

SCHEDULE 2

The Upper Tax Tribunal for Scotland Rules of Procedure 2015

PART 6

Correcting, Setting Aside and Appealing Decisions of the Upper Tribunal

Interpretation

35. In this Part, “appeal” means the exercise of a right of appeal under section 36 of RSTPA 2014.

Clerical mistakes and accidental slips or omissions

36. The Upper Tribunal may at any time correct any clerical mistake or other accidental slip or omission in a decision, a direction or any document produced by it (or record of such a thing) by—

- (a) sending notification of the amended decision or direction, or a copy of the amended document or record, to all parties; and
- (b) making any necessary amendment to any information published in relation to the decision, direction, document or record.

Setting aside a decision which disposes of proceedings

37.—(1) The Upper Tribunal may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision or the relevant part of it, if—

- (a) the Upper Tribunal considers that it is in the interests of justice to do so; and
 - (b) one or more of the conditions in paragraph (2) are satisfied.
- (2) The conditions are—
- (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party’s representative;
 - (b) a document relating to the proceedings was not sent to the Upper Tribunal at an appropriate time;
 - (c) a party, or a party’s representative, was not present at a hearing related to the proceedings; or
 - (d) there has been some other procedural irregularity in the proceedings.

(3) A party applying for a decision, or part of a decision, to be set aside under paragraph (1) must make a written application to the Upper Tribunal so that it is received no later than 30 days after the date on which the Upper Tribunal sent notice of the decision to the party.

(4) If the Upper Tribunal sets aside a decision or part of a decision under this rule, the Upper Tribunal must notify the parties as soon as practicable.

Application for permission to appeal a decision of the Upper Tribunal

38.—(1) A person seeking permission to appeal must make a written application to the Upper Tribunal for permission to appeal.

- (2) An application under paragraph (1) must—
 - (a) identify the decision of the Upper Tribunal to which it relates;
 - (b) identify the alleged error or errors of law in the decision; and

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- (c) state the result the party making the application is seeking.

Upper Tribunal’s consideration of application for permission to appeal

39.—(1) The Upper Tribunal must send a record of its decision to the parties as soon as practicable.

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

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

(3) The Upper Tribunal may give permission to appeal against part only of the decision or on limited grounds, but must comply with paragraph (2) to the extent that permission is refused.

Power to treat an application as a different type of application

40. The Upper Tribunal may treat an application for a decision to be corrected or set aside, or for permission to appeal against a decision, as an application for any other one of those things.