

SCHEDULE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND HEALTH AND EDUCATION CHAMBER RULES OF PROCEDURE 2018

PART 3

Procedure in respect of disability claims under paragraph 8 of schedule 17 of the 2010 Act.

Conduct of the hearing

85.—(1) At the beginning of the hearing the legal member shall explain the procedure which the First-tier Tribunal proposes to adopt.

(2) At the hearing of a claim, the parties shall, subject to the provisions of these Rules, be entitled to be present and be heard, to give evidence, to call witnesses, to question witnesses and to address the First-tier Tribunal both on the evidence and generally on the subject matter of the claim, provided that neither party shall be entitled to call more than five witnesses to give evidence in person in addition to the claimant, unless, in exceptional circumstances, permitted to do so by a legal member, or the First-tier Tribunal at a hearing.

(3) The First-tier Tribunal may permit a parent of a claimant to address it on the subject matter of the claim.

(4) The First-tier Tribunal may, if it is satisfied that it is fair and just to do so, permit—

- (a) the claimant to rely on grounds not stated in the claim or in any statement of case; or
- (b) the responsible body to rely on grounds not specified in the response.

(5) If, at or after the beginning of a hearing, a member of the First-tier Tribunal other than the legal member is absent, the hearing may, with the consent of the parties, be conducted by the legal member and the remaining member and in that event the First-tier Tribunal shall be deemed to be properly constituted, and the decision of the First-tier Tribunal shall be taken by the legal member and that member (see regulation 2(4) of S.S.I. 2018/).

(6) In the absence of the consent referred to in paragraph (5) the hearing shall be postponed.

(7) Except in so far as expressly permitted by these Rules to give evidence or to address the First-tier Tribunal none of the persons mentioned in rule 84(5) or (7) shall, save in the case of persons mentioned in rule 84(7)(h), take any part in the hearing or (where entitled or permitted to remain) in the deliberations of the First-tier Tribunal.

(8) For the purposes of arriving at its decision the First-tier Tribunal shall, and for the purposes of discussing a question of procedure, may, notwithstanding anything contained in these Rules order all persons to withdraw from the sitting of the First-tier Tribunal other than the legal member and ordinary members of the First-tier Tribunal and any of the persons mentioned in rule 84(7)(f) and (g).