

2017 No. 68

TRIBUNALS AND INQUIRIES

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

<i>Made</i>	- - - -	<i>8th March 2017</i>
<i>Laid before the Scottish Parliament</i>		<i>10th March 2017</i>
<i>Coming into force</i>	- -	<i>24th April 2017</i>

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

In accordance with paragraph 4(3) of schedule 9 of the Tribunals (Scotland) Act 2014, they have consulted the President of Tribunals and such other persons as they considered appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2017.

(2) These Regulations come into force on 24th April 2017.

Amendment of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

2.—(1) The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016(b) are amended in terms of paragraph (2).

(2) In schedule 1 of those Regulations—

(a) in the “Contents” section listing the rules—

(i) for the entry for rule 5, substitute “Correction of clerical mistakes or accidental slips or omissions”;

(ii) for the entry for rule 7, substitute “First-tier Tribunal’s consideration of application for permission to appeal”; and

(iii) after the entry for rule 7, insert—

“7A. Review of a decision”;

(b) for rule 5, substitute—

“Correction of clerical mistakes or accidental slips or omissions

5. 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.”;

(c) for rule 6 substitute—

“Application for permission to appeal a decision of the First-tier Tribunal

6.—(1) A person seeking permission to appeal 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 party making the application is seeking.”;

(d) for rule 7 substitute—

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

7.—(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 on any point of law it must provide with the record of 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.”;

(e) after rule 7 insert—

“Review of a decision

7A.—(1) The First-tier Tribunal may either at its own instance or at the request of a party review any decision made by it where it is necessary in the interests of justice to do so.

(2) An application for review under section 43(2)(b) of the 2014 Act must—

- (a) be made in writing (and copied to all other parties);
- (b) be made within 14 days of the date on which the decision was made or within 14 days of the date that the written reasons were sent to the parties (if later); 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 shall refuse the application and shall also inform the parties of the reasons for the refusal.

(4) Except where paragraph (3) applies, the First-tier Tribunal shall send a notice to the parties—

(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) at the discretion of the First-tier Tribunal, setting out the First-tier Tribunal's provisional views on the application.

(5) Except where paragraph (3) applies, the decision shall be reviewed at a hearing unless the First-tier Tribunal considers, having regard to any response to the notice provided under paragraph (4), that a hearing is not necessary in the interests of justice.

(6) Where practicable, the review shall 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 shall inform the parties of the reasons why the decision is being reviewed and the decision shall 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) either at its own instance or on an application of a party does not affect the time limit of 30 days in regulation 2(1) of the Scottish Tribunals (Time Limits) Regulations 2016^(a) for making an application for permission to appeal.”.

St Andrew's House,
Edinburgh
8th March 2017

ANNABELLE EWING
Authorised to sign by the Scottish Ministers

^(a) S.S.I. 2016/231.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 (“the 2016 Regulations”) to allow the First-tier Tribunal for Scotland Housing and Property Chamber to correct clerical mistakes and accidental slips or omissions at any time, rather than just in the course of a review as provided for in section 44(1)(c) of the Tribunals (Scotland) Act 2014.

These Regulations also amend the 2016 Regulations to refine the procedure for applications for permission to appeal a decision of the First-tier Tribunal and also the procedure for reviews of a decision of the First-tier Tribunal.

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