

SCHEDULE

The Upper Tribunal for Scotland Social Security Rules of Procedure 2018

PART 5

Hearings

Decision with or without a hearing

- 22.**—(1) Subject to paragraph (2), the Upper Tribunal may make any decision without a hearing.
- (2) The Upper Tribunal must have regard to any view expressed by any party when deciding whether to hold a hearing to consider any matter, and the form of any such hearing.

Entitlement to attend a hearing

- 23.** Subject to the power to exclude persons in rule 25(4) (public and private hearings), each party is entitled to participate at a hearing together with any representatives and supporters permitted by rules 13 (representatives) and 14 (supporters).

Notice of hearings

- 24.**—(1) The Upper Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any change to the time and place of the hearing.
- (2) The period of notice under paragraph (1) must be at least 14 days prior to the day of the hearing except that the Upper Tribunal may give shorter notice—
- (a) with the consent of the parties; or
 - (b) in urgent or exceptional circumstances.

Public and private hearings

- 25.**—(1) Subject to the following paragraphs, all hearings must be held in public.
- (2) The Upper Tribunal may give an order that a hearing, or part of it, is to be held in private if the Upper Tribunal considers that restricting access to the hearing is justified—
- (a) in the interests of public order;
 - (b) in order to protect a person's right to respect for their private and family life;
 - (c) in order to maintain the confidentiality of sensitive information;
 - (d) in order to avoid serious harm to the public interest; or
 - (e) because to hold it in public would prejudice the interests of justice.
- (3) Where a hearing, or any part of it, is to be held in private, the Upper Tribunal may determine who is entitled to attend the hearing or part of it.
- (4) The Upper Tribunal may give an order excluding from any hearing, or part of it—
- (a) any person whose conduct the Upper Tribunal considers is disrupting or is likely to disrupt the hearing;
 - (b) any person whose presence the Upper Tribunal considers is likely to prevent another person from giving evidence or making submissions freely; or

- (c) any person where the purpose of the hearing would be defeated by the attendance of that person.
- (5) The Upper Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.
- (6) When publishing a decision in terms of rule 27(4) (notice of decisions and reasons) following a hearing which was held wholly or partly in private, the Upper Tribunal must, so far as practicable, ensure that the decision does not disclose information which was referred to in a part of the hearing that was held in private.

Hearings in a party's absence

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

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