

2023 No. 159

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland General Regulatory Chamber and Upper Tribunal for Scotland (Composition and Rules of Procedure) (Miscellaneous Amendment) Regulations 2023

Made - - - - *23rd May 2023*
Coming into force - - *1st June 2023*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10(2) and (3), 38(1) and (2), 40(1) to (5) and 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 section 11(2) and paragraph 4(3) of schedule 9 of that Act, they have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate.

In accordance with section 79(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(b).

Citation and commencement

1. These Regulations may be cited as the First-tier Tribunal for Scotland General Regulatory Chamber and Upper Tribunal for Scotland (Composition and Rules of Procedure) (Miscellaneous Amendment) Regulations 2023 and come into force on 1 June 2023.

Amendment of the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Cases and Upper Tribunal for Scotland (Composition) Regulations 2020

2.—(1) The First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Cases and Upper Tribunal for Scotland (Composition) Regulations 2020(c) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “First-tier Tribunal”, insert—

(a) 2014 asp 10.

(b) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(c) S.S.I. 2020/97.

““low emission zone case” means proceedings before the First-tier Tribunal when exercising functions allocated to it by regulation 2 of the First-tier Tribunal for Scotland (Allocation of Functions to the General Regulatory Chamber) Regulations 2023(a),”

(b) for the definition of “parking case”, substitute—

““parking case” means proceedings before the First-tier Tribunal when exercising functions—

(a) transferred to it by regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Parking Adjudicators) Regulations 2020(b),

(b) allocated to it by regulations 3 or 4 of the First-tier Tribunal for Scotland (Allocation of Functions to the General Regulatory Chamber) Regulations 2023.”.

(3) In each of regulation 3(1) (composition of First-tier Tribunal) and regulation 4(1) (composition of Upper Tribunal), for “a parking case or a bus lane case” substitute “a bus lane case, low emission zone case or a parking case”.

Amendment of the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020

3.—(1) The First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020(c) are amended as follows.

(2) For regulation 2 (application of the Rules set out in the schedule) substitute—

“**2.** The Rules in the schedule apply to proceedings before the First-tier Tribunal for Scotland General Regulatory Chamber when exercising the functions conferred on it by—

(a) regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Parking Adjudicators) Regulations 2020(d),

(b) regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Bus Lane Adjudicators) Regulations 2020(e), and

(c) regulations 2 to 4 of the First-tier Tribunal for Scotland (Allocation of Functions to the General Regulatory Chamber) Regulations 2023.”.

(3) In the schedule (the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals Rules of Procedure 2020)—

(a) in rule 1 (interpretation)—

(i) after the definition of “the 2014 Act”, insert—

““the 2019 Act” means the Transport (Scotland) Act 2019(f),

“the 2021 Regulations” means the Low Emission Zones (Emission Standards, Exemptions and Enforcement) (Scotland) Regulations 2021(g),

“the 2022 Workplace Regulations” means the Workplace Parking Licensing (Scotland) Regulations 2022(h),”

(ii) for the definition of “appeal”, substitute—

““appeal” means an appeal under—

(a) section 72 (appeals to parking adjudicator in relation to decisions under section 71) or paragraph 5 of schedule 6 (parking penalties) of the 1991 Act,

(b) regulation 12 (appeal against a charge notice) of the 2011 Regulations,

(a) S.S.I. 2023/158.
(b) S.S.I. 2020/95.
(c) S.S.I. 2020/98.
(d) S.S.I. 2020/95.
(e) S.S.I. 2020/96.
(f) 2019 asp 17.
(g) S.S.I. 2021/177.
(h) S.S.I. 2022/4.

- (c) regulation 10 (appeal to the First-tier Tribunal) of the 2021 Regulations,
- (d) regulation 32 (appeal to the First-tier Tribunal) of the 2022 Workplace Regulations,
- (e) any regulations made under section 59 (enforcement of parking prohibitions) of the 2019 Act,”
- (iii) after the definition of “authorised representative”, insert—
 - ““bus lane case” means proceedings before the First-tier Tribunal when exercising functions transferred to it by regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Bus Lane Adjudicators) Regulations 2020(a),”
- (iv) in the definition of “case management system”, for “parking cases and bus lane cases”, substitute “parking cases, bus lane cases and low emission zone cases”,
- (v) after the definition of “hearing”, insert—
 - ““low emission zone case” means proceedings before the First-tier Tribunal when exercising functions allocated to it by regulation 2 of the First-tier Tribunal for Scotland (Allocation of Functions to the General Regulatory Chamber) Regulations 2023,”
- (vi) for the definition of “notice of rejection”, substitute—
 - ““notice of rejection” means a notice served by the respondent authority under—
 - (a) subsection (6)(b) of section 71 (representations in relation to removal or immobilisation of vehicles) of the 1991 Act that they do not accept that a ground on which representations were made under that section has been established,
 - (b) paragraph 2(7) of schedule 6 (parking penalties) of the 1991 Act that they do not accept that a ground under that paragraph has been established,
 - (c) regulation 10(3) (response to representations) of the 2011 Regulations that they do not accept that a ground under that regulation has been established,
 - (d) regulation 9(3) (response to representations) of the 2021 Regulations that they do not accept that a ground on which representations were made under that regulation has been established,
 - (e) regulation 31(3) (response to representations) of the 2022 Workplace Regulations that they do not accept that a ground on which representations were made under that regulation has been established,
 - (f) any regulations made under section 59 of the 2019 Act,”
- (vii) for the definition of “original representations”, substitute—
 - ““original representations” means the representations made to the respondent authority under—
 - (a) section 71 (representations in relation to removal or immobilisation of vehicles) or paragraph 2 of schedule 6 (parking penalties) of the 1991 Act,
 - (b) regulation 9(1) (representations in respect of charges) of the 2011 Regulations,
 - (c) regulation 8(1) (representations in respect of penalty charges) of the 2021 Regulations,
 - (d) regulation 30(1) (representations in respect of penalty charges) of the 2022 Workplace Regulations,
 - (e) any regulations made under section 59 of the 2019 Act,”
- (viii) after the definition of “original representations”, insert—
 - ““parking case” means proceedings before the First-tier Tribunal when exercising functions—

(a) S.S.I. 2020/96.

- (a) transferred to it by regulation 3 of the First-tier Tribunal for Scotland (Transfer of Functions of Parking Adjudicators) Regulations 2020**(a)**,
- (b) allocated to it by regulation 3 or 4 of the First-tier Tribunal for Scotland (Allocation of Functions to the General Regulatory Chamber) Regulations 2023.”,
- (ix) for the definition of “penalty charge notice”, substitute—
 - ““penalty charge notice” means—
 - (a) the notice issued under section 66 (parking penalties) of the 1991 Act,
 - (b) the notice issued under sections 7(3) (proving contraventions and issue of a penalty charge notice) or 58(2) (imposition of penalty charges) of the 2019 Act,
 - (c) the notice served under regulation 28(1) (penalty charge notices) of the 2022 Workplace Regulations;
 - (d) the notification (or notice) of a penalty charge issued under regulations made under section 59 of the 2019 Act,”
- (x) for the definition of “respondent authority”, substitute—
 - ““respondent authority” means—
 - (a) an approved local authority in terms of section 44(2) (civil penalties for bus lane contraventions) of the Transport (Scotland) Act 2001**(b)**,
 - (b) in relation to a parking place which was provided or authorised under section 32(1) (power of local authorities to provide parking places) of the Road Traffic Regulation Act 1984**(c)**, the local authority as defined by section 32(4)(a) of that Act in relation to the parking place,
 - (c) the relevant authority in respect of—
 - (i) a low emission zone scheme which was made or modified by a local authority under section 9 (power to make or modify a low emission zone scheme) of the 2019 Act,
 - (ii) a workplace parking licensing scheme which was made or modified by a local authority under section 72 (power to make or modify schemes) of the 2019 Act, or
 - (iii) a penalty charge notice issued by a local authority under section 58(2) (imposition of penalty charges) of the 2019 Act,
 - (d) in any other case, the traffic authority (other than the Scottish Ministers) as defined by section 121A of the Road Traffic Regulation Act 1984,”.
- (b) in rule 14 (evidence and submissions)—
 - (i) in paragraph (2)—
 - (aa) after “contravention”, insert “or low emission zone contravention”,
 - (bb) in sub-paragraph (b), before “respondent authority”, insert “relevant”,
 - (ii) for paragraph (3), substitute—
 - “(3) For the purposes of this rule, an “approved device” means—
 - (a) in the case of a bus lane contravention, a device certified by the Scottish Ministers under article 2 (approved devices) of the Bus Lanes (Approved Devices) (Scotland) Order 2011**(d)**,

(a) S.S.I. 2020/95.
 (b) 2001 asp 2.
 (c) 1984 c. 27.
 (d) S.S.I. 2011/444.

- (b) in the case of a low emission zone contravention, a device approved for use in connection with the operation of a low emission zone scheme in accordance with regulation 20 (approved devices) of the Low Emission Zones (Scotland) Regulations 2021^(a).”.

SIOBHIAN BROWN

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
23rd May 2023

^(a) S.S.I. 2021/26.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Tribunals (Scotland) Act 2014 created a new structure for tribunals dealing with devolved matters under the judicial leadership of the Lord President of the Court of Session as head of the Scottish Tribunals.

It provides for a First-tier Tribunal for Scotland divided into chambers and an Upper Tribunal for Scotland divided into divisions.

The First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020 provide for the rules of procedure to apply in the General Regulatory Chamber when hearing appeals against decisions of a local authority to issue parking penalty charge notices or bus lane charge notices.

The First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Cases and Upper Tribunal for Scotland (Composition) Regulations 2020 provide for the composition of the General Regulatory Chamber and the Upper Tribunal when dealing with parking cases and bus lane cases.

These Regulations amend both sets of Regulations to enable the General Regulatory Chamber and the Upper Tribunal to hear appeals against decisions of a local authority to issue penalty charge notices relating to low emission zone schemes, double parking prohibitions, pavement parking prohibitions, dropped footway parking prohibitions and workplace parking licensing schemes. This reflects changes introduced under the Transport (Scotland) Act 2019.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

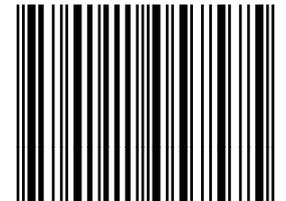
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