

2024 No. 249

TRIBUNALS AND INQUIRIES

**The Upper Tribunal for Scotland (Bus Registration Appeals
Rules of Procedure) Regulations 2024**

Made - - - - *18th September 2024*
Laid before the Scottish Parliament *20th September 2024*
Coming into force - - *2nd December 2024*

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

In accordance with paragraph 4(3) of that schedule, 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 Upper Tribunal for Scotland (Bus Registration Appeals Rules of Procedure) Regulations 2024 and the Rules contained in the schedule may be cited as the Upper Tribunal for Scotland Bus Registration Appeals Rules of Procedure 2024.

(2) These Regulations come into force on 2 December 2024.

Disapplication of the Upper Tribunal for Scotland Rules 2016

2. The Upper Tribunal for Scotland Rules of Procedure 2016(b) do not apply to proceedings before the Upper Tribunal when the Upper Tribunal is exercising functions by virtue of—

- (a) section 39(5A) of the Transport (Scotland) Act 2001(c),
- (b) regulation 2 of the Public Service Vehicles (Registration of Local Services) (Bus Services Improvement Partnerships Service Standards Decisions) (Appeals) (Scotland) Regulations 2024(d).

(a) 2014 asp 10.
(b) The Upper Tribunal for Scotland Rules of Procedure 2016 (“the 2016 Rules”) are contained in schedule 1 of S.S.I. 2016/232. The 2016 Rules were amended by S.S.I. 2016/333.
(c) 2001 asp 2. Section 39(5A) was inserted by S.S.I. 2024/XXX.
(d) S.S.I. 2024/248.

Application of Rules in the schedule

3. The Rules in the schedule of these Regulations apply to all proceedings before the Upper Tribunal when exercising the functions specified in regulation 2.

St. Andrew's House,
Edinburgh
18th September 2024

SIOBHIAN BROWN
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 3

The Upper Tribunal for Scotland Bus Registration Appeals Rules of Procedure 2024

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PART 1 Interpretation

Interpretation

1.—(1) In these Rules—

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

“appeal”, except in Part 7, means an appeal under—

- (a) section 39(5A) of the Transport (Scotland) Act 2001(b), or
- (b) regulation 2 of the Public Service Vehicles (Registration of Local Services) (Bus Services Improvement Partnerships Service Standards Decisions) (Appeals) (Scotland) Regulations 2024(c),

“appellant” means—

- (a) the person bringing the appeal,
- (b) a person substituted as an appellant under rule 11 (addition, substitution and removal of parties),

“Convention rights” has the meaning given to it in section 1 of the Human Rights Act 1998(d),

“document” means anything in which information is recorded in any form,

(a) 2014 asp 10.
(b) 2001 asp 2. Section 39(5A) was inserted by S.S.I. 2024/XXX.
(c) S.S.I. 2024/248.
(d) 1998 c. 42.

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

“excluded decision” means a decision referred to in section 51 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,

“interested party” means a person other than the appellant or respondent on whom the Upper Tribunal has ordered the proceedings before it to be served,

“party” means a person who is (or was at the time that the Upper Tribunal disposed of the proceedings) an appellant or respondent in proceedings before the Upper Tribunal,

“penalty” means a penalty imposed by the traffic commissioner under any paragraph of section 39(1) of the Transport (Scotland) Act 2001(c) except paragraph (d),

“practice direction” means a practice direction issued in terms of section 74 of the 2014 Act,

“the President” means the President of Tribunals,

“proceedings” includes, unless indicated otherwise, a part of the proceedings,

“respondent” means the traffic commissioner,

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

“review period” means the time period between an application by a party for a review under rule 31(1), or, as the case may be, the Upper Tribunal’s decision to review a decision under that rule, and the receipt by a party of a notification under rule 31(5),

“traffic commissioner” means the person appointed from time to time to be the commissioner for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(d),

“traffic commissioner decision” means any determination of the traffic commissioner specified in section 6M of the Transport Act 1985(e),

“witness statement” means a written statement of a witness ordered by the Upper Tribunal to stand for the evidence-in-chief of the witness.

(2) For the purposes of these Rules, where information is sent—

(a) via a postal service to the last known address held for a party, or

(b) by electronic communication to the last known address held for the party,

the party is presumed to have received the information 48 hours after it is sent, unless the contrary is shown.

PART 2

Role of the Upper Tribunal

Purpose of the Upper Tribunal and overriding objective

2.—(1) The Upper Tribunal hears and decides appeals.

(2) Appeals may be made in relation to issues of fact or law.

(3) The overriding objective of these Rules is to secure that proceedings before the Upper Tribunal to which these Rules apply are handled fairly and justly.

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

(b) Section 7 was amended by paragraph 1 of schedule 3 of S.I. 2016/696.

(c) 2001 asp 2. Section 39 was amended by section 17(6)(a) and (b) of the Bus Services Act 2017 (c. 21) and section 39(2) of the Transport (Scotland) Act 2019 (asp 17) (“the 2019 Act”).

(d) 1981 c. 27.

(e) 1985 c. 67. Section 6M was inserted by section 37(3) of the 2019 Act.

- (4) Dealing with proceedings fairly and justly includes—
 - (a) dealing with the proceedings in ways which are transparent and proportionate to the importance of the case, the complexity of the issues, the anticipated expenses 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 the proceedings and are treated with dignity and respect,
 - (d) using any special expertise of the Upper Tribunal effectively, and
 - (e) avoiding delay, so far as compatible with proper consideration of the issues.
- (5) The Upper Tribunal must seek to give effect to the overriding objective when it—
 - (a) exercises any power under these Rules, or
 - (b) interprets any rule or practice direction.
- (6) Parties must, insofar as reasonably possible—
 - (a) help the Upper Tribunal to further the overriding objective, and
 - (b) co-operate with the Upper Tribunal generally.

PART 3

Procedure for cases in the Upper Tribunal

Notice of appeal

3.—(1) An appeal to the Upper Tribunal is to be made by giving written notice in accordance with paragraphs (2) to (6).

- (2) A notice of appeal must include—
 - (a) a statement that the notice is a notice of appeal,
 - (b) the full name and address of the appellant,
 - (c) the full name and address of any representative,
 - (d) an address where documents for the appellant may be sent or delivered,
 - (e) the date and reference number (if any) of the penalty or traffic commissioner decision to which the appeal relates,
 - (f) a statement of the alleged error (or errors) of fact or law in the penalty or traffic commissioner decision,
 - (g) a statement as to whether the appellant consents to the Upper Tribunal making a decision on the case without a hearing, and
 - (h) the signature of the appellant or the representative.
- (3) The appellant must provide with the notice of appeal a copy of—
 - (a) any written record of the penalty or traffic commissioner decision being challenged, and
 - (b) any separate documents issued by the traffic commissioner in relation to the penalty or traffic commissioner decision.
- (4) A notice of appeal is to be received by the Upper Tribunal within a period of 30 days beginning with the date of service by the traffic commissioner of the penalty or traffic commissioner decision on the appellant.
- (5) Within 14 days of receipt of the notice of appeal, the Upper Tribunal must send—
 - (a) an acknowledgment of receipt of the notice of appeal to the appellant, and
 - (b) a copy of the notice and any accompanying documents to the respondent and any interested party.

(6) If the appellant lodges the notice of appeal after the end of the 30-day period mentioned in paragraph (4)—

- (a) the notice of appeal must—
 - (i) include a request for an extension of time,
 - (ii) explain why the notice of appeal was not provided in time, and
 - (iii) state why it is said to be in the interests of justice that the time be extended, and
- (b) unless the Upper Tribunal extends the time for lodging a notice of appeal, the Upper Tribunal may not admit the notice of appeal.

Response to the notice of appeal

4.—(1) Subject to any order given by the Upper Tribunal, the respondent—

- (a) must provide the Upper Tribunal with copies of the documentation issued by the respondent to the appellant in relation to the relevant penalty or traffic commissioner decision, and
- (b) may provide a written response to a notice of appeal.

(2) Any documentation or response provided under paragraph (1) must be sent or delivered to the Upper Tribunal so that it is received no later than 30 days after the day on which the Upper Tribunal sent a copy of the notice of appeal to the respondent.

(3) A written response under paragraph (1)(b) must include—

- (a) the full name and address of the respondent,
- (b) the full name and address of any representative,
- (c) an address where documents for the respondent may be sent or delivered,
- (d) a statement as to whether the respondent opposes the appeal,
- (e) the grounds on which the respondent relies, and
- (f) a statement as to whether the respondent consents to the Upper Tribunal making a decision on the case without a hearing.

(4) If the respondent provides the written response to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 7(3)(a) (power to extend or shorten time), the response must include a request for an extension of time and the reason why the response was not provided in time.

(5) When the Upper Tribunal receives the documentation or a written response from the respondent it must send a copy of the documentation or written response and any accompanying documents to the appellant and any interested party.

Appellant's reply

5.—(1) Subject to any order given by the Upper Tribunal, the appellant may provide a written reply to any response provided under rule 4 (response to the notice of appeal).

(2) Any reply provided under paragraph (1) must be sent or delivered to the Upper Tribunal so that it is received within 30 days after the day on which the Upper Tribunal sent a copy of the response to the appellant.

(3) If the appellant provides the reply to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 7(3)(a) (power to extend or shorten time), the reply must include a request for an extension of time and the reason why the reply was not provided in time.

(4) When the Upper Tribunal receives the reply it must send a copy of the reply and any accompanying documents to the respondent and any interested party.

PART 4

General Powers and Provisions

Delegation to staff

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

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

(3) Where the Upper Tribunal sends notice of a decision made by a member of staff pursuant to an approval under paragraph (1) to a party, that party may, within the period of 14 days beginning with the day on which the party is presumed to have received the notice, make a written application to the Upper Tribunal for that decision to be considered afresh by a member of the Upper Tribunal.

Case management

7.—(1) Subject to the provisions of the 2014 Act, these Rules and any practice direction given by the President, the Upper Tribunal may regulate its own procedure.

(2) The Upper Tribunal may give an order in relation to the conduct of proceedings before it 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 Upper Tribunal may—

- (a) extend or shorten the time for complying with any rule, practice direction or order,
- (b) conjoin or take concurrently two or more sets of proceedings or parts of proceedings raising common issues,
- (c) specify one or more cases as a lead case or lead cases where—
 - (i) two or more cases are before the Upper Tribunal,
 - (ii) in each such case the proceedings have not been finally determined, and
 - (iii) the cases give rise to common or related issues of fact or law,and sist the other cases until the common or related issues have been determined,
- (d) permit or require a party to amend a document,
- (e) permit or require a party or another person to provide documents, information, evidence or submissions to the Upper Tribunal or a party,
- (f) deal with an issue in the proceedings as a preliminary issue,
- (g) hold a hearing to consider any matter, including a case management issue,
- (h) decide the form of any hearing,
- (i) adjourn or postpone a hearing,
- (j) with the agreement of both parties, bring forward a hearing,
- (k) require a party to produce or lodge documents,
- (l) sist proceedings,
- (m) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and—

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

- (i) because of a change of circumstances since the proceedings were started, the Upper Tribunal no longer has jurisdiction in relation to the proceedings, or
 - (ii) the Upper Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case,
- (n) suspend the effect of its own decision pending an appeal of that decision.

Procedure for applying for and giving orders

8.—(1) The Upper 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 Upper Tribunal, or
- (b) orally during the course of a hearing.

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

(4) Before making an order, the Upper Tribunal must afford parties an opportunity to make representations to it concerning whether the order should be imposed and the terms of the order.

(5) The Upper Tribunal must send written notice of any order to each party to the case.

Failure to comply with rules etc.

9.—(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 Upper 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 10 (dismissal of a party’s case).

Dismissal of a party’s case

10.—(1) The Upper Tribunal must dismiss the whole or a part of the proceedings if the Upper Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or that part of them, and
- (b) does not exercise its power under rule 7(3)(m) (transfer to another court or tribunal) in relation to the proceedings or that part of them.

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

- (a) 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,
- (b) the appellant has failed to co-operate with the Upper Tribunal to such an extent that the Upper Tribunal cannot deal with the proceedings fairly, or
- (c) the Upper Tribunal considers there is no reasonable prospect of the appellant’s case, or any part of it, succeeding.

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

(4) The Upper Tribunal must notify each party and interested party in writing that dismissal has taken place.

Addition, substitution and removal of parties

11.—(1) The Upper Tribunal may give an order adding, substituting or removing a party as an appellant or a respondent including where—

- (a) the wrong person has been named as a party,
- (b) the addition, substitution or removal has become necessary because of a change in circumstances since the start of proceedings.

(2) A person who is not a party may make a written application to the Upper Tribunal to be added or substituted as a party under this rule.

(3) The Upper Tribunal may, on receipt of an application from a person who appears to it to have an interest in any proceedings, give an order adding or as the case be may be substituting that person as a party to those proceedings.

(4) If the Upper Tribunal gives an order under paragraph (1) or (3) it may give such consequential orders as it considers appropriate.

(5) If the Upper Tribunal refuses an application under paragraph (3) it must consider whether to permit the person who made the application to provide submissions or evidence to the Upper Tribunal.

Expenses

12.—(1) Except as provided for in paragraph (2), the Upper Tribunal may not order payment of expenses.

(2) Notwithstanding paragraph (1) and without prejudice to that paragraph, the Upper Tribunal may make an order for expenses as taxed by the Auditor of the Court of Session against a party if that party's act, omission or other conduct has caused any other party to incur expense which it would be unreasonable for that other party to be expected to pay, with the maximum recoverable expenses being the expenses incurred.

Representatives

13.—(1) A party may be represented in any proceedings by a legal representative or lay representative whose details must be communicated to the Upper Tribunal prior to any hearing.

(2) A party may show any document or communicate any information about the proceedings to that party's lay representative or legal representative without contravening any prohibition or restriction on disclosure of the document or information.

(3) Where a document or information is disclosed under paragraph (2), the lay representative or legal representative is subject to any prohibition or restriction on disclosure in the same way that the party is.

(4) Anything permitted or required to be done by a party under these Rules, a practice direction or an order may be done by a lay representative, except signing of an affidavit or a precognition.

(5) The Upper Tribunal may order that a lay representative is not to represent a party if—

- (a) it is of the opinion that the lay representative is an unsuitable person to act as a lay representative (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.

Supporters

14.—(1) A party may be accompanied by another person to act as a supporter.

(2) A supporter may assist the party by—

- (a) providing moral support,
- (b) helping to manage tribunal documents and other papers,

- (c) taking notes of the proceedings,
- (d) quietly advising on—
 - (i) points of law and procedure,
 - (ii) issues which the party might wish to raise with the tribunal.

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

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

(5) A supporter may not represent the party.

(6) The Upper 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.

Calculating time

15.—(1) An act required by these Rules, a practice direction or an order to be done on or by a particular day must be done by 5 pm on that day.

(2) If the time specified by these Rules, a practice direction or an order for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this rule, “working day” means any day except a Saturday, a Sunday, or a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(a).

Signature of documents

16. 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, by the electronic signature of the individual who is required to sign it.

Sending and delivery of documents

17.—(1) Any document to be provided to the Upper Tribunal under these Rules, a practice direction or an order must be—

- (a) sent by pre-paid post or by document exchange, or delivered by hand, to the address of the Upper Tribunal, or
- (b) sent or delivered by such other method as the Upper Tribunal may permit or direct.

(2) Subject to paragraph (3), if a party or an interested party provides a fax number, email address or other details for the electronic transmission of documents to them, that party or interested party must accept delivery of documents by that method.

(3) If a party or an interested party informs the Upper Tribunal and all other parties and interested 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 or interested party, that form of communication must not be so used.

(a) 1971 c. 80.

(4) If the Upper Tribunal or a party or an interested party sends a document to a party or interested party or the Upper Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.

(5) The Upper Tribunal and each party and interested party may assume that the address provided by a party or interested party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

Disclosure of documents and information

18. The Upper Tribunal may at any stage of the proceedings, on its own initiative or on application by one or more of the parties or any interested party, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person.

Evidence and submissions

19.—(1) Subject to paragraph (2), evidence before the Upper Tribunal may be given orally or by written submission.

(2) Without restriction on the general powers in rule 7(1) and (2) (case management powers), the Upper Tribunal may give orders as to—

- (a) issues on which parties may lead evidence or make submissions,
- (b) the nature of any such evidence,
- (c) whether the parties are permitted or required to provide expert evidence and, if so, whether the parties must jointly appoint a single expert to provide such evidence,
- (d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally,
- (e) the manner in which any evidence or submissions are to be provided, which may include an order for them to be given—
 - (i) orally at a hearing, or
 - (ii) by written submissions or witness statement,
- (f) the time at which any evidence or submissions are to be provided.

(3) The Upper Tribunal may exclude evidence that would otherwise be admissible where—

- (a) the evidence was not, without reasonable excuse, provided within the time allowed by an order or practice direction,
- (b) the evidence was otherwise, without reasonable excuse, provided in a manner that did not comply with an order or a practice direction, or
- (c) it would otherwise be unfair to admit the evidence.

(4) The Upper Tribunal may consent to a witness giving, or require any witness to give, evidence on oath or affirmation, and may administer an oath or affirmation for that purpose.

Citation of witnesses and orders to answer questions or produce documents

20.—(1) On the application of a party or on its own initiative, the Upper Tribunal may—

- (a) by citation require any person to attend as a witness at a hearing at the time and place specified in the citation,
- (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A citation under paragraph (1)(a) must—

- (a) give the person required to attend 14 days' notice prior to the day of the hearing or such other period as the Upper Tribunal may order,
 - (b) where the person is not a party, state (if appropriate) how expenses of attendance necessarily incurred may be recovered,
 - (c) state that the person on whom the requirement is imposed may apply to the Upper Tribunal to vary or set aside the citation or order, if the person did not have an opportunity to object to it before it was made or issued, and
 - (d) state the consequences of failure to comply with the citation or order.
- (3) An order under paragraph (1)(b) must—
- (a) state that the person on whom the requirement is imposed may apply to the Upper Tribunal to vary or set aside the order, if the person did not have an opportunity to object to it before it was made, and
 - (b) state the consequences of failure to comply with the order.
- (4) A person making an application referred to in sub-paragraph (2)(c) or (3)(a) must do so as soon as reasonably practicable after receiving notice of the citation or order.

Withdrawal

21.—(1) The Upper Tribunal may, on such terms as to expenses or otherwise as it thinks fit, consent to any party withdrawing from the proceedings.

(2) Subject to paragraph (3), a party may give notice to the Upper Tribunal of the withdrawal of the case made by that party in the Upper Tribunal proceedings, or any part of that case—

- (a) by sending or delivering to the Upper Tribunal a notice of withdrawal, or
- (b) orally at a hearing.

(3) Notice of withdrawal will not take effect unless the Upper Tribunal consents to the withdrawal.

(4) Unless satisfied that a party has already been notified, the Upper Tribunal must notify each party and interested party in writing that a withdrawal has taken effect under this rule.

(5) Where the appellant withdraws the appeal, no further appeal may be made in relation to the same matter.

Chairing member

22. Where a matter is to be decided by two or more members of the Upper Tribunal, the President must determine the chairing member.

PART 5

Hearings

Decision with or without a hearing

23. The Upper Tribunal may make any decision without a hearing.

Venue for hearings

24. The Upper Tribunal is to be convened at such time and place in Scotland as the President may determine.

Entitlement to attend a hearing

25. Subject to rules 13(5) (representatives), 14(6) (supporters) and 27(2) (public and private hearings), each party and interested party is entitled to participate at a hearing together with any legal or lay representatives and supporters permitted by rules 13 and 14.

Notice of hearings

26.—(1) The Upper Tribunal must give each party and interested party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any change to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days prior to the day of the hearing except that the Upper Tribunal may give shorter notice—

- (a) with the consent of the parties and interested parties, or
- (b) in urgent or exceptional circumstances.

Public and private hearings

27.—(1) Hearings of the Upper Tribunal must be held in public unless the Upper Tribunal, on its own initiative or following an application by a party, decides that it is justified—

- (a) in the interests of public order,
- (b) in order to protect a person's right to respect for their private and family life,
- (c) in order to maintain the confidentiality of sensitive information,
- (d) in order to avoid serious harm to the public interest, or
- (e) because to hold it in public would prejudice the interests of justice.

(2) Where a hearing, or part of it, is to be held in private, the Upper Tribunal may determine who is entitled to attend the hearing or part of it.

(3) When publishing a decision in terms of rule 29(4) (notice of decisions and reasons) following a hearing which was held wholly or partly in private, the Upper Tribunal must, so far as practicable, ensure that the decision does not disclose information which was referred to it in a part of the hearing that was held in private.

Hearings in a party's absence

28. If a party fails to attend a hearing, the Upper Tribunal may proceed with the hearing if the Upper Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing, and
- (b) considers that it is in the interests of justice to proceed with the hearing.

PART 6

Decisions

Notice of decisions and reasons

29.—(1) Subject to paragraphs (2) to (4), the Upper Tribunal may give a decision orally at a hearing.

(2) The Upper Tribunal must provide to each party and interested party as soon as reasonably practicable after making a decision (other than a decision under Part 7) which finally disposes of all issues in the proceedings or a decision on a preliminary issue dealt with following an order given under rule 7(3)(f)—

- (a) a decision notice stating the Upper Tribunal’s decision, and
- (b) notification of any rights of appeal against the decision and the time and manner in which such rights of appeal may be exercised.

(3) If the Upper Tribunal does not provide written reasons for a decision, a party or an interested party may make a written request for written reasons within 14 days after the day of the decision.

(4) The Upper Tribunal may publish any of its decisions if it considers it in the public interest to do so, with the manner of publication also at the discretion of the Upper Tribunal.

Enforcement of decisions

30. An order for the payment of a sum payable in pursuance of a decision of the Upper Tribunal, or a copy of such an order certified by the Upper Tribunal, may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the Court of Session.

Reviews

31.—(1) The Upper Tribunal may at its own instance or on the application of a party review a decision (except an excluded decision) made by it if it considers it necessary in the interests of justice to do so and on review it may confirm, set aside, or set aside and redecide the decision.

(2) A application under paragraph (1) must be made in writing within 14 days after the day of the decision and must state the reasons for making the application.

(3) The Upper Tribunal must send a copy of the application to any other party involved in the proceedings within 10 working days after the day of receipt of the application.

(4) The review must be decided as soon as reasonably practicable by the Upper Tribunal, with insofar as practicable the same members that decided the case, or where this is not practicable with members selected by the President.

(5) A notice of the decision in relation to a review under paragraph (1) must as soon as reasonably practicable be sent by the Upper Tribunal to each party.

(6) The period of 30 days referred to in regulation 2(2) of the Scottish Tribunals (Time Limits) Regulations 2016(a) in respect of an application to the Upper Tribunal is extended by any review period.

PART 7

Appealing decisions of the Upper Tribunal

Interpretation

32. In this Part, “appeal” means the exercise of a right of appeal under section 48(1) of the 2014 Act.

Application for permission to appeal a decision of the Upper Tribunal

33.—(1) A party seeking permission to appeal must make a written application to the Upper Tribunal.

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

- (a) identify the decision of the Upper Tribunal to which it relates, and
- (b) identify the alleged error, or errors, of law in the decision.

(a) S.S.I. 2016/231.

Upper Tribunal's consideration of application for permission to appeal

34.—(1) The Upper Tribunal must consider whether to give permission to appeal in relation to the decision or part of it.

(2) The Upper Tribunal must provide a record of its decision to the parties and any interested party as soon as practicable.

(3) If the Upper Tribunal refuses permission to appeal it must provide with the record of its decision—

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

(4) The Upper Tribunal may give permission to appeal on limited grounds, but must comply with paragraph (3) in relation to any grounds on which it has refused permission.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make the Upper Tribunal for Scotland Bus Registration Appeals Rules of Procedure 2024 (“the Rules”), regulating the practice and procedure to be followed in the Upper Tribunal for Scotland in relation to appeals under section 39(5A) of the Transport (Scotland) Act 2001 and regulation 2 of the Public Service Vehicles (Registration of Local Services) (Bus Services Improvement Partnerships Service Standards Decisions) (Appeals) (Scotland) Regulations 2024.

The Rules are set out in the schedule of the Regulations.

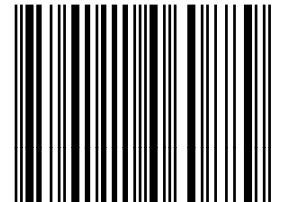
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