

## SCHEDULE

### THE FIRST-TIER TRIBUNAL FOR SCOTLAND LOCAL TAXATION CHAMBER RULES OF PROCEDURE 2022

#### PART 3

##### Procedure in respect of council tax and water charges appeals

###### Interpretation

**33.**—(1) In this Part,

“appeal” means—

- (a) a council tax appeal,
- (b) an appeal under—
  - (i) article 9 of the 2010 Order, or
  - (ii) article 9 of the 2020 Order,

“dwelling” has the meaning given in section 72(2) of the 1992 Act,

“levying authority”, in relation to a dwelling, means the local authority in whose area the dwelling is situated,

“list” means a valuation list compiled under section 84 of the 1992 Act,

“proposal” means a proposal for the alteration of a list.

(2) Any reference in this Part to a party to an appeal means the person or persons who made the appeal and—

- (a) in the case of an appeal under Part II of the 1993 Regulations or under paragraph 2 of Schedule 6 to the 1992 Act, the assessor,
- (b) in the case of any other appeal, the levying authority.

###### Commencement Information

**II** Sch. rule 33 in force at 1.4.2023, see **reg. 1(2)**

###### Notice of Appeal served prior to 1 April 2023

**34.**—(1) This rule applies instead of rule 35 (notice of appeal) and rule 36 (confirmation of receipt of appeal by the First-tier Tribunal) to an appeal in respect of which the conditions in either paragraph (2) or (3) are met.

(2) The conditions in this paragraph are that—

- (a) a notice of appeal was served—
  - (i) prior to 1 April 2023,
  - (ii) on an assessor or on the levying authority as the case may be, in accordance with regulation 10, 22, 23 or 24 of the 1993 Regulations, and
- (b) the appeal has not been withdrawn or otherwise disposed of.

(3) The conditions in this paragraph are that—

- (a) a person has made a proposal in accordance with regulation 5 of the 1993 Regulations,

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- (b) the proposal has not been withdrawn or otherwise disposed of,
  - (c) the assessor on whom the proposal was served is of the opinion that the proposal is not well-founded, and
  - (d) the date on which the assessor was required to refer the disagreement between the assessor and the proposer as an appeal to the relevant local valuation panel, in accordance with regulation 15 of the 1993 Regulations, was prior to 1 April 2023.
- (4) Where paragraph (2) applies the assessor or levying authority on whom notice was served as described in that paragraph must, no later than 30 April 2023—
- (a) notify the First-tier Tribunal that such notice of appeal has been duly served, and
  - (b) send to the First-tier Tribunal the notice of appeal served on them and any additional information in their possession relevant to the appeal.
- (5) Where paragraph (3) applies the assessor on whom the proposal was served as described in that paragraph must, no later than 30 April 2023—
- (a) refer the disagreement between him and the proposer as an appeal to the First-tier Tribunal, and
  - (b) send to the First-tier Tribunal the proposal served on them and any additional information in their possession relevant to the appeal.
- (6) The First-tier Tribunal may, subject to the requirements in paragraph (7), write to the appellant by letter delivered by post or email requesting that they confirm they intend to proceed with the appeal.
- (7) The requirements in this paragraph are that the request referred to in paragraph (6) must—
- (a) be sent to the appellant no later than 30 June 2023,
  - (b) request confirmation that the appellant intends to proceed with the relevant appeal,
  - (c) request a response within no less than 28 days,
  - (d) inform the appellant—
    - (i) that they retain the right to pursue the appeal,
    - (ii) that if a response does not reach the First-tier Tribunal within the time specified their appeal may be treated as withdrawn,
    - (iii) of the consequences of such a withdrawal in respect of whether an appeal on the same grounds may be made in the future,
    - (iv) where they may be able to access advice in respect of their appeal and the request for confirmation, and
  - (e) provide details of how the appellant may contact the First-tier Tribunal if they require further information.
- (8) Where the First-tier Tribunal has written to the appellant in accordance with paragraph (6) and has not received a response within the time specified, the First-tier Tribunal may treat the appeal in respect of which confirmation was requested as withdrawn.

**Commencement Information**

**I2** Sch. rule 34 in force at 1.4.2023, see [reg. 1\(2\)](#)

## Notice of appeal

**35.—**(1) An appeal to the First-tier Tribunal is to be made by giving written notice to the First-tier Tribunal in accordance with the following paragraphs.

(2) A notice of appeal must include—

- (a) the full name, address and, where available, email address of the appellant,
- (b) where applicable, the full name, address and, where available, email address of any authorised representative,
- (c) where applicable, any other specified address (which may be an email address) as being the address of the appellant for receipt of any documents from the First-tier Tribunal in connection with the appeal,
- (d) the address of the lands or heritages to which the appeal relates,
- (e) a statement that the notice is a notice of appeal,
- (f) where the appeal is under section 81(1) of the 1992 Act—
  - (i) the grounds on which the appeal is made, and
  - (ii) the date on which the aggrieved person’s notice under section 81(4) of that Act was served on the levying authority,
- (g) where the appeal is under paragraph 3 of Schedule 3 to the 1992 Act in relation to a penalty imposed under paragraph 1 or 2 of that schedule—
  - (i) the grounds on which the appeal is made, and
  - (ii) the date on which the penalty was imposed,
- (h) where the appeal is under paragraph 2 of Schedule 6 to the 1992 Act in relation to a completion notice,
  - (i) a copy of the completion notice which is the subject of the appeal, and
  - (ii) a statement of the grounds on which the appeal is made,
  - (iii) any additional representations the appellant wishes to make,
  - (iv) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and
  - (v) the signature of the appellant or their authorised representative,
- (i) where the appeal is in relation to a proposal made under regulation 5 of the 1993 Regulations, details of the contents of that proposal and—
  - (i) where the appeal is against a proposal treated as invalid for lack of title or out of time under regulation 8 of the 1993 Regulations, either—
    - (aa) a copy of the notice issued in accordance with paragraph (1) of that regulation, or
    - (bb) where such notice has not been received by the appellant a statement specifying the date the appellant became the council tax payer and attesting that the relevant notice has not been received,
  - (ii) where the appeal is against a proposal treated as invalid for lack of information under regulation 9 of the 1993 Regulations, either—
    - (aa) a copy of the notice issued in accordance with paragraph (1) of that regulation, or
    - (bb) where such notice has not been received by the appellant, a statement specifying the date the appellant became the council tax payer and attesting that the relevant notice has not been received,

- (iii) where the appeal is made under regulation 15(4) of the 1993 Regulations in relation to a disagreement between proposer and assessor as to a proposed alteration—
      - (aa) the proposed alteration of the list,
      - (bb) the date of service of the proposal, and
      - (cc) the grounds on which the proposal was made,
    - (j) where the appeal is under article 9 of the 2010 Order—
      - (i) the grounds on which the appeal is made, and
      - (ii) the date on which the appellant served the notice required by article 9(2)(a) of that Order,
    - (k) where the appeal is under article 9 of the 2020 Order—
      - (i) the grounds on which the appeal is made, and
      - (ii) the date on which the appellant served the notice required by article 9(2)(a) of that Order.
- (3) A notice of appeal must be served on the First-tier Tribunal—
  - (a) where the appeal is under section 81(1) of the 1992 Act, within 4 months of the date of service by the appellant of the first notice under subsection (4) of that section bringing the grievance in question to the attention of the levying authority,
  - (b) where the appeal is brought under paragraph 3 of Schedule 3 to the 1992 Act in relation to a penalty imposed under paragraph 1 or 2 of that schedule, within 2 months of the date on which the penalty was imposed,
  - (c) where the appeal is brought under paragraph 2 of Schedule 6 to the 1992 Act in relation to a completion notice, within 21 days of the <sup>[F1]</sup>date of service] on the appellant of such notice,
  - (d) where the appeal is against a proposal treated as invalid for lack of title or out of time under regulation 8 of the 1993 Regulations, within 28 days of the date of service by the assessor on the appellant of notice under paragraph (1) of that regulation,
  - (e) where the appeal is against a proposal treated as invalid for lack of information under regulation 9 of the 1993 Regulations, within 28 days of the date of service by the assessor on the appellant of notice under paragraph (1) of that regulation,
  - (f) where the appeal relates to a disagreement as to proposed alteration under regulation 15 of the 1993 Regulations the later of—
    - (i) the applicable time period specified in paragraph (3) of that regulation, and
    - (ii) <sup>[F2]</sup>15 May] 2023,
  - (g) where the appeal is brought under article <sup>[F3]</sup>9] of the 2010 Order in relation to water services charges, within 4 months of the date of service by the appellant of the first notice under article 9(2)(a) of that Order bringing the grievance in question to the attention of the local authority,
  - (h) where the appeal is brought under article <sup>[F4]</sup>9] of the 2020 Order in relation to water charges and/or sewerage charges, within 4 months of the date on which the person first served notice under article 9(2)(a) of that Order bringing the grievance to the attention of the local authority.
- (4) If the appellant sends the notice of appeal after the end of the relevant period specified in paragraph (3), the notice of appeal must include a statement of the reasons on which the appellant relies for justifying the delay, and the First-tier Tribunal must treat any such statement as a request for extending that time limit.

- F1** Words in sch. rule 35(3)(c) substituted (1.4.2023) by The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 (S.S.I. 2023/40), regs. 1, **2(11)(a)**
- F2** Words in sch. rule 35(3)(f)(ii) substituted (1.4.2023) by The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 (S.S.I. 2023/40), regs. 1, **2(11)(b)**
- F3** Word in sch. rule 35(3)(g) substituted (1.4.2023) by The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 (S.S.I. 2023/40), regs. 1, **2(11)(c)**
- F4** Word in sch. rule 35(3)(h) substituted (1.4.2023) by The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 (S.S.I. 2023/40), regs. 1, **2(11)(c)**

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**Commencement Information**

- I3** Sch. rule 35 in force at 1.4.2023, see **reg. 1(2)**

**Confirmation of receipt of appeal by the First-tier Tribunal**

- 36.** On receipt of notice of an appeal under this Part, the First-tier Tribunal must—
- (a) within 14 days of the date on which such notice of an appeal is received by the First-tier Tribunal send an acknowledgement of receipt of that notice to the appellant, and
  - (b) send notice of the appeal to the respondent.

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**Commencement Information**

- I4** Sch. rule 36 in force at 1.4.2023, see **reg. 1(2)**

**Withdrawal of appeal**

- 37.—**(1) The appellant may withdraw the appeal—
- (a) at any time before the hearing of the appeal by sending a notice of withdrawal in writing to the First-tier Tribunal, or
  - (b) with leave of the First-tier Tribunal, by giving intimation to that effect at a hearing.
- (2) Where an appellant withdraws an appeal in accordance with paragraph (1), the First-tier Tribunal must immediately notify the respondent.
- (3) Where, after an appeal under Part II of the 1993 Regulations has been lodged, the assessor decides that the proposal to which the appeal relates is well-founded, he shall—
- (a) proceed in accordance with regulation 14 of those Regulations (alterations agreed by assessor), and
  - (b) inform the First-tier Tribunal accordingly.
- (4) On receipt of a notification under paragraph (1) or (3) the First-tier Tribunal must treat the appeal as withdrawn.
- (5) Where an appeal is withdrawn, no further appeal may be made by that appellant in relation to the same dwelling and arising from the same matter and facts.

**Commencement Information**

**I5** Sch. rule 37 in force at 1.4.2023, see **reg. 1(2)**

**Orders**

**38.**—(1) On deciding an appeal, other than an appeal under Part II of the 1993 Regulations, the First-tier Tribunal may in consequence of the decision by order require—

- (a) the reversal of a decision of a levying authority,
- (b) the quashing of a calculation of an amount payable as council tax or council water charge,
- (c) where the calculation of an amount has been quashed, the re-calculation of that amount,
- (d) the quashing of a penalty imposed under paragraph 2 of Schedule 3 to the 1992 Act,
- (e) the quashing of a council tax completion notice,
- (f) the alteration of a list (prospectively or retrospectively).

(2) On deciding an appeal under Part II of the 1993 Regulations, the First-tier Tribunal may in consequence of the decision by order require an assessor to alter a list in accordance with any provision made by or under the 1992 Act.

(3) The assessor shall comply with any order under sub-paragraph (e) of paragraph (1) or under paragraph (2) within six weeks beginning on the day of its making.

(4) An order under this rule may require any matter ancillary to its subject-matter to be attended to.

**Commencement Information**

**I6** Sch. rule 38 in force at 1.4.2023, see **reg. 1(2)**

**Consideration of application for permission to appeal to the Upper Tribunal**

**39.**—(1) A party seeking permission to appeal under section 46(3)(a) of the 2014 Act must make a written application to the First-tier Tribunal.

(2) For the purposes of this rule, the definition of “appeal” set out in rule 33 (interpretation) of this Part is not to apply.

(3) 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 party making the application wishes to appeal, and
- (c) state the result the party making the application is seeking.

(4) The First-tier Tribunal must decide whether to give permission to appeal to the Upper Tribunal on any point of law.

(5) The First-tier Tribunal must issue its decision in writing as soon as reasonably practicable to the parties.

(6) If the First-tier Tribunal refuses permission to appeal, it must provide with its decision under paragraph (5)—

- (a) a statement of its reasons for the refusal, and

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- (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.
- (7) The time limits<sup>(1)</sup> within which an application under paragraph (1) can be made exclude any review period in terms of rule 19 (review of a decision).
- (8) For the purposes of this rule, a review period—
  - (a) starts on the day the request for review under rule 19 is received by the First-tier Tribunal or, if the review is at the instance of the First-tier Tribunal, the day on which notice is sent to the parties, and
  - (b) ends on the day that the First-tier Tribunal decision on the review is sent to the parties.

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**Commencement Information**

**I7** Sch. rule 39 in force at 1.4.2023, see **reg. 1(2)**

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(1) The time limits for applying for permission to appeal are set out in regulation 2(1) of S.S.I. 2016/231.

**Changes to legislation:**

There are currently no known outstanding effects for the The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022, PART 3.