

SCHEDULE

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

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,

Commencement Information

II Sch. rule 51 in force at 1.4.2023, see **reg. 1(2)**

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,

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- (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.

Commencement Information

I2 [Sch. rule 52](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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,
 - (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.

Commencement Information

I3 [Sch. rule 53](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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.

Commencement Information

I4 [Sch. rule 54](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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.

Commencement Information

I5 [Sch. rule 55](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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.

Commencement Information

I6 [Sch. rule 56](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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—

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- (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⁽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.

Commencement Information

I7 [Sch. rule 57](#) in force at 1.4.2023, see [reg. 1\(2\)](#)

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

Changes to legislation:

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