
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 328

TRIBUNALS AND INQUIRIES

**The First-tier Tribunal for Scotland Housing and
Property Chamber (Procedure) Regulations 2017**

<i>Made</i>	- - - -	<i>5th October 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th October 2017</i>
<i>Coming into force</i>	- -	<i>1st December 2017</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 55(1) and 80(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with paragraph 4(3) of schedule 9 of that Act, they have consulted the President of Tribunals and such other persons as they have considered appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and the Rules set out in the schedule may be cited as the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

(2) These Regulations come into force on 1st December 2017.

Application of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

2. The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 set out in the schedule apply to proceedings before the First-tier Tribunal for Scotland Housing and Property Chamber when exercising the functions transferred or allocated to it by—

- (a) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016⁽²⁾;
- (b) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Homeowner Housing Panel) Regulations 2016⁽³⁾;

(1) 2014 asp 10.
(2) S.S.I. 2016/335.
(3) S.S.I. 2016/336.

- (c) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016(4);
- (d) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016(5);
- (e) the Rent (Scotland) Act 1984(6);
- (f) the Housing (Scotland) Act 1988(7);
- (g) the Antisocial Behaviour etc. (Scotland) Act 2004(8);
- (h) the Housing (Scotland) Act 2006(9);
- (i) the Property Factors (Scotland) Act 2011(10);
- (j) the Tenancy Deposit Schemes (Scotland) Regulations 2011(11);
- (k) the Housing (Scotland) Act 2014(12); or
- (l) the Private Housing (Tenancies) (Scotland) Act 2016(13).

Transitional provision

3. Any application to the First-tier Tribunal for Scotland Housing and Property Chamber received prior to 1st December 2017 is to be treated as if it were received on or after 1st December 2017.

Revocation

4. Regulations 1, 2 and 4 and schedules 1 and 3 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016(14) and the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2017(15) are revoked.

St Andrew's House,
Edinburgh
5th October 2017

ANNABELLE EWING
Authorised to sign by the Scottish Ministers

(4) S.S.I. 2016/337.
(5) S.S.I. 2016/338.
(6) 1984 c.58 relevantly amended by section 16 and schedule 1, paragraphs 1 to 31 of the Housing (Scotland) Act 2014 (asp 14) ("the 2014 Act").
(7) 1988 c.44 relevantly amended by section 16 and schedule 1, paragraphs 32 to 48 of the 2014 Act.
(8) 2004 asp 8 relevantly amended by section 19 and schedule 1, paragraphs 56 to 60 of the 2014 Act.
(9) 2006 asp 1 relevantly amended by sections 17 and 18 and schedule 1, paragraphs 49 to 55 of the 2014 Act.
(10) 2011 asp 8.
(11) S.S.I. 2011/176.
(12) 2014 asp 14.
(13) 2016 asp 19.
(14) S.S.I. 2016/339 amended by S.S.I. 2017/68.
(15) S.S.I. 2017/68.

SCHEDULE

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

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PART 1

Rules common to all proceedings before the First-tier Tribunal

Application and interpretation

1.—(1) Part 1 of the Rules applies to all proceedings before the First-tier Tribunal.

(2) In these Rules—

“the 1984 Act” means the Rent (Scotland) Act 1984;

“the 1988 Act” means the Housing (Scotland) Act 1988;

“the 2004 Act” means the Antisocial Behaviour etc. (Scotland) Act 2004;

“the 2006 Act” means the Housing (Scotland) Act 2006;

“the 2011 Act” means the Property Factors (Scotland) Act 2011;

“the 2011 Regulations” means the Tenancy Deposit Schemes (Scotland) Regulations 2011;

“the 2014 Act” means the Housing (Scotland) Act 2014;

“the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016;

“adjourn” means, in relation to a hearing, a decision by the First-tier Tribunal to suspend after it has begun and continue on a later date;

“appeal” means the exercise of a right of appeal under section 46 of the Tribunals Act;

“application” means an application made to the First-tier Tribunal and includes an assured tenancy reference and a regulated tenancy reference and “applicant” is to be construed accordingly;

“assured tenancy reference to the First-tier Tribunal” means—

- (a) a reference by a landlord or a tenant under section 17(3) of the 1988 Act of a notice which has been served under section 17(2) of that Act (notice proposing terms of a statutory assured tenancy and, if appropriate, an adjustment of the rent to take account of the proposed terms);
- (b) a reference by a tenant under section 24(3) of the 1988 Act of a notice which has been served under section 24(1) of that Act (notice proposing an increase in rent under an assured tenancy);
- (c) a reference by a tenant under section 25A(4)(a) of the 1988 Act of a notice which has been served on the tenant under section 25A(2) of that Act (notice proposing a new rent to take account of any sums payable by the tenant to the landlord in respect of council tax); or
- (d) an application by a tenant under section 34(1) of the 1988 Act (application for a determination of the rent which the landlord might reasonably be expected to obtain under a short assured tenancy);

“case management discussion” includes any resumed discussion;

“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 Chamber President of the First-tier Tribunal;

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“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000⁽¹⁶⁾ and “electronic signature” has the same meaning as in section 7 of that Act⁽¹⁷⁾;

“First-tier Tribunal” means the First-tier Tribunal for Scotland Housing and Property Chamber;

“hearing” includes an oral hearing, any hearing conducted in whole or in part by video link, telephone or other means of instantaneous communication and any resumed hearing;

“interested party” means a person other than the applicant or any other party on whom the First-tier Tribunal has ordered the proceedings before it to be served;

“lay representative” means a representative of a party who is not a legal representative;

“party” includes, unless the context requires otherwise, any homeowner, property factor, tenant, former tenant, landlord, former landlord, third party applicant, former residential occupier, lessor, lessee, letting agent and any other person permitted by the First-tier Tribunal to be a party to proceedings;

“postpone” means, in relation to a hearing, a decision by the First-tier Tribunal to defer to a date later than that originally set by the First-tier Tribunal;

“proceedings” means the proceedings in relation to the making of a decision under these Rules;

“regulated tenancy reference” means a matter which is referred by a rent officer to the First-tier Tribunal under paragraph 7 or 12 of schedule 5 of the 1984 Act or an application for a certificate of fair rent which is referred by a rent officer to the First-tier Tribunal under paragraph 2 or 6 of schedule 6 of the 1984 Act or a Part VII contract;

“representative” means a lay representative or a legal representative of a party;

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

“the Tribunals Act” means the Tribunals (Scotland) Act 2014; and

“writing” includes electronic communication which has been recorded and is consequently capable of being reproduced; and this applies also to “written”.

The overriding objective

- 2.—(1) The overriding objective of the First-tier Tribunal is to deal with the proceedings justly.
- (2) Dealing with the proceedings 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) seeking informality and flexibility in proceedings;
 - (c) ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings, including assisting any party in the presentation of the party’s case without advocating the course they should take;
 - (d) using the special expertise of the First-tier Tribunal effectively; and
 - (e) avoiding delay, so far as compatible with the proper consideration of the issues.

Effect of the overriding objective

- 3.—(1) The Chamber President and the First-tier Tribunal must seek to give effect to the overriding objective when—
- (a) exercising any power under these Rules; and

⁽¹⁶⁾ 2000 c.7. Section 15(1) is amended by the Communications Act 2003 (c.21), schedule 17, paragraph 158.

⁽¹⁷⁾ Section 7 is amended by S.I. 2016/696.

(b) interpreting any rule.

(2) In particular the Chamber President and the First-tier Tribunal must manage the proceedings in accordance with the overriding objective.

(3) The parties must assist the Chamber President or the First-tier Tribunal to further the overriding objective.

Application

4. An application to the First-tier Tribunal must be in writing and may be made using a form obtained from the First-tier Tribunal.

Requirements for making an application

5.—(1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate.

(2) The Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgement have been met.

(3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the required manner for lodgement.

(4) The application is not accepted where the outstanding documents requested under paragraph (3) are not received within such reasonable period from the date of request as the Chamber President considers appropriate.

Service

6.—(1) Where any formal communication requires to be served on any person, it is deemed to be served if—

(a) it is sent to the proper address of the person—

(i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000⁽¹⁸⁾); or

(ii) by a postal service which provides for the delivery to be recorded; or

(b) it is sent to the email address provided by the person.

(2) Where a formal communication is served as mentioned in paragraph (1) it is to be taken to have been received 48 hours after it is sent unless—

(a) the proper address is outwith the United Kingdom; or

(b) the contrary is shown.

(3) Where any formal communication requires to be served upon the parties, it is deemed to have been served on a party if it is served on a person who is acting as the representative of that party.

(4) A member of staff of the Scottish Courts and Tribunals Service may send a formal communication on behalf of the First-tier Tribunal.

(18) 2000 c.26.

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(5) Where a party, a representative or an interested party provides an email address, the First-tier Tribunal is to communicate using that address until the party, representative or interested party requests that another method of communication be used.

Signature of document

7. A requirement in these Rules for a document to be signed by a person is satisfied, in the case of a document which is transmitted by electronic communication in accordance with these Rules, by electronic signature of the person who is required to sign the document.

Rejection of application

8.—(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if—

- (a) they consider that the application is frivolous or vexatious;
- (b) the dispute to which the application relates has been resolved;
- (c) they have good reason to believe that it would not be appropriate to accept the application;
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision.

Notification of acceptance of application

9.—(1) Where rule 8 does not apply, the First-tier Tribunal must, as soon as practicable, give notice to each party—

- (a) setting out the detail of the application in such manner as the First-tier Tribunal thinks fit; and
 - (b) specifying the day by which any written representations must be made.
- (2) The day specified for the purposes of paragraph (1)(b)—
- (a) must be at least 14 days after the day on which the notice is given; and
 - (b) may, at the request of any party, be changed to such later day as the First-tier Tribunal thinks fit.
- (3) The First-tier Tribunal must notify each party of a change mentioned in paragraph (2)(b).

Representatives

10.—(1) A party may be represented in any proceedings by a representative whose details must be notified to the First-tier Tribunal prior to any hearing.

(2) A party may disclose 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 representative is subject to any prohibition or restriction on disclosure in the same way that the party is.

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

(5) The First-tier 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.

(6) Where a representative begins to act for a party after the application is made, the representative must immediately notify the First-tier Tribunal and any other party of that fact.

(7) Where a representative ceases to act for a party, the representative or the party must immediately notify the First-tier Tribunal and any other party of that fact, and give details of any new representative (if known).

Supporters

11.—(1) A party who is an individual may be accompanied by another individual 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 First-tier Tribunal.

(3) A 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.

Hearing two or more applications together

12.—(1) The First-tier Tribunal may direct two or more applications to be heard together where they are under consideration by the First-tier Tribunal at the same time and relate to the same—

- (a) property;
- (b) required work;
- (c) property factor;
- (d) letting agent; or
- (e) landlord.

(2) The First-tier Tribunal may require the parties to take any steps necessary to enable two or more applications to be heard together.

Amendment to a party's written representations

13.—(1) Subject to rule 14, a party may amend their written representations—

- (a) any time up to 7 working days prior to the date fixed for a hearing; or
- (b) within 7 working days prior to the date fixed for the hearing or during the hearing, with the consent of the First-tier Tribunal and on such conditions, if any, as the First-tier Tribunal thinks fit.

(2) Such amendment must—

- (a) be in writing unless it is made during the hearing, in which case the terms of the amendment may be stated orally in the presence of any other party and noted by the First-tier Tribunal; and
- (b) comply with any requirement in an enactment which would have applied if the amendment had been included in the application.

(3) On receipt of a written amendment, the First-tier Tribunal must intimate the amendment to the other party in writing unless the amendment was made orally during the hearing in accordance with paragraph (2)(a).

(4) In this rule “working day” means any day except a Saturday or Sunday or a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(19).

Amendment raising new issues

14.—(1) Where the effect of any amendment of the written representations under rule 13(1)(a) by the party would be to introduce a new issue, such amendment may only be made with the consent of the First-tier Tribunal and on such conditions, if any, as the First-tier Tribunal thinks fit.

(2) Where an application is amended to include a new issue, any other party must be given an opportunity to make written representations in response to the amendment, or request the opportunity to make oral representations, by a date specified by the First-tier Tribunal which is not less than 14 days from the date on which—

- (a) intimation of the amendment is served; or
- (b) the amendment was made orally during the hearing in accordance with rule 13(2)(a).

(3) The party mentioned in paragraph (1) may also make further written representations or request the opportunity to make oral representations, by the date specified under paragraph (2).

(4) The date by which such representations must be made may, at the request of either party, be changed to such later day as the First-tier Tribunal thinks fit.

(5) The First-tier Tribunal must notify all parties of any change under paragraph (4).

(6) Where written representations are amended to include a new issue and the other party requests further time to comply with any duty under an enactment, then, the First-tier Tribunal must allow such further time as it considers reasonable.

Withdrawal of an application

15.—(1) An application may be withdrawn by an applicant at any time—

- (a) orally at a hearing; or

(19) 1971 c.80.

(b) by notifying the First-tier Tribunal and any other party.

(2) When notifying under paragraph (1)(b), the notice of withdrawal must be in writing and may be made on a form obtained from the First-tier Tribunal.

Directions

16.—(1) On its own initiative or on the application of a party, the First-tier Tribunal may give directions to the parties relating to the conduct or progress of the application.

(2) Directions may be given orally or in writing and must be intimated to every party.

(3) Directions of the First-tier Tribunal may, in particular—

(a) relate to any matter concerning the preparation for a hearing;

(b) set time limits for something to be done;

(c) vary any time limit given in a previous direction;

(d) provide for—

(i) a matter to be dealt with as a preliminary issue;

(ii) a party to provide further details of that party's case, or other information or document which appears to be necessary, in the opinion of the First-tier Tribunal, for the determination of the application;

(iii) witnesses to be heard; and

(iv) the manner in which evidence is to be given; and

(e) require a party to lodge and serve—

(i) a statement of evidence to be put forward at the hearing;

(ii) a paginated and indexed bundle of all the documents to be relied on by that party at the hearing;

(iii) a skeleton argument which summarises the submissions to be made at the hearing and cites all the authorities to be relied on, clearly identifying any particular passages to be relied on; and

(iv) a list of witnesses the party wishes to call to give evidence.

(4) When making directions the First-tier Tribunal must take into account the ability of parties to comply with the directions.

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

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- (d) discussing what witnesses, documents and other evidence will be required;
 - (e) discussing whether or not a hearing is required; and
 - (f) discussing an application to recall a decision.
- (4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
 - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
 - (ii) to do so will not be contrary to the interests of the parties; and
- (b) must make a decision without a hearing where the decision relates to—
 - (i) correcting; or
 - (ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

Mediation

19. In cases identified by the Chamber President as suitable for mediation, the First-tier Tribunal must—

- (a) bring to the attention of the parties the availability of mediation at any point in the proceedings as an alternative procedure for the resolution of the dispute;
- (b) provide information explaining what mediation involves; and
- (c) if the parties consent to mediation, adjourn or postpone the hearing in accordance with rule 28 to enable the parties to access mediation.

Inquiries

20.—(1) The First-tier Tribunal may make such inquiries as it thinks fit for the purpose of exercising its functions.

- (2) Inquiries may be made about matters other than those to which the application relates.
- (3) Inquiries may include—
 - (a) consideration of any written representation made in good time (under paragraph (4)) by or on behalf of the parties;
 - (b) where an oral hearing takes place, hearing any oral representation made by or on behalf of the parties; and
 - (c) consideration of any report instructed by the First-tier Tribunal about any of the matters referred to in the application.
- (4) A representation is in good time if it is received—
 - (a) by the day specified in the notice given under rule 9(1)(b);
 - (b) by the day specified in a notice given under rule 9(2)(b); or

- (c) later than the day mentioned in paragraph (a) or (b), if the First-tier Tribunal is satisfied that the party has a reasonable excuse.

Powers of the First-tier Tribunal to require production of evidence

21.—(1) The First-tier Tribunal may require any person—

- (a) to attend a hearing of the First-tier Tribunal at such time and place as the First-tier Tribunal may specify for the purposes of giving evidence; and
- (b) to give the First-tier Tribunal, by such day as it may specify, such documents or information as it may reasonably require.

(2) Paragraph (1) does not authorise the First-tier Tribunal to require any person to answer any question or to disclose anything which the person would be entitled to refuse to answer or disclose on grounds of confidentiality in civil proceedings in a court in Scotland.

(3) Where the First-tier Tribunal has set time limits for the lodging and serving of written evidence under rule 22(1), it must not consider any written evidence which is not lodged or served in accordance with those time limits unless satisfied that there is good reason to do so.

(4) Where a party seeks to rely upon a copy of a document as evidence, the First-tier Tribunal may require the original document to be produced.

Lodging of documents etc.

22.—(1) Except as otherwise provided in these Rules, or as otherwise specified by the First-tier Tribunal, a party must send to the First-tier Tribunal no later than 7 days prior to any hearing notified under rule 24(1)—

- (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.

Documents at hearings

23.—(1) Where the application is to be subject to a hearing, the First-tier Tribunal must take all reasonable steps to ensure that there is sent to each of the parties at least 3 days before the date of the hearing, a copy of, or sufficient extracts from, or particulars of, each document relevant to the application which has been received from a party (other than a document which is in the possession of such party or of which that party has previously been sent a copy).

(2) Paragraph (1) does not apply to assured tenancy references⁽²⁰⁾.

Hearings

24.—(1) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a hearing (including any adjourned or postponed hearing) and any changes to the date, time and place of a hearing.

(2) The notice period for a hearing must be no less than 14 days from the date of receipt of the notice, unless the parties consent to a shorter period or there are urgent or exceptional circumstances.

(3) A hearing must be held in public unless the First-tier Tribunal, on its own initiative or on an application by a party, decides that it is necessary to do otherwise in the interests of justice.

(4) Subject to any direction of the First-tier Tribunal, at a hearing—

⁽²⁰⁾ See rule 62 for documents at hearings in respect of assured tenancy references.

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- (a) a party or a party's representative may conduct the party's case;
 - (b) the parties will be heard in such order and, subject to the provisions of these Rules, according to such procedure as the First-tier Tribunal determines; and
 - (c) a party may make representations, call witnesses, give evidence on his or her own behalf and cross-examine any witness called by another party.
- (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.

Duties of chairing member at a hearing

25. The chairing member must take reasonable steps to—

- (a) introduce to the parties the members of the First-tier Tribunal conducting the hearing;
- (b) explain the purpose of the hearing; and
- (c) ensure that the parties to the hearing—
 - (i) understand; and
 - (ii) can participate in,

the proceedings.

Decisions of the First-tier Tribunal

26.—(1) Where there are two or more members, 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 the decision is made without a hearing, the one member of the First-tier Tribunal making the decision in accordance with rule 18 is deemed to be the chairing member for the purposes of this rule.

(3) The decision must be recorded in a document signed by the chairing member.

(4) In relation to applications mentioned in Part 2 and Chapters 2, 3, 5 and 7 of Part 3 of these Rules, a statement of reasons must be prepared by the chairing member with the assistance of the other members of the First-tier Tribunal (if any).

(5) Paragraph (4) does not apply where the First-tier Tribunal makes a decision which relates to—

- (a) correcting or reviewing a decision made by the First-tier Tribunal; or
- (b) a preliminary issue dealt with following a direction under rule 16(3)(d)(i).

(6) In relation to applications mentioned in Chapters 4, 6 and 8 to 12 of Part 3 of these Rules, a statement of reasons may be prepared by the chairing member with the assistance of the other members of the First-tier Tribunal (if any) who conducted the hearing.

(7) If the First-tier Tribunal does not provide written reasons for a decision in relation to an application mentioned in paragraph (6), a party may request written reasons within 14 days of the date of issue of the decision and the First-tier Tribunal must provide these.

(8) Where the decision of the First-tier Tribunal is not unanimous, the chairing member must give a brief note of the opinion of the minority.

(9) In the absence or incapacity of the chairing member, the chairing member's functions under this rule may be carried out by another member of the First-tier Tribunal conducting the hearing.

(10) A decision of the First-tier Tribunal with a statement of reasons (if prepared) or note given under paragraph (8) must be published.

Dismissal of a party's case

27.—(1) The First-tier Tribunal must dismiss the whole or a part of the proceedings if the First-tier Tribunal does not have jurisdiction in relation to the proceedings or that part of them.

(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

- (a) comply with an order which stated that failure by the applicant to comply with the order could lead to the dismissal of the proceedings or part of them; or
- (b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.

Adjournment or postponement of a hearing

28.—(1) The First-tier Tribunal at its discretion may, on its own initiative or on an application by a party, at any time, adjourn or postpone a hearing.

(2) Where a party applies for an adjournment or postponement of a hearing, that party must—

- (a) if practicable, notify all other parties of the application for an adjournment or postponement;
- (b) show good reason why an adjournment or postponement is necessary; and
- (c) produce evidence of any fact or matter relied on in support of the application for an adjournment or postponement.

(3) The First-tier Tribunal may only adjourn or postpone a hearing at the request of a party on cause shown.

(4) If the reason for such an adjournment or postponement is to allow the party more time to produce evidence, the First-tier Tribunal may only adjourn or postpone the hearing if satisfied that—

- (a) the evidence relates to a matter in dispute;
- (b) it would be unjust to determine the case without permitting the party to produce the evidence; and
- (c) where the party has failed to comply with directions for the production of the evidence, the party has provided a satisfactory explanation for that failure.

Hearing case in the absence of a party

29. If a party or party's representative does not appear at a hearing, the First-tier Tribunal, on being satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing have been duly complied with, may proceed with the application upon the representations of any party present and all the material before it.

Recall

30.—(1) In relation to applications mentioned in Chapters 4, 6, 8, 11 and 12 of Part 3 of these Rules, a party may apply to the First-tier Tribunal to have a decision recalled where the First-tier Tribunal made the decision in absence because that party did not take part in the proceedings, or failed to appear or be represented at a hearing following which the decision was made.

(2) An application by a party to have a decision recalled must be made in writing to the First-tier Tribunal and must state why it would be in the interests of justice for the decision to be recalled.

(3) An application for recall may not be made unless a copy of the application has been sent to the other parties at the same time.

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(4) Subject to paragraph (5), an application for recall must be made by a party and received by the First-tier Tribunal within 14 days of the decision.

(5) The First-tier Tribunal may, on cause shown, extend the period of 14 days mentioned in paragraph (4).

(6) A party may apply for recall in the same proceedings on one occasion only.

(7) An application for recall will have the effect of preventing any further action being taken by any other party to enforce the decision for which recall is sought until the application is determined under paragraph (9).

(8) A party may oppose recall of a decision by—

(a) lodging with the First-tier Tribunal a statement of objection within 10 days of receiving the copy as required under paragraph (3); and

(b) sending a copy of the statement to any other party,

at the same time.

(9) After considering the application to recall and any statement of objection, the First-tier Tribunal may—

(a) grant the application and recall the decision;

(b) refuse the application; or

(c) order the parties to appear at a case management discussion where the First-tier Tribunal will consider whether to recall the decision.

Death, insolvency or incapacity of a party

31.—(1) Where a party dies, becomes insolvent, or becomes subject to a legal incapacity, while an application is under consideration, a person claiming to represent that party or that party's estate may apply to be a party to the cause under rule 32(3).

(2) For the purposes of paragraph (1) a person is insolvent if—

(a) the person's estate is sequestered;

(b) the person has granted a trust deed for creditors;

(c) the person is the subject of any other kind of arrangement analogous to those described in sub-paragraphs (a) and (b), anywhere in the world; or

(d) the person is a non-natural person who has been wound up or in receivership.

(3) The First-tier Tribunal may continue to consider and determine the application despite the death, insolvency or legal incapacity of any party.

Addition, substitution and removal of parties

32.—(1) The First-tier Tribunal may make an order adding, substituting or removing a party to the proceedings, including where—

(a) the wrong person has been named as a party; or

(b) the addition, substitution or removal has become necessary because of a change in circumstances since the start of proceedings.

(2) If the First-tier Tribunal makes an order under paragraph (1), it may give such consequential orders as it considers appropriate.

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

Absence of a member of the First-tier Tribunal

33. If, at or after the beginning of a hearing, a member of the First-tier Tribunal other than the chairing member is absent, the hearing may be conducted by the chairing member sitting alone or alongside another member and in that event the hearing will be deemed to be properly constituted.

Exclusion of persons disrupting proceedings

34.—(1) Without prejudice to any other powers it has, the First-tier Tribunal may exclude from any hearing or part of it any person (including a party, a representative or a supporter)—

- (a) whose conduct has disrupted the hearing or is likely, in the opinion of the First-tier Tribunal, to disrupt the hearing; or
- (b) whose presence is likely, in the opinion of the First-tier Tribunal, to make it difficult for any other person to make representations or present evidence necessary for the proper conduct of the hearing.

(2) In deciding whether to exercise the power conferred by paragraph (1) the First-tier Tribunal must, apart from other considerations, have regard to—

- (a) the interests of the parties; and
- (b) in the case of the exclusion of a party or a representative of a party, whether the party will be adequately represented and whether alternative measures could be put in place.

(3) If the First-tier Tribunal decides to exclude a party it must allow the representative of that party sufficient opportunity to consult the party.

Prohibition on recording of proceedings by parties

35. The First-tier Tribunal may prohibit photography, or any audio or visual recording of the proceedings, except in so far as is required to make reasonable adjustments to accommodate the disability of a party or a party's representative or supporter.

Correction of clerical mistakes and accidental slips or omissions

36. 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 a decision of the First-tier Tribunal

37.—(1) A person 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 the person making the application is seeking.

(3) No application to appeal may be made in relation to—

- (a) a decision arising from a review by the First-tier Tribunal under rule 39(1);

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- (b) rule 58(f);
- (c) section 7 (apportionment of the rateable value by the sheriff where the dwelling-house forms part of lands and heritages) of the 1984 Act;
- (d) section 97 (change of circumstances affecting a tenant who shares accommodation with persons other than landlord which are deemed to be rent increases) of the 1984 Act;
- (e) section 85B(21) (application by a local authority for an extension of the time limit for determining an application for landlord registration) of the 2004 Act;
- (f) section 28A (landlord application to exercise right of entry) of the 2006 Act;
- (g) section 66A (appeals in relation to the right to adapt rented houses for a disabled person or for energy efficiency under section 52) of the 2006 Act;
- (h) paragraph 3 of schedule 5 (warrants for ejection to enforce house in multiple occupation amenity notices) of the 2006 Act;
- (i) section 33 (time limit for determining application for registration as a letting agent) of the 2014 Act; or
- (j) section 29 (First-tier Tribunal’s power to set rent) of the 2016 Act.

First-tier Tribunal’s consideration of application for permission to appeal

38.—(1) 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 record of its decision to the parties and any interested party as soon as reasonably practicable.

(3) If the First-tier Tribunal refuses permission to appeal on any point of law, it must provide 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

39.—(1) The First-tier Tribunal may either at its own instance or at the request of a party review a decision made by it except in relation to applications listed in rule 37(3)(b) to (j)(22), where it is necessary in the interests of justice to do so.

(2) An application for review under section 43(2)(b) of the Tribunals Act must—

- (a) be made in writing and copied to the other parties;
- (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 the parties; and
- (c) set out why a review of the decision is necessary.

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

(4) Except where paragraph (3) applies, the First-tier Tribunal must notify the parties in writing—

(21) Section 85B is not yet in force.

(22) Section 43(4) of the Tribunals (Scotland) Act 2016 (asp 10) provides that the exercise of discretion whether a decision should be reviewed cannot give rise to a review under section 43.

- (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) may at the discretion of the First-tier Tribunal, set out the First-tier Tribunal's provisional views on the application.
- (5) In accordance with rule 18, the decision may be reviewed without a hearing.
- (6) Where practicable, the review must be undertaken by one or more of the members of the First-tier Tribunal who made the decision to which the review relates.
- (7) Where the First-tier Tribunal proposes to review a decision at its own instance, it must inform the parties of the reasons why the decision is being reviewed and the decision will be reviewed in accordance with paragraph (4) (as if an application had been made and not refused).
- (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 Scottish Tribunals (Time Limits) Regulations 2016⁽²³⁾ for making an application for permission to appeal.

Expenses

40.—(1) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense.

(2) Where expenses are awarded under paragraph (1) 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.

Enforcement of decisions

41. An order in pursuance of a decision of the First-tier Tribunal or a copy of such an order certified by the First-tier Tribunal may be enforced as if it were an extract registered decree bearing a warrant for execution issued by the sheriff court.

PART 2

Procedure in respect of homeowner applications

Application of Part 2 and interpretation

42.—(1) This Part of the Rules applies to proceedings before the First-tier Tribunal when exercising the functions transferred to it by—

- (a) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Homeowner Housing Committees) Regulations 2016⁽²⁴⁾; and
- (b) regulation 3(1) of the First-tier Tribunal (Transfer of Functions of the Homeowner Housing Panel) Regulations 2016⁽²⁵⁾.

(2) In this Part of the Rules, where terms are used which are defined terms in the 2011 Act, the definitions in that Act in respect of those terms apply to this Part.

⁽²³⁾ S.S.I. 2016/231.

⁽²⁴⁾ S.S.I. 2016/335.

⁽²⁵⁾ S.S.I. 2016/336.

Application for determination of whether property factor has failed to comply with the 2011 Act

43.—(1) In addition to the homeowner’s reasons as required by section 17(2) of the 2011 Act, the application must state—

- (a) the name and address of the homeowner;
 - (b) that the application is made under section 17(1) (application to the First-tier Tribunal) of that Act;
 - (c) the name, address and profession of the representative of the homeowner, if any;
 - (d) the name of the property factor and, if known, the property factor registered number;
 - (e) the address of the property factor, or, if known, the name and address and profession of the property factor’s representative (if any); and
 - (f) the homeowner’s concern.
- (2) The homeowner must attach to the application a copy of—
- (a) the notification from the homeowner to the property factor for the purposes of section 17(3) (a) of the 2011 Act;
 - (b) any response in writing provided by or on behalf of the property factor to that notification;
 - (c) any other correspondence between the homeowner and the property factor relating to the homeowner’s concern; and
 - (d) any statement of services provided by the property factor to the homeowner as required by the property factor code of conduct.
- (3) The application must be signed and dated by the homeowner or by the homeowner’s representative.
- (4) In this rule, “homeowner’s concern” means the homeowner’s reason for considering that the property factor has failed to carry out the property factor’s duties or, as the case may be, to comply with the section 14 duty.

Inspections

- 44.**—(1) An inspection of the land to which the application relates may be carried out at any time during the proceedings.
- (2) The First-tier Tribunal may make or commission such further inspections as it considers appropriate to enable it to determine whether the property factor has complied with a property factor enforcement order.
- (3) An inspection may be carried out by one or more members of the First-tier Tribunal or by any person authorised by the First-tier Tribunal to carry out such an inspection.
- (4) The First-tier Tribunal must give in writing sufficient notice of an inspection to the party.
- (5) The parties and the representative of each party are entitled to attend the inspection.

Parties to be notified by the First-tier Tribunal

45. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application made under a section of the 2011 Act, the homeowner and the property factor.

PART 3

Procedure in respect of private rented applications

CHAPTER 1

Procedure common to proceedings in respect of private rented applications

Application and interpretation

46.—(1) This Part of the Rules applies to proceedings before the First-tier Tribunal when exercising the functions allocated to it by—

- (a) regulation 3(1) of the First-tier Tribunal (Transfer of functions of the Private Rented Housing Committees) Regulations 2016⁽²⁶⁾; or
- (b) regulation 3(1) of the First-tier Tribunal (Transfer of functions of the Private Rented Housing Panel) Regulations 2016⁽²⁷⁾.

(2) In this Part of the Rules—

- (a) in Chapters 2, 3 and 4, where terms are used which are defined terms in the 2006 Act, the definitions in that Act in respect of those terms apply to those Chapters;
- (b) in Chapters 5 and 6, where terms are used which are defined terms in the 1988 Act, the definitions in that Act in respect of those terms apply to those Chapters;
- (c) in Chapters 7 and 8, where terms are used which are defined terms in the 1984 Act, the definitions in that Act in respect of those terms apply to those Chapters;
- (d) in Chapter 9, where terms are used which are defined terms in the 2014 Act, the definitions in that Act in respect of those terms apply to that Chapter;
- (e) in Chapter 10, where terms are used which are defined terms in the 2004 Act, the definitions in that Act in respect of those terms apply to that Chapter;
- (f) in Chapter 11, where terms are used which are defined terms in the 2011 Regulations, the definitions in those Regulations in respect of those terms apply to that Chapter; and
- (g) in Chapter 12, where terms are used which are defined terms in the 2016 Act, the definitions in that Act in respect of those terms apply to that Chapter.

CHAPTER 2

Procedure in respect of repairing standard applications

Application to contract out of the repairing standard

47. Where a landlord or tenant makes an application under section 18(1) (contracting out with consent of First-tier Tribunal) of the 2006 Act, the application—

- (a) must state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the name, address and profession of any representative of the tenant;
- (b) must be accompanied by—

⁽²⁶⁾ S.S.I. 2016/337.

⁽²⁷⁾ S.S.I. 2016/338.

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

- (i) a copy of the tenancy agreement; and
- (ii) a copy of the consent given by the other party under the tenancy as required under section 18(2)(a) of the 2006 Act; and
- (c) must be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application for determination of whether the landlord has failed to comply with the repairing standard

48.—(1) Where a tenant makes an application under section 22(1) (application in respect of the repairing standard) of the 2006 Act—

- (a) in addition to the tenant's reasons as required by section 22(2) of the 2006 Act (reasons for considering that the landlord has failed to comply with the landlord's duty), the application must state—
 - (i) the name and address of the tenant;
 - (ii) that the application is made under that section;
 - (iii) the name, address, and profession of any representative of the tenant;
 - (iv) the name of the landlord;
 - (v) the address of the landlord or the name, address and profession, if known, of any representative of the landlord;
 - (vi) the landlord's registration number, if known;
 - (vii) the nature of the work requiring to be done; and
 - (viii) that the landlord has been notified of the work under section 22(3) of the 2006 Act;
- (b) the application must be accompanied by—
 - (i) the lease or tenancy agreement, or if these are not available as much information about the tenancy as the applicant can give;
 - (ii) the notification referred to in paragraph (1)(a)(viii) and any subsequent correspondence relating to that notification; and
- (c) the application must be signed and dated by the tenant or by a representative of the tenant.

(2) Where a third party applicant makes an application under section 22(1A) (application in respect of the repairing standard) of the 2006 Act—

- (a) in addition to the third party applicant's reasons as required by section 22(2) of the 2006 Act, the application must state—
 - (i) the name and address of the third party applicant;
 - (ii) that the application is made under that section;
 - (iii) the name and address of the tenant;
 - (iv) the name, address and profession, if known, of any representative of the tenant;
 - (v) whether or not the tenant wants to be a party to the proceedings;
 - (vi) the name of the landlord;
 - (vii) the address of the landlord, or the name, address and profession, if known, of any representative of the landlord;
 - (viii) the landlord's registration number, if known;
 - (ix) the nature of the work requiring to be done; and

- (x) that the landlord has been notified of the work under section 22(3) of the 2006 Act; and
 - (b) the application must be accompanied by—
 - (i) the lease or tenancy agreement, or if these are not available as much information about the tenancy as the applicant can give; and
 - (ii) the notification referred to in paragraph (2)(a)(x) and any subsequent correspondence available relating to that notification; and
 - (c) the application must be signed and dated by the third party applicant or by a representative of the third party applicant.
- (3) Where a property fails to meet the repairing standard in more than one respect, the applicant may raise multiple issues relating to the repairing standard in one application.

Application to order a person to cease obstructing a person from complying with the repairing standard

49. Where a person who is prevented or obstructed from doing anything which he or she is required, authorised or entitled to do under Part 1 of the 2006 Act (“the obstructed person”) by another person (“the obstructing person”) makes an application under section 57(2) (obstructions etc.) of the 2006 Act, the application must—

- (a) state—
 - (i) the name and address of the obstructed person;
 - (ii) the name, address and profession of any representative of the obstructed person; and
 - (iii) the name and address of the obstructing person (where known);
 - (iv) the details of the actions being obstructed and the nature of the obstruction; and
 - (v) the details of actions which the obstructed person is required, authorised or entitled to do; and
- (b) be signed and dated by the obstructed person or a representative of the obstructed person.

Application to appeal against a decision of the landlord

50. Where a tenant makes an application under section 64(6) (Part 1 appeals) of the 2006 Act, the application must—

- (a) state—
 - (i) the name and address of the tenant;
 - (ii) the name, address and profession of any representative of the tenant;
 - (iii) the name, address and registration number (if any) of the landlord;
 - (iv) a copy of the landlord’s conditional consent or refusal or details of it where not in writing; and
 - (v) the details of the works which the tenant has requested the landlord to carry out; and
- (b) be signed and dated by the tenant or a representative of the tenant.

Need for additional work

51. Where further relevant issues come to light in the course of investigation by the First-tier Tribunal, the tenant or third party applicant may make a further application in respect of those issues, but may not do so until that person has notified the landlord that further work requires to be done for the purposes of compliance with the landlord’s duty.

Procedure for further applications

52.—(1) Any application under rule 51 must provide the information set out in rule 48(1) or, as the case may be, rule 48(2), and must follow the same procedure as the original application, except that any time scales applicable may be shortened with the consent of the parties.

(2) If the members of the First-tier Tribunal dealing with the original application are satisfied that it is expedient that the further application be made by way of amendment to the original application, they may allow such an amendment.

(3) The First-tier Tribunal must give suitable directions to the parties to ensure that the amended application is properly and fairly considered.

Inspections

53.—(1) An inspection of the property may be carried out before or during the hearing or after an adjournment of the hearing, or at such stage in relation to consideration of the written representations as the First-tier Tribunal determines.

(2) The First-tier Tribunal may make or commission such further inspections as it considers appropriate to enable it to determine whether or not the work required by a repairing standard enforcement order has been completed adequately, or to decide whether to grant a certificate under section 60 of the 2006 Act in relation to the work required by any such order.

(3) An inspection may be carried out by the First-tier Tribunal, a member of the First-tier Tribunal, or any person authorised to do so by the First-tier Tribunal or the Chamber President.

(4) The First-tier Tribunal must give sufficient written notice of an inspection to the party.

(5) The parties and the representative of each party are entitled to attend the inspection.

Parties to be notified by the First-tier Tribunal

54. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application under the 2006 Act, the tenant, the landlord, third party applicants, the obstructed person and the obstructing person.

CHAPTER 3

Procedure in respect of Landlord applications to the First-tier Tribunal

Application for assistance to exercise the landlord's right of entry

55. Where a landlord makes an application under section 28A(1) of the 2006 Act, the application must—

(a) state—

(i) the name and address of the landlord;

(ii) that the application is made under that section;

(iii) the address of the house in respect of which the application is made;

(iv) the name, address and profession of any representative appointed by the landlord;

(v) a telephone number to enable contact to be made with the landlord or any representative appointed by the landlord and any email address which may be used for such contact;

(vi) the landlord registration number of the landlord or that an application for registration has been made in accordance with section 83 of the 2004 Act and has not been determined;

- (vii) the name, telephone number (if known), and email address (if known) of the tenant;
 - (viii) that the tenant has been notified in writing that the landlord wishes to exercise the landlord's right of entry;
 - (ix) that entry to the house is sought for the purpose of paragraph (a) of section 181(4) of the 2006 Act or of paragraph (b) of that section or of both;
 - (x) whether or not the landlord has, within the 12 months prior to the date of making of the application, made another application under section 28A(1) of the 2006 Act in respect of the same house; and
 - (xi) the name of any person the landlord intends to authorise to enter the house;
- (b) be accompanied by a copy of—
- (i) the lease or the tenancy agreement or, if these are not available, as much information about the tenancy as the landlord can give; and
 - (ii) the notification referred to in paragraph (a)(viii) and any subsequent correspondence relating to that notification; and
- (c) be signed and dated by the landlord or by any representative appointed by the landlord.

Person authorised to enter

56. If the First-tier Tribunal does not consider the person that the landlord intends to authorise to enter the house to be a suitable person, it may allow the landlord to amend the application in this regard.

Decision to assist

57. Where the First-tier Tribunal decides to assist the landlord under subsection (3) of section 28A of the 2006 Act, the notice sent to the landlord and the tenant under subsection (5) of that section must, in addition to the information required under that subsection, state—

- (a) the name and address of the landlord;
- (b) the name and address of the landlord's representative, if any;
- (c) the name of the tenant and the address of the house;
- (d) the name of any person the landlord intends to authorise to enter the house;
- (e) whether the landlord is seeking entry to the house for the purpose of—
 - (i) viewing its state and condition for the purpose of determining whether the house meets the repairing standard;
 - (ii) carrying out any work necessary to comply with the duty in section 14(1)(b) of the 2006 Act; or
 - (iii) both; and
- (f) that if the tenant (without reasonable excuse) fails or refuses, within a reasonable time, to—
 - (i) respond to the First-tier Tribunal, or
 - (ii) agree a suitable date and time (or dates and times) for the landlord to exercise the landlord's right of entry,

the First-tier Tribunal may fix a date and time (or dates and times) for the landlord to exercise the landlord's right of entry.

Stopping assistance

58. Where the First-tier Tribunal makes a decision to stop assisting the landlord under section 28A(7) or section 28C(9) of the 2006 Act, the First-tier Tribunal must notify the landlord and the tenant and that notice must state—

- (a) the name and address of the landlord;
- (b) the name and address of the landlord’s representative, if any;
- (c) the name of the person the landlord intended to authorise to enter the house;
- (d) the name of the tenant and the address of the house;
- (e) the reason for the decision; and
- (f) that in terms of section 28A(8) of the 2006 Act the decision to stop assisting the landlord is final.

CHAPTER 4

Procedure in respect of adaptations of rented houses applications

Application to appeal the decision of a landlord in relation to adapting a rented house for a disabled person

59. Where a tenant makes an application under section 66A(1) (appeals in relation to section 52) of the 2006 Act, the application must—

- (a) state—
 - (i) the name and address of the tenant;
 - (ii) the name, address and profession of any representative of the tenant;
 - (iii) the name, address and registration number (if any) of the landlord;
 - (iv) details of the works requested by the tenant; and
 - (v) details of the landlord’s decision and reasons for that decision; and
- (b) be signed and dated by the tenant or a representative of the tenant.

Parties to be notified by the First-tier Tribunal

60. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application under section 66A(1) of the 2006 Act, the landlord and the tenant.

CHAPTER 5

Procedure in respect of assured tenancy references to the First-tier Tribunal

Assured tenancy references to the First-tier Tribunal

61. Where a landlord or a tenant makes an assured tenancy reference, the reference must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name and address of the tenant; and
 - (iii) the name, address and profession of any representative of the tenant or landlord;
- (b) be accompanied by—
 - (i) a copy of the written terms of the tenancy (if available); and
 - (ii) the notice comprising an adjustment of the rent (if available); and

- (c) be signed and dated by the tenant or landlord or a representative of the tenant or landlord.

Documents at assured tenancy reference hearings

62.—(1) Where the assured tenancy reference is to be subject to a hearing, the First-tier Tribunal must take all reasonable steps to ensure that there is sent to each of the parties before the date of the hearing—

- (a) a copy of, or sufficient extracts from, or particulars of, each document relevant to the reference which has been received from a party (other than a document which is in the possession of such party or of which that party has previously been sent a copy); and
 - (b) a copy of each document which embodies results of enquiries made by or for the First-tier Tribunal for the purposes of that reference, or which contains relevant information in relation to rents or other tenancy terms previously determined for other houses and which has been prepared for the First-tier Tribunal for the purposes of that reference.
- (2) At a hearing where—
- (a) a document relevant to the reference is not in the possession of a party present at the hearing; and
 - (b) such party has not been sent a copy of, or relevant extracts from, or particulars of, that document by the First-tier Tribunal in accordance with the provisions of paragraph (1) of this rule, then unless—
 - (i) such party consents to the continuation of the hearing; or
 - (ii) the First-tier Tribunal consider that such party has a sufficient opportunity of dealing with that document without an adjournment of the hearing,

the First-tier Tribunal must not consider that document until after it has adjourned the hearing for a period which it considers will afford such a party a sufficient opportunity of dealing with that document.

(3) Where an assured tenancy reference is not to be subject to a hearing in accordance with rule 18, the First-tier Tribunal must—

- (a) send to each of the parties a copy of, or sufficient extracts from, or particulars of, each such document as is mentioned in paragraph (1)(a) (other than a document excepted from that paragraph) and a copy of each such document as is mentioned in paragraph (1)(b); and
- (b) not reach its decision until it is satisfied that each party has been given a sufficient opportunity of making written representations in respect of each document of which a copy or from which extracts or of which particulars has or have been so sent, and upon the other party's case.

Inspections

63.—(1) The First-tier Tribunal may on its own motion and must at the request of one of the parties (subject in either case to any necessary consent being obtained) inspect the house which is the subject of the assured tenancy reference.

(2) An inspection may be made before, during or after the close of the hearing, or at such stage in relation to the consideration of the representations in writing as the First-tier Tribunal determines.

(3) The First-tier Tribunal must give in writing sufficient notice of an inspection to the parties and must allow each party and their representatives to attend any such inspection.

(4) Where an inspection is made after the close of a hearing, the First-tier Tribunal may, if it considers that it is expedient to do so on account of a matter arising from the inspection, re-open the

hearing; and if the hearing is to be re-opened, rule 24(1) applies as it applied to the original hearing, save in so far as its requirements may be dispensed with or relaxed with the consent of the parties.

Parties to be notified by the First-tier Tribunal

64. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an assured tenancy reference, the tenant and the landlord.

CHAPTER 6

Procedure in respect of assured tenancy applications

Application for order for possession in relation to assured tenancies

65. Where a landlord makes an application under section 18(1) (orders for possession) of the 1988 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the possession grounds which apply as set out in Schedule 5 of the 1988 Act;
- (b) be accompanied by—
 - (i) a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;
 - (ii) a copy of the notice by landlord of intention to raise proceedings for possession of a house let on an assured tenancy;
 - (iii) a copy of the notice to quit served by the landlord on the tenant (if applicable); and
 - (iv) evidence as the applicant has that the possession ground or grounds has been met; and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application for order for possession upon termination of a short assured tenancy

66. Where a landlord makes an application under section 33 (recovery of possession on termination of a short assured tenancy) of the 1988 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord; and
 - (iii) the name and address of the tenant;
- (b) be accompanied by a copy of—
 - (i) the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord can give;
 - (ii) the notice by landlord that the tenancy is a short assured tenancy; and
 - (iii) the notice given to the tenant under section 33(1)(d) of the 1988 Act; and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application to determine removal expenses

67. Where a landlord and tenant cannot agree the amount payable by the landlord to the tenant under section 22(1) of the 1988 Act, either the landlord or the tenant may make an application under section 22(2) (payment of removal expenses in certain cases) of the 1988 Act and the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant;
 - (iv) the name, address and profession of any representative of the tenant; and
 - (v) the details of the tenant's claim for expenses, reasons for disagreement and proposals for settlement; and
- (b) be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application to provide written tenancy agreement and weekly rent book

68. Where a tenant makes an application under section 30(2) (duty of landlord under assured tenancy to provide written tenancy document and weekly rent book) of the 1988 Act, the application must—

- (a) state—
 - (i) the name and address of the tenant;
 - (ii) the name, address and registration number (if any) of the landlord; and
 - (iii) the name, address and profession of any representative of the landlord;
- (b) be accompanied by a copy of the rent book, written tenancy agreement or similar document (if available) or, if this is not available, as much information about the tenancy as the tenant can give; and
- (c) must be signed and dated by the tenant or a representative of the tenant.

Application for damages for unlawful eviction

69. Where a former residential occupier makes an application under section 36(6A) or (6B) (damages for unlawful eviction) of the 1988 Act, the application must—

- (a) state—
 - (i) the name and address of the former residential occupier;
 - (ii) the name, address and profession of any representative of the former residential occupier;
 - (iii) the name and address and registration number (if any) of the landlord; and
 - (iv) the details of the amount of damages sought based on section 37 of the 1988 Act in respect of the loss of the right to occupy the premises; and
- (b) be signed and dated by the former residential occupier or a representative of the former residential occupier.

Application for civil proceedings in relation to an assured tenancy under the 1988 Act

70. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal's jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name and address of any other party; and
 - (iii) the reason for making the application;
- (b) be accompanied by—
 - (i) evidence to support the application; and
 - (ii) a copy of any relevant document; and
- (c) be signed and dated by the person.

Parties to be notified by the First-tier Tribunal

71. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application—

- (a) under section 18(1), 22(2), 30(2) and 33 of the 1988 Act, the landlord and the tenant; and
- (b) under section 36(6A) and (6B) of the 1988 Act, the former residential occupier and the landlord.

CHAPTER 7

Procedure in regulated tenancy references

Regulated tenancy references to the First-tier Tribunal

72. Where the rent officer makes a regulated tenancy reference, it must—

- (a) state the name, address and registration number (if any) of the tenant or landlord;
- (b) be accompanied by a copy of the objection made by the tenant or landlord; and
- (c) be signed and dated by the rent officer.

Inspection of dwellinghouse

73.—(1) The First-tier Tribunal may on its own motion and must at the request of one of the parties (subject in either case to any necessary consent being obtained) inspect the dwellinghouse which is the subject of the regulated tenancy reference.

(2) An inspection may be made before, during or after the close of the hearing, or at such stage in relation to the consideration of the representations in writing as the First-tier Tribunal determines.

(3) The First-tier Tribunal must give in writing sufficient notice of an inspection to the party or parties and must allow each party and their representative to attend any such inspection.

(4) Where an inspection is made after the close of a hearing the First-tier Tribunal may, if it considers that it is expedient to do so on account of any matter arising from the inspection, re-open the hearing; and if the hearing is to be re-opened rule 24(1) (hearings) applies as it applied to the original hearing, save in so far as its requirements may be dispensed with or relaxed with the consent of the parties.

Parties to be notified by the First-tier Tribunal

74. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to a regulated tenancy reference, the rent officer, the landlord and the tenant.

CHAPTER 8

Procedure in respect of regulated tenancy and Part VII contract applications

Application to determine the statutory tenant after the death of a protected tenant

75. Where a person makes an application under section 3(1)(b) and schedule 1, paragraph 3 or 7 (statutory tenants and tenancies), of the 1984 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name, address and profession of any representative of the person;
 - (iii) the name and address and registration number (if any) of the landlord;
 - (iv) the name and date of death of the deceased former tenant; and
 - (v) the names and addresses of all persons related to the deceased former tenant who lived in the house for at least 6 months prior to the death of the deceased former tenant;
- (b) be accompanied by—
 - (i) a copy of the protected tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the person can give; and
 - (ii) a copy of the notice of termination (if available); and
- (c) be signed and dated by the person or a representative of the person.

Application for the apportionment of the rateable value in relation to a protected tenancy

76. Where an owner makes an application under section 7(2) (rateable value and the appropriate day) of the 1984 Act, the application must—

- (a) state—
 - (i) the name and address of the owner;
 - (ii) the name, address and profession of any representative of the owner; and
 - (iii) the name and address of the local authority;
- (b) be accompanied by representations relating to the apportionment of the rateable value; and
- (c) be signed and dated by the landlord or a representative of the owner.

Application for possession

77. Where a landlord makes an application under section 11 (grounds for possession of certain dwelling-houses) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the circumstances which apply as specified in any Case in Part I or II of schedule 2 of the 1984 Act;

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- (b) be accompanied by—
 - (i) a copy of the notice to quit to the tenant;
 - (ii) a copy of the notice given to the local authority as required under section 12A(1) of the 1984 Act;
 - (iii) a copy of the notice of proceedings; and
 - (iv) evidence that suitable alternative accommodation is available (if applicable); and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application for compensation for misrepresentation or concealment by landlord

78. Where a former tenant makes an application under section 21 (compensation for misrepresentation or concealment in Cases 7 and 8) of the 1984 Act, the application must—

- (a) state—
 - (i) the name and address of the former tenant;
 - (ii) the name, address and profession of any representative of the former tenant; and
 - (iii) the name, address and registration number (if any) of the landlord;
- (b) be accompanied by—
 - (i) evidence of misrepresentation on the part of the landlord; and
 - (ii) a copy of the order for possession; and
- (c) be signed and dated by the former tenant or a representative of the former tenant.

Application to evict an occupier upon termination of a tenancy

79. Where an owner makes an application under section 23 (prohibition of eviction without due process of law) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the owner;
 - (ii) the name, address and profession of any representative of the owner; and
 - (iii) the name and address of the occupier;
- (b) be accompanied by—
 - (i) a copy of the tenancy agreement or, if this is not available, as much information about the tenancy as the owner can give; and
 - (ii) evidence that—
 - (aa) the tenancy has ended; or
 - (bb) the tenant has died; and
- (c) be signed and dated by the owner or a representative of the owner.

Application to adjust recoverable rent

80. Where a landlord or tenant makes an application under section 31(2) (adjustment, with respect to services and furniture, of recoverable rent for statutory periods before registration) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;

- (iii) the name and address of the tenant; and
- (iv) the name, address and profession of any representative of the tenant;
- (b) be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the landlord or tenant can give; and
- (c) be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application to amend a rent increase notice

81. Where a landlord makes an application under section 32(4) (notices of increase) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the reasons for seeking amendment to the notice of increase;
- (b) be accompanied by a copy of the rent increase notice; and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application to rectify a rent book after determination of recoverable rent

82. Where a tenant makes an application under section 39 (rectification of rent books in light of determination of recoverable rent) of the 1984 Act, the application must—

- (a) state—
 - (i) the name and address of the tenant;
 - (ii) the name, address and profession of any representative of the tenant; and
 - (iii) the name, address and registration number (if any) of the landlord;
- (b) be accompanied by—
 - (i) a copy of the record of determination of recoverable rent; and
 - (ii) a copy of the rent book or similar document; and
- (c) be signed and dated by the tenant or a representative of the tenant.

Application to determine the rent limit

83. Where a landlord or tenant makes an application under section 60 (supplemental to sections 55 to 59) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the name, address and profession of any representative of the tenant;
- (b) be accompanied by—
 - (i) copies of the relevant tenancy or lease agreements (if available) or, if this is not available, as much information about the tenancy as the landlord or tenant can give; and

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- (ii) copies of the relevant rent adjustment notices (if available); and
- (c) be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application for apportionment of the rateable value in relation to a Part VII contract

84. Where a lessor or lessee makes an application under section 64(6) (dwelling-houses to which Part VII applies) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the lessor;
 - (ii) the name, address and profession of any representative of the lessor;
 - (iii) the name and address of the lessee; and
 - (iv) the name, address and profession of any representative of the lessee;
- (b) be accompanied by representations relating to the apportionment of the rateable value; and
- (c) be signed and dated by the lessor or lessee or a representative of the lessor or lessee.

Application to reduce the period of a notice to quit

85. Where a lessor makes an application under section 75 (power of First-tier Tribunal, in action for possession, to reduce period of notice to quit) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the lessor;
 - (ii) the name, address and profession of any representative of the lessor;
 - (iii) the name and address of the lessee; and
 - (iv) the paragraph of section 74(2) of the 1984 Act relating to the lessee's default;
- (b) be accompanied by evidence of the lessee's default; and
- (c) be signed and dated by the lessor or a representative of the lessor.

Application to postpone the date of possession in relation to Part VII contracts

86. Where a lessor makes an application under section 76 (notice to quit relating to later Part VII contracts) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the lessor;
 - (ii) the name, address and profession of any representative of the lessor;
 - (iii) the name and address of the lessee; and
 - (iv) the reasons for the postponement of the date of possession; and
- (b) be signed and dated by the lessor or a representative of the lessee.

Application to recover unlawful premiums and loans

87. Where a person makes an application under section 88 (recovery of premiums and loans unlawfully required or received) of the 1984 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name, address and profession of any representative of the person; and

- (iii) the name, address and registration number (if any) of the landlord;
- (b) be accompanied by—
 - (i) a copy of the premium or loan agreement (if available); and
 - (ii) evidence of an unlawful payment to be recovered; and
- (c) be signed and dated by the person or a representative of the person.

Application to modify a tenant's right to shared accommodation

88. Where a landlord makes an application under section 97(8) (provisions where tenant shares accommodation with persons other than landlord) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the details of the termination of rights or modification proposed;
- (b) be accompanied by a copy of the occupancy agreement or, if this is not available, as much information about the occupancy as the landlord can give; and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application to alter the amount of rent where the right to shared accommodation is modified

89. Where a landlord or tenant makes an application under section 97(9) (provisions where tenant shares accommodation with persons other than landlord) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant;
 - (iv) the name, address and profession of any representative of the tenant; and
 - (v) the details of the change in circumstances or increase in rent; and
- (b) be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application to determine the application of the 1984 Act

90. Where a landlord or tenant makes an application under section 102(A1) (jurisdiction) of the 1984 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant;
 - (iv) the name, address and profession of any representative of the tenant;
 - (v) the details of the question regarding the application of the 1984 Act; and
- (b) be signed and dated by the landlord or tenant or a representative of the landlord or tenant.

Application for civil proceedings in relation to a regulated tenancy or Part VII contract under the 1984 Act

91. Where a person makes any other application to the First-tier Tribunal by virtue of section 16 (First-tier Tribunal's jurisdiction in relation regulated and assured tenancies etc.) of the 2014 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name and address of any other party; and
 - (iii) the reason for making the application;
- (b) be accompanied by—
 - (i) evidence to support the application; and
 - (ii) a copy of any relevant document; and
- (c) be signed and dated by the person.

Parties to be notified by the First-tier Tribunal

92. The parties to be notified by the First-tier Tribunal under rule 9(1) are in relation to an application—

- (a) under section 3(1)(b) and schedule 1, paragraph 3 or 7 of the 1984 Act, the person who meets the requirements in paragraph 3 or 7, any other person who meets the requirements in paragraph 3 or 7 and the landlord;
- (b) under section 7(2) of the 1984 Act, the owner and the local authority;
- (c) under section 11, 23, 31(2), 32(4), 39, 60, 97(8) and (9) and 102(A1) of the 1984 Act, the landlord and the tenant;
- (d) under section 21 of the 1984 Act, the former tenant and the landlord;
- (e) under sections 64(6), 75 and 76 of the 1984 Act, the lessor and lessee;
- (f) under section 88 of the 1984 Act, the person who has paid a premium and the landlord; and
- (g) under section 92(2) of the 1984 Act, the person whose application for registration is refused or who is removed from the register and the local authority.

CHAPTER 9

Procedure in respect of letting agent applications

Application for extension of time limit to determine application for registration as a letting agent

93. Where the Scottish Ministers make an application under section 33(3) (time limit for determining application) of the 2014 Act, the application must—

- (a) state—
 - (i) the address of the Scottish Ministers;
 - (ii) the name, address and profession of any representative of the Scottish Ministers;
 - (iii) the name, address and registration number (if any) of the person applying for registration as a letting agent;
 - (iv) the reasons why an extension is sought; and
 - (v) the date of receipt by the Scottish Ministers of the application under section 32 of the 2014 Act; and

- (b) be signed and dated by the Scottish Ministers or a representative of the Scottish Ministers.

Application to appeal decision by the Scottish Ministers to refuse to register or removal from register

94. Where a person makes an application under section 41(1) (appeals) of the 2014 Act, the application must—

- (a) state—
 - (i) the name, address and letting agent registration number (if any) of the person;
 - (ii) the name, address and profession of any representative of the person;
 - (iii) the address of the Scottish Ministers;
 - (iv) the decision of the Scottish Ministers under section 32 (to refuse to enter that person in the register or to renew that person’s existing entry in the register) or under section 39 (to remove that person from the register) of the 2014 Act;
 - (v) the date the person was notified of that decision; and
 - (vi) the reasons why a person is appealing the decision of the Scottish Ministers;
- (b) be made before the end of the period of 21 days beginning with the date of the notification of the decision; and
- (c) be signed and dated by the person or a representative of the person.

Application to enforce letting agent code of practice

95. Where a tenant or landlord makes, or the Scottish Ministers make, an application under section 48(1) (applications to First-tier Tribunal to enforce code of practice) of the 2014 Act, the application must—

- (a) state, in addition to the applicant’s reasons as required under section 48(3) of the 2014 Act—
 - (i) the name and address of the tenant, landlord or the Scottish Ministers;
 - (ii) the name, address and profession of any representative of the tenant, landlord or the Scottish Ministers;
 - (iii) the name, address and letting agent registration number (if any) of the letting agent;
 - (iv) the name, address and profession, if known, of any representative of the letting agent; and
 - (v) information as to any loss suffered by the applicant as a result of the failure to comply;
- (b) be accompanied by a copy of the notification to the letting agent as required under section 48(4) of the 2014 Act; and
- (c) be signed and dated by the applicant or a representative of the applicant.

Parties to be notified by the First-tier Tribunal

96. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application—

- (a) under section 33(3) of the 2014 Act, the Scottish Ministers and the person applying for registration as a letting agent;
- (b) under section 41(1) of the 2014 Act, either—

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- (i) the registered letting agent who has been removed from the register or had an application for registration refused; or
 - (ii) the person whose application for registration as a letting agent is refused,
- and the Scottish Ministers; and
- (c) under section 48(1) of the 2014 Act, the tenant, landlord (if a party to the proceedings) or the Scottish Ministers and the letting agent.

Letting agent enforcement orders

97.—(1) Where the First-tier Tribunal varies or revokes a letting agent enforcement order under section 49 of the 2014 Act, it will notify both parties in writing.

(2) Where the First-tier Tribunal notifies the Scottish Ministers under section 50(2) of the 2014 Act that a letting agent has failed to comply with a letting agent enforcement order, it will send both parties a copy of that notification.

CHAPTER 10

Procedure in respect of landlord registration applications

Application for an extension of time limit to determine application for registration as a landlord

98. Where the local authority makes an application under section 85B(3)(28) (time limit for determining application) of the 2004 Act, the application must—

- (a) state—
 - (i) the name and address of the local authority;
 - (ii) the name, address and profession of any representative of the local authority;
 - (iii) the name, address and registration number (if any) of the person applying for landlord registration; and
 - (iv) the date of receipt of the application under section 83 of the 2004 Act; and
- (b) be signed and dated by the local authority or a representative of the local authority.

Application to appeal against refusal to register or removal from register

99. Where a person makes an application under section 92(2) (appeal against refusal to register or removal from register) of the 2004 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the person;
 - (ii) the name, address and profession of any representative of the person;
 - (iii) the name and address of the local authority;
 - (iv) the decision of the local authority and the date the person was notified of that decision; and
 - (v) the reasons why a person is appealing the decision of the local authority; and
- (b) be signed and dated by the person or a representative of the person.

(28) Section 85B is not yet in force.

Application to appeal against a decision of the local authority to serve a notice that no rent is payable

100. Where a relevant person on whom a notice under section 94 (circumstances in which no rent to be payable) of the 2004 Act is served makes an application under section 97(1) (appeals) of the 2004 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name, address and profession of any representative of the person; and
 - (iii) the name and address of the local authority;
- (b) be accompanied by a copy of the notification to the person who has the use as a dwelling of the house to which the notice relates as required under section 97(4) of the 2004 Act; and
- (c) be signed and dated by the relevant person or a representative of the relevant person.

Application to revoke a notice that no rent is payable

101. Where a local authority makes a decision refusing to revoke a notice under section 95(2) (notices under section 94: revocation) of the 2004 Act and a person having an interest makes an application under section 97(2) (appeals) of the 2004 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name, address and profession of any representative of the person; and
 - (iii) the name and address of the local authority;
- (b) be accompanied by a copy of the notification to the person who has the use as a dwelling of the house to which the notice relates as required under section 97(4) of the 2004 Act; and
- (c) be signed and dated by the relevant person or a representative of the relevant person.

Parties to be notified by the First-tier Tribunal

102. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application—

- (a) under section 85B(3)(**29**) of the 2004 Act, the local authority and the relevant person;
- (b) under section 92(2) of the 2004 Act, the person whose application for registration is refused or who is removed from the register and the local authority;
- (c) under section 97(1) of the 2004 Act, the person who has been served with a notice under section 94 of the Act and the local authority; and
- (d) under section 97(2) of the 2004 Act, a person whose application for the revocation of a notice under section 94 of the 2004 Act has been refused and the local authority.

(29) Section 85B is not yet in force.

CHAPTER 11

Procedure in respect of tenancy deposit applications

Application for order for payment where landlord has not paid the deposit into an approved scheme

103. Where a tenant or former tenant makes an application under regulation 9 (court orders) of the 2011 Regulations, the application must—

- (a) state—
 - (i) the name and address of the tenant or former tenant;
 - (ii) the name, address and profession of any representative of the tenant or former tenant; and
 - (iii) the name, address and registration number (if any) of the landlord;
- (b) be accompanied by a copy of the tenancy agreement (if available) or, if this is not available, as much information about the tenancy as the tenant or former tenant can give;
- (c) evidence of the date of the end of the tenancy (if available); and
- (d) be signed and dated by the tenant or former tenant or a representative of the tenant or former tenant.

Parties to be notified by the First-tier Tribunal

104. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application under regulation 9 of the 2011 Regulations, a tenant or former tenant and the landlord.

CHAPTER 12

Procedure in respect of private residential tenancy applications

Application to draw up terms of tenancy

105. Where the tenant makes an application under section 14(1) (to draw up terms where written terms have not been provided) of the 2016 Act, the application must—

- (a) state—
 - (i) the name and address of the tenant;
 - (ii) the name, address and profession of any representative of the tenant; and
 - (iii) the name, address and registration number (if any) of the landlord;
- (b) be accompanied by—
 - (i) a copy of the notification to the landlord as required under section 14(3) of the 2016 Act; and
 - (ii) a statement of the terms of the tenancy agreed between the landlord and tenant, whether verbally or in writing; and
- (c) be signed and dated by the tenant or a representative of the tenant.

Application to draw up terms of tenancy where statutory term is unlawfully displaced

106. Where a person makes an application under section 14(2) (to draw up terms where statutory term is unlawfully displaced) of the 2016 Act, the application must—

- (a) state—

- (i) the name, address and registration number (if any) of the tenant or landlord;
 - (ii) the name, address and profession of any representative of the tenant or landlord;
 - (iii) the name and address of the other party to the private residential tenancy;
 - (iv) which of the statutory terms the tenant considers has been displaced; and
 - (v) the reasons why the tenant considers the statutory term has been displaced;
- (b) be accompanied by—
- (i) a copy of the written terms of tenancy or, if this is not available, as much information about the tenancy as the person can give; and
 - (ii) evidence to support that a statutory term has been unlawfully displaced; and
- (c) be signed and dated by the tenant or landlord or a representative of the tenant or landlord.

Application for payment order where landlord has failed to provide information

107. Where the tenant makes an application under section 16(1) (to sanction failure to provide information) of the 2016 Act, the application must—

- (a) state—
- (i) the name and address of the tenant;
 - (ii) the name, address and profession of any representative of the tenant;
 - (iii) the name, address and registration number (if any) of the landlord; and
 - (iv) that the landlord has failed to provide the tenant with (either or both)—
 - (aa) a document setting out all the terms of the tenancy required under section 10(30);
 - (bb) information required under section 11, of the 2016 Act;
- (b) be accompanied by a copy of the notice given to the landlord under section 16(3)(c) of the 2016 Act; and
- (c) be signed and dated by the tenant or a representative of the tenant.

Application to appeal rent set by the rent officer

108. Where a tenant or landlord makes an application under section 28(1) (to appeal the rent set by the rent officer) of the 2016 Act, the application must—

- (a) state—
- (i) the name, address and registration number (if any) of the tenant or landlord;
 - (ii) the name, address and profession of any representative of the tenant or landlord;
 - (iii) the name and address of the other party to the private residential tenancy; and
 - (iv) the reasons why the applicant is appealing against the rent officer's order;
- (b) be accompanied by—
- (i) a copy of the rent officer's order; and
 - (ii) a copy of the rent-increase notice upon which the referral to the rent officer was based; and

(30) An application under rule 107 in relation to the landlord's failure to provide the terms of the tenancy may only be made as part of an application under rule 105 in accordance with section 16(3)(b) of the Private Housing (Tenancies) (Scotland) Act 2016 (asp 19).

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

- (c) be signed and dated by the tenant or landlord or a representative of the tenant or landlord.

Application for an eviction order

109. Where a landlord makes an application under section 51(1) (for an eviction order) of the 2016 Act, the application must—

- (a) state—
 - (i) the name, address and registration number (if any) of the landlord;
 - (ii) the name, address and profession of any representative of the landlord;
 - (iii) the name and address of the tenant; and
 - (iv) the ground or grounds for eviction;
- (b) be accompanied by—
 - (i) evidence showing that the eviction ground or grounds has been met;
 - (ii) a copy of the notice to leave given to the tenant as required under section 52(3) of the 2016 Act; and
 - (iii) a copy of the notice given to the local authority as required under section 56(1) of the 2016 Act; and
- (c) be signed and dated by the landlord or a representative of the landlord.

Application for a wrongful termination order

110. Where a former tenant makes an application under section 57(2) (wrongful termination by eviction order) or section 58(2) (wrongful termination without eviction order) of the 2016 Act, the application must—

- (a) state—
 - (i) the name and address of the former tenant;
 - (ii) the name, address and profession of any representative of the former tenant; and
 - (iii) the name, address and registration number (if any) of the former landlord;
- (b) be accompanied by evidence showing that the tenancy was unlawfully terminated; and
- (c) be signed and dated by the former tenant or a representative of the former tenant.

Application for civil proceedings in relation to a private residential tenancy

111. Where a person makes any other application to the First-tier Tribunal by virtue of section 71(1) (First-tier Tribunal's jurisdiction) of the 2016 Act, the application must—

- (a) state—
 - (i) the name and address of the person;
 - (ii) the name and address of any other party; and
 - (iii) the reason for making the application;
- (b) be accompanied by—
 - (i) evidence to support the application; and
 - (ii) a copy of any relevant document; and
- (c) be signed and dated by the person.

Parties to be notified by the First-tier Tribunal

112. The parties to be notified by the First-tier Tribunal under rule 9(1) are, in relation to an application made under a section of the 2016 Act, the landlord (or former landlord) and the tenant (or former tenant).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the rules of procedure for the First-tier Tribunal for Scotland Housing and Property Chamber (“the First-tier Tribunal”).

Regulation 2 introduces the schedule which contains the rules of procedure which apply to proceedings before the First-tier Tribunal when exercising the functions allocated to it by the legislation listed in that regulation.

Regulation 3 makes transitional provision in respect of applications received by the First-tier Tribunal prior to 1st December 2017 and regulation 4 partially revokes the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 on 1st December 2017. The remainder of those Regulations are revoked by the Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017.

The schedule sets out the rules of procedure in respect of proceedings before the First-tier Tribunal.

Part 1 of the schedule provides the rules of procedure common to all proceedings.

Part 2 of the schedule provides the rules of procedure for proceedings in respect of homeowner applications.

Part 3 of the schedule provides the rules of procedure for proceedings in respect of the private rented housing sector, including repairing standard applications, landlord applications, adaptation of rented houses applications, assured tenancy references and applications, regulated tenancy references and applications, Part VII contract applications, letting agent applications, landlord registration applications, tenancy deposit applications and private residential tenancy applications.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.