

## SCHEDULE

### THE FIRST-TIER TRIBUNAL FOR SCOTLAND SOCIAL SECURITY CHAMBER RULES OF PROCEDURE 2018

#### PART 4

#### Correcting, reviewing and appealing decisions of the First-tier Tribunal

##### **Interpretation**

**31.** In this Part—

“appeal” means the exercise of a right of appeal on a point of law under section 46(1) of the 2014 Act; and

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

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

**32.** 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 document produced by it, by—

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

##### **Application for permission to appeal against a decision of the First-tier Tribunal**

**33.—**(1) A person seeking permission to appeal against a decision of the First-tier Tribunal must make a written application to the First-tier Tribunal for permission to appeal.

(2) 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 person making the application wishes to appeal; and
- (c) state the result that the party making the application is seeking.

(3) Where an application under paragraph (1) has been submitted after the expiry of the 30 day period referred to in regulation 2(1) of the 2016 Regulations-

- (a) the application must include a request for an extension of time and state the reasons why the application was not submitted in time; and
- (b) unless the First-tier Tribunal extends the time period, the Tribunal must not admit the application.

##### **First-tier Tribunal’s consideration of application for permission to appeal against its decision**

**34.—**(1) On receiving an application for permission to appeal, the First-tier Tribunal must decide whether to give permission to appeal on any point of law.

(2) The First-tier Tribunal must provide a notice of its decision to the parties as soon as reasonably practicable.

*Status: This is the original version (as it was originally made).*

(3) If the First-tier Tribunal refuses permission to appeal it must send with the notice of its decision—

- (a) a statement of its reasons for such a 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.

### **Review of a decision**

**35.**—(1) A party may request a review of a decision (except an excluded decision) of the First-tier Tribunal on the basis of a point of law.

(2) An application for a review must—

- (a) be made in writing;
- (b) be made within the period of 14 days beginning with the day on which the decision was made or the day that the written reasons were sent to the parties (if later); and
- (c) identify the alleged point or points of law on the basis of which a review is being sought.

(3) If the First-tier Tribunal considers that the application is without merit, the First-tier Tribunal must refuse the application and inform the parties of the reasons for the refusal.

(4) Except where the application is rejected under paragraph (3), the First-tier Tribunal must send a notice to the parties—

- (a) setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing; and
- (b) if the First-tier Tribunal considers it appropriate to do so, setting out its provisional views on the application.

(5) Except where the application is rejected under paragraph (3), the decision is to be reviewed at a hearing unless the First-tier Tribunal considers, having regard to all of the responses to the notice provided under paragraph (7), that a hearing is not necessary in the interests of justice.

(6) Where practicable, the review is to be undertaken by one or more of the members of the First-tier Tribunal who made the decision to which it relates.

(7) A notice of the decision on a review under paragraph (4) must as soon as reasonably practicable be sent by the First-tier Tribunal to each party.

(8) A review by the First-tier Tribunal in terms of paragraph (1) does not affect the time limit of 30 days in regulation 2(1) of the 2016 Regulations for making an application for permission to appeal.

### **Duty to treat a request for a review as an application for permission to appeal**

**36.**—(1) The First-tier Tribunal must treat a request for a review under rule 35 (review of a decision) as also being an application for permission to appeal under rule 33 (application for permission to appeal against a decision of the First-tier Tribunal), unless the appellant states expressly that they do not wish it to be so treated.

(2) Where an appellant is given notice of a review decision under rule 35(7) (notice of decision on a review to be sent as soon as reasonably practicable), the appellant is to be given the opportunity to state whether or not the appellant wishes to proceed with an appeal.