
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 162

The First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2022

Amendment of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018

3.—(1) The Rules in the schedule of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018⁽¹⁾ are amended as follows.

(2) In rule 17 (disclosure of documents and information)—

- (a) the existing text becomes paragraph (1),
- (b) after paragraph (1), insert—

“(2) The Upper Tribunal may at any stage of proceedings, on its own initiative or on the request of one or more of the parties, give a direction prohibiting disclosure of a document or information to a person (“the recipient”) if—

- (a) the document or information relates to the physical or mental health of a person,
- (b) a registered medical practitioner or registered nurse has informed either the Upper Tribunal, or one or more of the parties, that disclosure of the information would be likely to cause serious harm to the physical or mental health of the recipient or some other person,
- (c) the Upper Tribunal is satisfied that such disclosure would be likely to cause serious harm to the physical or mental health of the recipient or some other person, and
- (d) the Upper Tribunal is satisfied, having regard to the interests of justice, that it is proportionate to give such a direction.

(3) If a party considers that the Upper Tribunal should give a direction under paragraph (2) prohibiting the disclosure of a document or information to a person (“the recipient”), the party must provide to the Upper Tribunal the document or information, and the reason the party is requesting that it be withheld, so that the Upper Tribunal may decide whether the document or information should be disclosed to the recipient or should be subject of a direction under paragraph (2).

(4) The Upper Tribunal must conduct proceedings as appropriate in order to give effect to a direction given under paragraph (2).

(5) If the Upper Tribunal gives a direction under paragraph (2) which prevents disclosure to a party who has a representative, or any other person acting on their behalf, the Upper Tribunal may give a direction that the document or information be disclosed to that representative or person if the Upper Tribunal is satisfied that—

(1) [S.S.I. 2018/274](#).

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- (a) disclosure to the representative or person would be in the interests of the party, and
 - (b) the representative or person will act in accordance with paragraph (6).
- (6) Documents or information disclosed to a representative or person in accordance with a direction under paragraph (5) must not be disclosed either directly or indirectly to any other person without the Upper Tribunal's consent.”.