

## SCHEDULE

### The Upper Tribunal for Scotland Social Security Rules of Procedure 2018

## PART 3

### Procedure for Cases in the Upper Tribunal

#### **Application for permission to appeal against a decision of the First-tier Tribunal**

**3.—**(1) A person may lodge with the Upper Tribunal an application for permission to appeal against a decision of the First-tier Tribunal, where the First-tier Tribunal has refused permission to appeal in whole or in part.

(2) An application for permission to appeal must—

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

(3) The appellant must provide with the application for permission 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 refusal of permission to appeal from the First-tier Tribunal.

(4) If the appellant lodges the application for permission to appeal with the Upper Tribunal after the expiry of the 30 day period referred to in regulation 3(1) of the 2016 Regulations—

(a) the application for permission to appeal must—

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

(b) unless the Upper Tribunal extends the time for lodging an application for permission to appeal the Upper Tribunal must not admit the application for permission to appeal.

(5) 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 including reasons for a refusal of permission or for limitations or conditions on any grant of permission.

(6) 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 the period of 14 days beginning with the day on which the appellant is presumed to have received notice of refusal of permission, sent under paragraph (5)) to the Upper Tribunal for the decision to be reconsidered at a hearing.

(7) An application under paragraph (6) 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.

(8) Where the Upper Tribunal gives permission to appeal against a decision of the First-tier Tribunal, a valid notice of appeal will be deemed to have been provided to the Upper Tribunal, for the purposes of rule 4 (notice of appeal against a decision of the First-tier Tribunal).

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

4.—(1) Where the First-tier Tribunal sends a notice of permission to appeal to a party who has sought permission to appeal, that party, if intending to appeal, must provide a notice of appeal to the Upper Tribunal within the period of 30 days beginning with the day on which the party is presumed to have received the notice of permission.

(2) A notice of appeal must —

- (a) identify the decision of the First-tier Tribunal to which it relates;
- (b) identify the alleged point or points of law in relation to the decision; and
- (c) include any views of the appellant on whether the matter should be dealt with at a hearing or without a hearing.

(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.

(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.

(5) If the appellant lodges the notice of appeal with the Upper Tribunal after the end of the period mentioned in paragraph (1)—

(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 must not admit the notice of appeal.

### **Response to the notice of appeal**

5.—(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 before the end of the period of 30 days beginning with the day on which the respondent is presumed to have received the copy of the notice of appeal as sent by the Upper Tribunal.

(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 any grounds on which the respondent was unsuccessful in the proceedings which are the subject of the appeal, but intends to rely on in the appeal.

(4) The response may include a request that the case be dealt with at a hearing or without a hearing.

(5) 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 8(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.

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

### **Appellant's reply**

**6.—**(1) Subject to any order given by the Upper Tribunal, the appellant may provide a written reply to any response provided under rule 5 (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 the period of 30 days beginning with the day on which the appellant is presumed to have received a copy of the response as sent by the Upper Tribunal.

(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 8(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.