumed to have been received by the appellant.

(11) An application under paragraph (9) must set out the reasons on which the appellant relies in applying for reinstatement.

(12) This rule applies to a respondent as it applies to an appellant except that—

- (a) a reference to the dismissal of the proceedings is to be read as a reference to the barring of the respondent from taking further part in the proceedings, and
- (b) a reference to an application for the reinstatement of proceedings which have been dismissed is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings.

(13) If the respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the First-tier Tribunal need not consider any response or other submission made by the respondent.

(14) The First-tier Tribunal must notify each party in writing that dismissal has taken place.

### **Further representations**

7.—(1) 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.

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

(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**

8.—(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 who is not a party shall be required under paragraph (1)—

- (a) in any proceedings to which Part 4 of these Rules applies, to attend at any place unless the citation or order under that paragraph makes provision for the person's necessary expenses of attendance to be paid, and states who is to pay them, and
- (b) in all other proceedings, 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 under paragraph (1) unless that 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) No person may be compelled under this rule to give any evidence or produce any document that the person could not be compelled to give or produce in civil proceedings in a Scottish court.

### **Disposal of an appeal without a hearing**

9.—(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 46).

(2) A council tax appeal against a decision under regulation 8 (proposal treated as invalid due to lack of title or being out of time) or regulation 9 (proposal treated as invalid due to lack of information) of the 1993 Regulations may, if the First-tier Tribunal considers it appropriate to do so, be disposed of on the basis of written representations.

(3) Any other appeal may be disposed of on the basis of written representations, without a hearing, only 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.

(4) Where it appears to the First-tier Tribunal that an appeal, except an appeal of the kind specified in paragraph (2), is capable of being determined without a hearing it must seek the written agreement of the parties to proceed on this basis.

(5) Any party may, with or without the agreement of the other parties to an appeal, request in writing to the First-tier Tribunal that the appeal be determined without a hearing.

(6) On receipt of a request under paragraph (5) the First-tier Tribunal must, unless that request includes the agreement of parties, seek the written agreement of the other parties to determine the appeal without a hearing.

(7) Where an appeal is to proceed without a hearing, the First-tier Tribunal must serve notice on the parties accordingly.

(8) Any party may, at any time before an appeal is determined under this rule, withdraw any agreement given under paragraph (3)(a) by serving notice to that effect on the First-tier Tribunal.

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

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

(11) An appeal, or part of an appeal, disposed of by virtue of paragraph (10) is not subject to paragraphs (3) to (9) of this rule.

### **Lodging of documents**

**10.**—(1) Except as otherwise provided in these Rules, or as otherwise ordered by the First-tier Tribunal, a party must send to the First-tier Tribunal no later than 14 days prior to the date of any hearing notified under rule 11(2) (notice of hearings)—

- (a) a list of any documents and copies of the documents that the party wishes to rely upon, and
- (b) a list of any witnesses that the party wishes to call to give evidence.

(2) Before allowing a document to be lodged late, the First-tier Tribunal must be satisfied that the party has a reasonable excuse.

### **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 any 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 31 days, beginning with the date of issue 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 14 days, beginning with the date of issue 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.

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(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, or part of it, is to be held in private, the First-tier Tribunal may, with the agreement of parties, permit any other person to attend that hearing or that part of it.

(4) 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 that hearing or that part of it.

(5) 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.

(6) A party at a hearing may conduct the case themselves (with the assistance of a supporter if they wish, in accordance with rule 15 (supporters)) or may be represented in the case in accordance with rule 13 (representatives).

(7) All hearings of the First-tier Tribunal in respect of appeals under Part 2 of these Rules must be recorded digitally.

(8) The First-tier Tribunal may prohibit photography, or any audio or visual recordings of the proceedings by parties—

- (a) if it is satisfied that in the interests of justice such a prohibition is required, and
- (b) except in so far as such photography or recording is required in order to make reasonable adjustments for a party or a party's representative or supporter in accordance with the Equality Act 2010(21).

## **Representatives**

**13.**—(1) A party may, subject to paragraphs (2) and (3), be represented in proceedings in the First-tier Tribunal by any person, whether or not that person is legally qualified.

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

(3) If the First-tier Tribunal is satisfied that there are good and sufficient reasons for doing so, it may make an order that a particular person is not to represent a party in the proceedings.

(4) A person acting as representative must in each case—

- (a) as soon as practicable notify the First-tier Tribunal and any other parties that they are so acting and intimate to them their name and address, and
- (b) in the event that they cease to act for that party, as soon as practicable 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.

(5) Where the First-tier Tribunal receives notice of the appointment of a representative—

- (a) it must provide to the representative—
  - (i) any document which it requires under these Rules to provide to the represented party on or after the day on which it receives the notice, in addition to providing the document to the represented party, and
  - (ii) any document which it required under these Rules to provide to the represented party prior to the day on which it receives the notice, and
- (b) it may assume that the representative remains appointed unless it receives written notification that this is not so from the representative or represented party.

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(21) 2010 c. 15.

(6) A party may disclose any document or communicate any information about the proceedings to their representative without contravening any prohibition or restriction on disclosure of the document or information.

(7) Where a document or information is disclosed under paragraph (6), the representative is subject to any prohibition or restriction on disclosure in the same way that the party is.

### **Interpreters**

14. Where an interpreter is appointed to assist the First-tier Tribunal, the interpreter must be independent of parties to the case and of any representatives or supporters.

### **Supporters**

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

(2) The support provided by a person acting as a supporter under this rule may include—

- (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**

16. Without restriction on the general powers in rule 4(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**

17.—(1) Where there are two or more members of the First-tier Tribunal, 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) In reaching its decision on any matter, the First-tier Tribunal may take into account either of the following—

- (a) that the parties reach agreement in writing, or
- (b) that 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**

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

(2) This rule does not apply to any appeal to which Part 4 (council tax reduction) applies.

(3) Where any decision refers to any evidence that has been heard in private, in accordance with rule 12(2) (procedure at hearing), 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.

(4) 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**

**19.**—(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 Rules (non-domestic rates appeals) applies 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,
- (d) the interests of justice require such a review.

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

- (a) be made in writing,
- (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 (5), where a request for review is received the First-tier Tribunal must send a notice of the request 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 9 (disposal of an appeal without a hearing) applies for the purposes of determining whether or not a hearing is required, with the word “appeal” substituted with the word “review”, and
  - (b) where rule 11 (notice of hearings) applies the word “appeal” is substituted with the word “review”.
- (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**

- 20.**—(1) This rule does not apply to any appeal to which Part 4 of these Rules (council tax reduction) applies.
- (2) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where it considers that that party has—
  - (a) acted frivolously or vexatiously, or
  - (b) through unreasonable behaviour in the conduct of a case put the other party to unnecessary or unreasonable expense.
- (3) Where expenses are awarded under paragraph (2) 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.
- (4) An award is not to be made under paragraph (2) against a party unless that party has been given an opportunity to make representations.
- (5) An award under paragraph (2) is to require the party against whom it is made to pay to the other party a specified sum in respect of the expenses incurred by that other party in connection with the proceedings.

### **Correction of clerical mistakes or accidental slips or omissions**

- 21.** 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 parties, and

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- (b) making any necessary amendment to any information published in relation to the decision, order or document.

### **Signature of documents**

**22.** 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**

**23.**—(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**

**24.** In this Part—



“the 1982 Act of Sederunt” means the Act of Sederunt (Valuation Appeal Rules Amendment) 1982(22),

“the 1995 Regulations” means the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995(23),

“the 2022 Order” means the Valuation Timetable (Scotland) Order 2022(24),

“the 2022 Regulations” means the Valuation (Proposals Procedure) (Scotland) Regulations 2022(25),

“appeal” means an appeal or complaint under the Valuation Acts, and “appellant” shall be construed accordingly,

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

“net annual value” has the meaning given in section 6(8) of the Valuation and Rating (Scotland) Act 1956(26),

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

“rateable value” has the meaning given in section 6(9) of the Valuation and Rating (Scotland) Act 1956(27).

### **Appeals lodged prior to 1 April 2023**

**25.**—(1) This rule applies instead of rule 26 (notice of appeal) and rule 27 (confirmation of receipt of appeal by the First-tier Tribunal) to appeals lodged in accordance with paragraph (2) prior to 1 April 2023.

(2) An appeal has been lodged for the purposes of this rule if prior to 1 April 2023 a notice of appeal was lodged with an assessor in accordance with regulation 3(2) of the 1995 Regulations and such appeal has not been withdrawn or otherwise disposed of.

(3) The assessor with whom the notice referred to in paragraph (1) of regulation 3 of the 1995 Regulations has been lodged must, no later than 30 April 2023—

- (a) notify the First-tier Tribunal that such appeal has been duly lodged, and
- (b) send to the First-tier Tribunal the notice of appeal lodged with them and any additional information in their possession relevant to the appeal.

(4) The First-tier Tribunal may, subject to the requirements in paragraph (5), write to the appellant by letter delivered by post or email requesting that they confirm they intend to proceed with the appeal.

(5) The requirements in this paragraph are that the request referred to in paragraph (4) must—

- (a) be sent to the appellant no later than 30 June 2023,
- (b) request confirmation that the appellant intends to proceed with the relevant appeal,
- (c) request a response within no less than 28 days from the date of issue of the letter,
- (d) inform the appellant—
  - (i) that they retain the right to pursue the appeal,

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(22) S.I. 1982/1508.

(23) S.I. 1995/572.

(24) S.S.I. 2022/368.

(25) S.S.I. 2022/369.

(26) 1956 c. 60. Section 6(8) was amended by schedule 6 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47) and section 76(2)(a) of the Land Reform (Scotland) Act 2016 (asp 18).

(27) Section 6(9) was amended by section 10(1) of the Local Government Finance Act 1963 (c. 12) and schedule 6 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47).

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- (ii) that if a response does not reach the First-tier Tribunal within the time specified their appeal may be treated as withdrawn,
  - (iii) of the consequences of such a withdrawal in respect of whether an appeal on the same grounds may be made in the future,
  - (iv) where they may be able to access advice in respect of their appeal and the request for confirmation, and
- (e) provide details of how the appellant may contact the First-tier Tribunal if they require further information.
- (6) Where the First-tier Tribunal has written to the appellant in accordance with paragraph (4) and has not received a response within the time specified, the First-tier Tribunal may treat the appeal in respect of which confirmation was requested as withdrawn.
- (7) In respect of any appeal which is proceeding to a hearing, the First-tier Tribunal requires to give to each party not less than 70 days' notice of the date, time and place set for the hearing of the appeal.
- (8) The notice period specified in paragraph (7) applies to cases to which this rule applies instead of any other notice period which would otherwise apply to that case.

### **Notice of appeal**

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

- (2) Subject to paragraphs (3) and (4), a notice of appeal must include, and may only include—
- (a) the full name, address and, where available, email address of the appellant,
  - (b) where applicable, the full name, address and, where available, email address of any authorised representative,
  - (c) where applicable, any other specified address (which may be an email 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 and heritages to which the appeal relates,
  - (e) a statement that the notice is a notice of appeal,
  - (f) notice of whether the appeal is brought under section 3ZA(6)(b) or (c) of the 1975 Act,
  - (g) 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,
  - (h) the details of the period within which the proposal under (g) was made,
  - (i) notice sent under regulations made under regulation 14 of the 2022 Regulations (unless the appellant does not have that notice),
  - (j) that the appeal has been made in accordance with the dates relating to the lodging of appeals set out in regulation 16 of the 2022 Regulations,
  - (k) the details of the assessor responsible for the valuation of the lands and heritages, and
  - (l) the signature of the appellant or their authorised representative, as the case may be.
- (3) Paragraph (2) applies to complaints under the Valuation Acts with the following modifications—
- (a) in sub-paragraph (e) the word “appeal” is substituted with “complaint”, and
  - (b) sub-paragraphs (f) to (j) do not apply.

(4) Information under paragraph (2)(g) 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 in accordance with the 2022 Regulations before the date specified in schedule 1 of the 2022 Order as the last date for the assessor to issue notice of a decision,
- (b) any relevant new information that has become available since the date specified in schedule 1 of the 2022 Order as the last date for the assessor to issue notice of a decision, and which did not exist on that date.

(5) 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 2022(28),

### **Confirmation of receipt of appeal by the First-tier Tribunal**

27.—(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 anything supplied under rule 26(3) (b) (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, beginning on the date of receipt—

- (a) send to the First-tier Tribunal—
  - (i) the rateable value of the lands or heritages to which the appeal relates,
  - (ii) a copy of the proposal made by the appellant,
  - (iii) a copy of the notice that requires to be issued in accordance with regulation 14 of the 2022 Regulations,
- (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 information and documents set out in sub-paragraph (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 from the date of receipt invite the appellant's views as to the appellant's preferred form for a hearing.

### **Withdrawal of appeal**

28.—(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) orally, 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**

**29.**—(1) The assessor or the appellant may make an 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<sup>(29)</sup>, 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) is to include representations by the applicant as to which of the criteria set out in sub-paragraphs (a) to (e) of paragraph (1) of rule 30 (decision on referral to the Upper Tribunal) apply to the appeal.

(3) The party who makes an application under paragraph (1) must, 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 must 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.

(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 30 is met.

**Decision on referral to the Upper Tribunal**

**30.**—(1) Where an application under rule 29(1) or (4) (application for referral to the Upper Tribunal) 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 must refer the appeal to the Upper Tribunal for determination, and shall notify the parties accordingly.

(2) Not later than 42 days from the date on which an application under rule 29(1) or (4) is received, the First-tier Tribunal must 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 is to 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 29(1) or (4) and the First-tier Tribunal has decided not to refer the appeal to the Upper Tribunal, the First-tier Tribunal must within 14 days of the date on which it made its decision notify that decision with reasons in writing to parties and, 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 29.

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<sup>(29)</sup> Section 1(3A) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31), section 12(1).

(4) No hearing of an appeal by the First-tier Tribunal is to 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 29(1) or (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 29(5), but the Upper Tribunal, in accordance with section 1(3B) of the 1949 Act<sup>(30)</sup>, declines to proceed to determine it, the appeal must be remitted to the First-tier Tribunal which will proceed with the appeal as if no such reference had been made, save that no further application may be made under rule 29.

(6) Where the Upper Tribunal has in accordance with paragraph (5) declined to proceed to determine the appeal, the First-tier Tribunal must (subject to rule 9 (disposal of an appeal without a hearing)) of new issue to each party, in accordance with the provisions of rule 11 (notice of hearings), a notice of the date of the hearing of the appeal by the First-tier Tribunal, and these Rules operate as if the date so set were the date originally set for the hearing.

### **Appeal against refusal to refer to the Upper Tribunal**

**31.**—(1) Where an application has been made under rule 29(1) or (4) (application for referral to the Upper Tribunal) and the First-tier Tribunal has decided not to refer the appeal (“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<sup>(31)</sup>.

(2) An appeal to the Upper Tribunal as provided for in paragraph (1) is to 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 30(3) (decision on referral to the Upper Tribunal) 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) must specify the grounds on which the appeal is made, and must be accompanied by a copy of the First-tier Tribunal's decision in respect of the application made under rule 29(1) or (4) as the case may be and its reasons for that decision.

(4) The applicant must, at the same time as giving 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 must—

- (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 29 may be made, and
- (b) subject to rule 9 (disposal of an appeal without a hearing), of new issue to each party, in accordance with the provisions of rule 11 (notice of hearings), a notice of the date of the hearing in respect of the original appeal by the First-tier Tribunal, and these rules operate as if the date so set were the date originally set for the hearing.

### **Appeal to the Lands Valuation Appeal Court**

**32.**—(1) A decision of the First-Tier Tribunal under this Part may be appealed to the Lands Valuation Appeal Court in accordance with the Valuation of Lands (Scotland) Amendment Act 1879<sup>(32)</sup>.

(2) An appeal under paragraph (1) must be lodged in accordance with the 1982 Act of Sederunt.

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<sup>(30)</sup> Section 1(3B) was inserted by the Rating and Valuation (Amendment) (Scotland) Act 1984, section 12(1).

<sup>(31)</sup> Section 1(3BA) of the 1949 Act was inserted by the Local Government and Housing Act 1989 (c. 42), Schedule 6, paragraph 1, and empowers the Tribunal to determine appeals to which rule 29 refers.

<sup>(32)</sup> 1879 c. 42.

- (3) Paragraphs (4) to (8) apply where a party seeking to appeal a decision of the First-tier Tribunal, or a decision in a case decided prior to 1 April 2023 by a body exercising functions that have been transferred to the First-tier Tribunal, makes a written application to the First-tier Tribunal—
- (a) for a written statement of the reasons for the decision to be provided, where this has not already been issued,
  - (b) to prepare a stated case for the purpose of an appeal to the Lands Valuation Appeal Court.
- (4) A party making an application to the First-tier Tribunal of the kind specified in paragraph (3) in respect of a case decided prior to 1 April 2023—
- (a) must make such an application before 1 April 2024, and
  - (b) may, until 30 September 2023, only make such an application if that party has previously made an equivalent application to the body that originally heard the case, and either—
    - (i) received written confirmation that such body will not provide the statement or prepare the stated case, as the case may be, or
    - (ii) 28 days have passed and they have not received a response from that body.
- (5) Where a party submits an application to the First-tier Tribunal of the kind specified in paragraph (3) in respect of a case decided prior to 1 April 2023—
- (a) the application will be considered by a legal member of the First-tier Tribunal, and
  - (b) the legal member considering the application shall determine whether, having regard to the information available to the First-tier Tribunal at that time—
    - (i) where the application is of the kind specified in paragraph (3)(a), it is possible for the First-tier Tribunal to provide an accurate statement of reasons,
    - (ii) where the application is of the kind specified in paragraph (3)(b), it is possible for a sufficiently full statement of the case to be prepared to enable proper consideration by the Lands Valuation Appeal Court.
- (6) Where a legal member has carried out an assessment under paragraph (5)(b) they must—
- (a) if they determine that head (i) or (ii) of paragraph (5)(b) (as the case may be) should be answered in the affirmative, accept the application made to the First-tier Tribunal,
  - (b) if they determine that head (i) or (ii) of paragraph (5)(b) (as the case may be) should be answered in the negative, either
    - (i) refer the case to the First-tier Tribunal for rehearing, or
    - (ii) reject the application made to the First-tier Tribunal,as they deem appropriate, having had regard to all the circumstances.
- (7) Where an application is accepted in accordance with paragraph (6)(a), the First-tier Tribunal will—
- (a) where the application is of the kind specified in paragraph (3)(a), provide the written statement of reasons to the applicant within 28 days,
  - (b) where the application is of the kind specified in paragraph (3)(b), prepare the stated case in accordance with the 1982 Act of Sederunt.
- (8) Where a case is referred to the First-tier Tribunal under paragraph (6)(b)(i)—
- (a) such case is to be considered as an appeal under rule 25 (appeals lodged prior to 1 April 2023) save that the First-tier Tribunal may waive the requirements on parties in paragraphs (3) and (7) of that rule if it considers it appropriate to do so, and
  - (b) the First-tier Tribunal must write to the parties within 14 days of the decision to refer the case—

- (i) informing them that the case has been so referred in accordance with this rule, and
- (ii) advising parties what further information, if any, they require to submit.

## PART 3

### Procedure in respect of council tax and water charges appeals

#### Interpretation

**33.**—(1) In this Part,

“appeal” means—

- (a) a council tax appeal,
- (b) an appeal under—
  - (i) article 9 of the 2010 Order, or
  - (ii) article 9 of the 2020 Order,

“dwelling” has the meaning given in section 72(2) 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 served prior to 1 April 2023

**34.**—(1) This rule applies instead of rule 35 (notice of appeal) and rule 36 (confirmation of receipt of appeal by the First-tier Tribunal) to an appeal in respect of which the conditions in either paragraph (2) or (3) are met.

(2) The conditions in this paragraph are that—

- (a) a notice of appeal was served—
  - (i) prior to 1 April 2023,
  - (ii) on an assessor or on the levying authority as the case may be, in accordance with regulation 10, 22, 23 or 24 of the 1993 Regulations, and
- (b) the appeal has not been withdrawn or otherwise disposed of.

(3) The conditions in this paragraph are that—

- (a) a person has made a proposal in accordance with regulation 5 of the 1993 Regulations,
- (b) the proposal has not been withdrawn or otherwise disposed of,
- (c) the assessor on whom the proposal was served is of the opinion that the proposal is not well-founded, and

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- (d) the date on which the assessor was required to refer the disagreement between the assessor and the proposer as an appeal to the relevant local valuation panel, in accordance with regulation 15 of the 1993 Regulations, was prior to 1 April 2023.
- (4) Where paragraph (2) applies the assessor or levying authority on whom notice was served as described in that paragraph must, no later than 30 April 2023—
  - (a) notify the First-tier Tribunal that such notice of appeal has been duly served, and
  - (b) send to the First-tier Tribunal the notice of appeal served on them and any additional information in their possession relevant to the appeal.
- (5) Where paragraph (3) applies the assessor on whom the proposal was served as described in that paragraph must, no later than 30 April 2023—
  - (a) refer the disagreement between him and the proposer as an appeal to the First-tier Tribunal, and
  - (b) send to the First-tier Tribunal the proposal served on them and any additional information in their possession relevant to the appeal.
- (6) The First-tier Tribunal may, subject to the requirements in paragraph (7), write to the appellant by letter delivered by post or email requesting that they confirm they intend to proceed with the appeal.
- (7) The requirements in this paragraph are that the request referred to in paragraph (6) must—
  - (a) be sent to the appellant no later than 30 June 2023,
  - (b) request confirmation that the appellant intends to proceed with the relevant appeal,
  - (c) request a response within no less than 28 days,
  - (d) inform the appellant—
    - (i) that they retain the right to pursue the appeal,
    - (ii) that if a response does not reach the First-tier Tribunal within the time specified their appeal may be treated as withdrawn,
    - (iii) of the consequences of such a withdrawal in respect of whether an appeal on the same grounds may be made in the future,
    - (iv) where they may be able to access advice in respect of their appeal and the request for confirmation, and
  - (e) provide details of how the appellant may contact the First-tier Tribunal if they require further information.
- (8) Where the First-tier Tribunal has written to the appellant in accordance with paragraph (6) and has not received a response within the time specified, the First-tier Tribunal may treat the appeal in respect of which confirmation was requested as withdrawn.

### **Notice of appeal**

- 35.—**(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, address and, where available, email address of the appellant,
    - (b) where applicable, the full name, address and, where available, email address of any authorised representative,
    - (c) where applicable, any other specified address (which may be an email 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 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 that Act was served on the levying authority,
- (g) 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,
- (h) where the appeal is under paragraph 2 of Schedule 6 to the 1992 Act in relation to a completion notice,
  - (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 their authorised representative,
- (i) where the appeal is in relation to a proposal made under regulation 5 of the 1993 Regulations, details of the contents of that proposal and—
  - (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 (1) of that regulation, or
    - (bb) where such notice has not been received by the appellant a statement specifying the date the appellant became the council tax payer and attesting that the relevant notice has not been received,
  - (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 (1) of that regulation, or
    - (bb) where such notice has not been received by the appellant, a statement specifying the date the appellant became the council tax payer and attesting that the relevant notice has not been received,
  - (iii) where the appeal is made under regulation 15(4) of the 1993 Regulations in relation to a disagreement between proposer and assessor as to a proposed alteration—
    - (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,
- (j) where the appeal is under article 9 of the 2010 Order—
  - (i) the grounds on which the appeal is made, and
  - (ii) the date on which the appellant served the notice required by article 9(2)(a) of that Order,

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- (k) where the appeal is under article 9 of the 2020 Order—
  - (i) the grounds on which the appeal is made, and
  - (ii) the date on which the appellant served the notice required by article 9(2)(a) of that Order.
- (3) A notice of appeal must be served on the First-tier Tribunal—
  - (a) 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,
  - (b) 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,
  - (c) where the appeal is brought under paragraph 2 of Schedule 6 to the 1992 Act in relation to a completion notice, within 21 days of the service on the appellant of such notice,
  - (d) 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,
  - (e) 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,
  - (f) where the appeal relates to a disagreement as to proposed alteration under regulation 15 of the 1993 Regulations the later of—
    - (i) the applicable time period specified in paragraph (3) of that regulation, and
    - (ii) 13 February 2023,
  - (g) where the appeal is brought under article 10 of the 2010 Order in relation to water services charges, within 4 months of the date of service by the appellant of the first notice under article 9(2)(a) of that Order bringing the grievance in question to the attention of the local authority,
  - (h) where the appeal is brought under article 10 of the 2020 Order in relation to water charges and/or sewerage charges, within 4 months of the date on which the person first served notice under article 9(2)(a) of that Order bringing the grievance to the attention of the local authority.
- (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**

- 36.** On receipt of notice of an appeal under this Part, the First-tier Tribunal must—
  - (a) within 14 days of the date on which such notice of an appeal is received by the First-tier Tribunal send an acknowledgement of receipt of that notice to the appellant, and
  - (b) send notice of the appeal to the respondent.

### **Withdrawal of appeal**

- 37.—**(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 by that appellant in relation to the same dwelling and arising from the same matter and facts.

## **Orders**

- 38.**—(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**

- 39.**—(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 33 (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.

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(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 with its decision under paragraph (5)—

- (a) a statement of its 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<sup>(33)</sup> within which an application under paragraph (1) can be made exclude any review period in terms of rule 19 (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 19 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

**40.** In this Part—

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

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

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

#### Notice of appeal

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

(2) For the purposes of this rule, the definition of “review” set out in rule 1 (interpretation) is not to apply.

(3) A notice of appeal—

- (a) must include—
  - (i) the full name, address and, where available, email address of the appellant,
  - (ii) where applicable, the full name, address and, where available, email address of any authorised representative,
  - (iii) where applicable, any other specified address (which may be an email address) as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
  - (iv) a statement that the notice is a notice of appeal,

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<sup>(33)</sup> The time limits for applying for permission to appeal are set out in regulation 2(1) of [S.S.I. 2016/231](#).

- (v) the ground or grounds on which the appeal is made,
  - (vi) a statement indicating whether the appellant requires a hearing to be arranged,
  - (vii) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
  - (viii) the signature of the appellant or their authorised representative, as the case may be, and
- (b) should include where available—
- (i) a copy of—
    - (aa) the written notice requesting a review served by the appellant on the relevant authority in accordance with regulation 70A(2) of the 2012 Regulations or regulation 93(2) of the 2021 Regulations as the case may be, and
    - (bb) 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.
- (4) 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 Regulations or regulation 93(4)(b) of the 2021 Regulations as the case may be.
- (5) If the appellant sends the notice of appeal after the end of the applicable 42-day period in paragraph (4), 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**

**42.** On receipt of notice of an appeal under this Part, the First-tier Tribunal must within 14 days send—

- (a) an acknowledgement of receipt of the notice of appeal to the appellant, and
- (b) notice of the appeal to the respondent.

### **Withdrawal of appeal**

**43.—**(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) Subject to paragraph (5), an application for a withdrawn appeal to be reinstated may be made by—
- (a) the appellant, or

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(b) a respondent,

where the appellant or respondent can satisfy the First-tier Tribunal that the appellant or respondent has good reason to apply for reinstatement.

(5) An application under paragraph (4) must be made in writing and received by the First-tier Tribunal within the period of 31 days beginning with the day on which the First-tier Tribunal received notification of the withdrawal under paragraph (1).

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

### **Procedure for applying for and giving orders**

**44.**—(1) The First-tier Tribunal may give an order on the application of one or more of the parties or on its own initiative.

(2) An application for an order may be made—

- (a) by sending or delivering a written application to the First-tier Tribunal, or
- (b) orally during the course of a hearing.

(3) An application for an order must include the reasons for making that application.

(4) Unless the First-tier Tribunal considers that there is good reason not to do so, the Tribunal must send written notice of any order to each party to the case.

(5) If a party sent notice of the order under paragraph (4) wishes to challenge the order, the party may do so by applying for another order which amends, suspends or sets aside the first order.

### **Failure to comply with rules etc**

**45.**—(1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or an order does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or an order, the First-tier Tribunal may take such action as it considers just, which may include—

- (a) waiving the requirement,
- (b) requiring the failure to be remedied, or
- (c) exercising its power under rule 6 (dismissal of a case).

### **Disposal of an appeal without a hearing**

**46.**—(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 it appears to the First-tier Tribunal that an appeal is capable of being determined without a hearing it shall seek the written agreement of the parties to proceed on this basis.

(3) Any party may, with or without the agreement of the other parties to an appeal, request in writing to the First-tier Tribunal that the appeal be determined without a hearing.

(4) On receipt of a request under (3) the First-tier Tribunal shall, unless that request includes the agreement of parties, seek the written agreement of the other parties to determine the appeal without a hearing.

(5) Where an appeal is to proceed without a hearing, in accordance with paragraph (1), the First-tier Tribunal shall serve notice on the parties accordingly.

(6) 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 (5), unless an earlier period is agreed by the parties in writing.

(7) The First-tier Tribunal does not require to specify a date on which it will determine the outcome of the appeal.

(8) 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 (6).

(9) 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 (6) 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.

(10) 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 (8) or (9), it may determine such additional period to that specified in paragraph (6) as it considers appropriate.

(11) 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.

(12) 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.

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

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

(15) An appeal, or part of an appeal, disposed of by virtue of paragraph (14) is not subject to paragraphs (1) to (13) of this rule.

#### **Appeal procedure – further provision**

**47.** 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**

**48.** 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 appellant's entitlement to a council tax reduction to the relevant authority.

**49.** 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 appellant's entitlement to a council tax reduction that is required.

**Consideration of application for permission to appeal to the Upper Tribunal**

**50.**—(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 40 (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 with its decision under paragraph (5)—

- (a) a statement of its 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<sup>(34)</sup> within which an application under paragraph (1) can be made exclude any review period in terms of rule 19 (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 19 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**

**51.** In this Part—

“the 2020 Regulations” means the Valuation Appeal Committee (Procedure in Civil Penalty Appeals) (Scotland) Regulations 2020,

“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,

“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,

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<sup>(34)</sup> The time limits for applying for permission to appeal are set out in regulation 2(1) of [S.S.I. 2016/231](#).



## **Notice of appeal**

**52.**—(1) An appeal to the First-tier Tribunal is to be made by the appellant 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, address and, where available, email address of the appellant,
- (b) where applicable, the full name, address and, where available, email address of any authorised representative,
- (c) where applicable, any other specified address (which may be an email 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 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 their 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**

**53.**—(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 28 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,

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- (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 (2)(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**

**54.** 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**

**55.—**(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**

**56.** A decision in respect of an appeal issued in accordance with rule 17 (decision of the First-tier Tribunal) 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**

**57.—**(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 51 (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 with its decision under paragraph (5)—
- (a) a statement of 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<sup>(35)</sup> within which an application under paragraph (1) can be made exclude any review period in terms of rule 19 (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 19 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.

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## 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.

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<sup>(35)</sup> The time limits for applying for permission to appeal are set out in regulation 2(1) of [S.S.I. 2016/231](#).

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A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrew's House, Edinburgh EH1 3DG, and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

Correction Note: the powers in section 41(1) of the Tribunals (Scotland) Act 2014, though cited in the preamble, were not exercised in the making of these Regulations. The Scottish Government's explanation is available at the Scottish Parliament website: <https://www.parliament.scot/~media/commit/4839>.