

SCHEDULE 2

The Upper Tax Tribunal for Scotland Rules of Procedure 2015

PART 3

Procedure for Cases in the Upper Tribunal

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

22.—(1) A person may make a written application to the Upper Tribunal for permission to appeal to the Upper Tribunal against a decision of the First-tier Tribunal only if—

- (a) the person has made an application for permission to appeal to the First-tier Tribunal; and
- (b) that application has been refused, has not been admitted or has been granted only on limited grounds.

(2) An application for permission to appeal must state—

- (a) the name and address of the appellant;
- (b) the name and address of the representative (if any) of the appellant;
- (c) an address where documents for the appellant may be sent or delivered;
- (d) details (including the full reference) of the decision challenged;
- (e) the grounds on which the appellant relies; and
- (f) whether the appellant wants the application to be dealt with at a hearing.

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

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

(4) If the appellant provides the application to the Upper Tribunal later than the time required by regulation 3(2) or 4(2) of the Scottish Tax Tribunals (Time Limits and Rules of Procedure) Regulations 2015 or by an extension of time allowed under rule 5(3)(a) (power to extend time)—

- (a) the application must include a request for an extension of time and the reason why the application was not provided in time; and
- (b) unless the Upper Tribunal extends time for the application under rule 5(3)(a), the Upper Tribunal must not admit the application.

(5) In this rule, a reference to notice of a refusal of permission to appeal is to be taken to include a reference to notice of a grant of permission to appeal on limited grounds.

Decision in relation to permission to appeal a decision of the First-tier Tribunal

23.—(1) If the Upper Tribunal refuses permission to appeal, it must send notice of the refusal and of the reasons for the refusal to the appellant.

(2) If the Upper Tribunal gives permission to appeal—

- (a) the Upper Tribunal must send notice of the permission, and of the reasons for any limitations or conditions on such permission, to each party;

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- (b) subject to any direction by the Upper Tribunal, the application for permission to appeal stands as the notice of appeal and the Upper Tribunal must send to each respondent a copy of the application for permission to appeal and any documents provided with it by the appellant; and
 - (c) the Upper Tribunal may, with the consent of the appellant and each respondent, determine the appeal without obtaining any further response.
- (3) Where the Upper Tribunal, without a hearing, determines an application for permission to appeal, the appellant may make a written application for the decision to be reconsidered at a hearing if the Upper Tribunal—
- (a) refuses permission to appeal; or
 - (b) gives permission to appeal on limited grounds or subject to conditions.
- (4) An application under paragraph (3) must be received by the Upper Tribunal within 14 days after the date on which the Upper Tribunal sent notice of its decision regarding the application to the appellant.

Notice of appeal to the Upper Tribunal

- 24.—**(1) This rule applies—
- (a) if the First-tier Tribunal has given permission for a party to appeal to the Upper Tribunal; or
 - (b) subject to any other direction by the Upper Tribunal, if the Upper Tribunal has given permission to appeal and has given a direction that the application for permission to appeal does not stand as the notice of appeal.
- (2) The appellant must provide a notice of appeal to the Upper Tribunal so that it is received within 30 days after the date that the First-tier Tribunal or Upper Tribunal (as appropriate) sent notice of such permission to the appellant.
- (3) The notice of appeal must include the information listed in rule 22(2)(a) to (f) (content of the application for permission to appeal) and, where the Upper Tribunal has given permission to appeal, the Upper Tribunal's case reference.
- (4) If the First-tier Tribunal has granted permission to appeal, 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.
- (5) If the appellant provides the notice of appeal to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 5(3)(a) (power to extend time)—
- (a) the notice of appeal must include a request for an extension of time and the reason why the notice was not provided in time; and
 - (b) unless the Upper Tribunal extends time for the notice of appeal under rule 5(3)(a), the Upper Tribunal must not admit the notice of appeal.
- (6) When the Upper Tribunal receives the notice of appeal, it must send a copy of the notice and any accompanying documents to each respondent.

Response to the notice of appeal

- 25.—**(1) Subject to any direction 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—

- (a) if an application for permission to appeal stands as the notice of appeal, no later than 30 days after the date on which the respondent was sent notice that permission to appeal had been granted;
- (b) in any other case, no later than 30 days after the date 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 wants the case to be dealt with at 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 5(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 each other party.

Appellant's reply

26.—(1) Subject to any direction given by the Upper Tribunal, the appellant may provide a written reply to any response provided under rule 25 (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 date on which the Upper Tribunal sent a copy of the response to the appellant.

(3) When the Upper Tribunal receives the reply, it must send a copy of the reply and any accompanying documents to each respondent.

Cases transferred or referred to the Upper Tribunal, applications made directly to the Upper Tribunal and proceedings without notice to a respondent

27.—(1) Paragraphs (2) and (3) apply to—

- (a) a case transferred or referred to the Upper Tribunal from the First-tier Tribunal; or
- (b) a case which is started by an application made directly to the Upper Tribunal.

(2) In a case to which this paragraph applies—

- (a) the Upper Tribunal must give directions as to the procedure to be followed in the consideration and disposal of the proceedings;
- (b) the preceding rules in this Part will only apply to the proceedings to the extent provided for by such directions.

(3) If a case or matter to which this paragraph applies is to be determined without notice to or the involvement of a respondent—

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- (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.