

SCHEDULE

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

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,
- (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

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(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

(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.

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(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⁽¹⁾ 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.

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