

SCHEDULE

The Upper Tribunal for Scotland Rules of Procedure 2016

PART 3

Procedure for Cases in the Upper Tribunal

Notice of appeal against a decision of the First-tier Tribunal

3.—(1) A person may lodge with the Upper Tribunal a notice of appeal against a decision of the First-tier Tribunal.

(2) A notice of appeal must —

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

(3) The appellant must provide with the notice of appeal a copy of—

- (a) any written record of the decision being challenged;
- (b) any separate written statement of reasons for that decision; and
- (c) the notice of permission to appeal or alternatively notice of refusal of permission to appeal from the First-tier Tribunal.

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

(5) If the appellant lodges the notice of appeal with the Upper Tribunal later than the time required by paragraph (9)—

(a) the notice of appeal must:

- (i) include a request for an extension of time;
- (ii) explain why the notice of appeal was not provided in time; and
- (iii) state why it is said to be in the interests of justice that the time be extended; and

(b) unless the Upper Tribunal extends the time for lodging a notice of appeal the Upper Tribunal may not admit the notice of appeal.

(6) The Upper Tribunal may, where the First-tier Tribunal has refused permission to appeal—

- (a) refuse permission to appeal;
- (b) give permission to appeal; or
- (c) give permission to appeal on limited grounds or subject to conditions;

and must send a notice of its decision to each party and any interested party including reasons for any refusal of permission or limitations or conditions on any grant of permission.

(7) Where the Upper Tribunal, without a hearing—

- (a) refuses permission to appeal; or
- (b) gives permission to appeal on limited grounds or subject to conditions,

the appellant may make a written application (within 14 days after the day of receipt of notice of the decision) to the Upper Tribunal for the decision to be reconsidered at a hearing.

(8) An application under paragraph (7) must be heard and decided by a member or members of the Upper Tribunal different from the member or members who refused permission without a hearing.

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(9) Where the First-tier Tribunal sends a notice of permission or refusal of permission to appeal to a person who has sought permission to appeal, that person, if intending to appeal, must provide a notice of appeal to the Upper Tribunal within 30 days after the day of receipt by that person of the notice of permission or refusal of permission to appeal.

Response to the notice of appeal

4.—(1) Subject to any order given by the Upper Tribunal, a respondent may provide a written response to a notice of appeal.

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

(3) The response must state—

- (a) the name and address of the respondent;
- (b) the name and address of the representative (if any) of the respondent;
- (c) an address where documents for the respondent may be sent or delivered;
- (d) whether the respondent opposes the appeal;
- (e) the grounds on which the respondent relies, including (in the case of an appeal against the decision of the First-tier Tribunal) any grounds on which the respondent was unsuccessful in the proceedings which are the subject of the appeal, but intends to rely in the appeal; and
- (f) whether the respondent consents to the case being heard without a hearing.

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

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

Appellant's reply

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

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

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

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

Cases transferred or referred to the Upper Tribunal

6.—(1) Paragraphs (2) and (3) apply to a case transferred or referred to the Upper Tribunal from the First-tier Tribunal.

(2) In such a case—

- (a) the Upper Tribunal must give orders as to the procedure to be followed in the consideration and disposal of the proceedings;

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- (b) the preceding rules in this Part will only apply to the proceedings to the extent provided for by such orders.
- (3) If a case or matter is to be determined without notice to or the involvement of a respondent—
 - (a) any provision in these Rules requiring a document to be provided by or to a respondent; and
 - (b) any other provision in these Rules permitting a respondent to participate in the proceedings,does not apply to that case or matter.