SCOTTISH STATUTORY INSTRUMENTS

# 2026 No. 161

# TRIBUNALS AND INQUIRIES

# The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition and Rules of Procedure) (Miscellaneous Amendment) Regulations 2026

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| *Made - - - -* | *17th March 2026* |
| *Coming into force - -* | *1st April 2026* |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10(2) and (3) and 38(1), (2) and (3) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014(**a**) and section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024(**b**) 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, the Scottish Ministers have consulted the President of the Scottish Tribunals and such other persons as they consider 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(**c**).

**Citation and commencement**

**1.** These Regulations may be cited as the First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition and Rules of Procedure) (Miscellaneous Amendment) Regulations 2026 and come into force on 1 April 2026.

**Amendment of the First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023**

**2.**—(1) The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023(**d**) are amended in accordance with paragraphs (2) and (3).

(**a**) 2014 asp 10.
(**b**) 2024 asp 1.
(**c**) 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.
(**d**) S.S.I. 2023/47. There are amendments to this instrument which are not relevant to these Regulations.

(2) In regulation 2 (interpretation) after the definition of "the Upper Tribunal" insert—

",

"visitor levy case" means an appeal under regulation 7 (appeal to the First-tier Tribunal) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026(**a**)".

(3) In regulation 3 (composition of First-tier Tribunal)—

(a) in paragraph (1), for "paragraphs (2) and (3)" substitute "paragraphs (2), (2A) and (3)",

(b) after paragraph (2) insert—

"(2A) The First-tier Tribunal, when convened to decide any matter in a visitor levy case, must consist of—

(a) a legal member, or

(b) a legal member and one other member (who may be a legal member or an ordinary member).",

(c) in paragraph (3), for "in paragraph (1)" substitute "in paragraphs (1) and (2A)".

**Amendment of the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022**

**3.**—(1) The First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022(**b**) are amended in accordance with paragraphs (2) and (3).

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

(a) at the end of paragraph (a) omit "or",

(b) after paragraph (b) insert—

", or

(c) regulation 2 of the First-tier Tribunal for Scotland (Allocation of Functions to the Local Taxation Chamber) Regulations 2026(**c**)".

(3) In the schedule (rules of procedure)—

(a) in rule 1 (interpretation)—

(i) after the definition of "the 2020 Act" insert—

""the 2024 Act" means the Visitor Levy (Scotland) Act 2024(**d**),",

(ii) in the definition of "respondent"—

(aa) at the end of paragraph (d), omit "and",

(bb) after paragraph (e) insert—

", and

(f) in respect of a visitor levy appeal, a relevant local authority within the meaning of section 24(2) of the 2024 Act or, where two or more such authorities are acting jointly in relation to a visitor levy scheme, each of those authorities,",

(iii) after the definition of "Upper Tribunal" insert—

",

"visitor levy appeal" means an appeal brought under regulation 7 (appeal to the First-tier Tribunal) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026(**e**),",

(b) after Part 5 (procedure in respect of penalty notice appeals under the 2020 Act) insert—

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(**a**) S.S.I. 2026/109.
(**b**) S.S.I. 2022/364. There are amendments to this instrument which are not relevant to these Regulations.
(**c**) S.S.I. 2026/149.
(**d**) 2024 asp 8.
(**e**) S.S.I. 2026/109.

# "Part 6

## Procedure in respect of visitor levy appeals

**Notice of appeal**

**58.**—(1) For the purposes of regulation 7(2) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026(**a**), the requirements for the information to be contained in a written notice of a visitor levy appeal are set out in paragraph (2).

(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) where applicable, the address of the accommodation to which the appeal relates,

(e) a statement that the notice is a notice of appeal,

(f) a summary of the decision, enforcement action, penalty or assessment by a local authority to which the appeal relates,

(g) a copy of the notice of the outcome of the review undertaken by the local authority, sent in accordance with regulation 5(4) (handling of review by local authority) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026,

(h) the date on which notice of the outcome of the review was received,

(i) a statement of the grounds on which the appeal is brought,

(j) where the subject of the appeal is an information notice issued under section 30 or 31 of the 2024 Act, a copy of the information notice,

(k) where the subject of the appeal is the imposition of a penalty, a copy of the penalty notice sent in accordance with section 62(2)(b) of the 2024 Act,

(l) where the subject of the appeal is a decision of a local authority in relation to the operation of its visitor levy scheme, a copy of the decision,

(m) where the subject of an appeal is an assessment made by a local authority in accordance with regulation 3 (circumstances in which an assessment of liability to visitor levy may be made by a local authority) of the Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026(**b**), a copy of the assessment and a summary of the basis on which it was made,

(n) any additional representations which the appellant wishes to make,

(o) any material to which the appellant wishes the First-tier Tribunal to have regard in support of the appeal, and

(p) the signature of the appellant or, where applicable, their authorised representative.

(3) A notice of appeal must be sent to the First-tier Tribunal on or before the last day of the period of 30 days beginning with the day on which notice of the outcome of a review sent in accordance with regulation 5(4) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026 is received.

(4) If a notice of appeal is sent after the expiry of the period described in paragraph (3), the notice must include a statement of the reasons which the appellant relies on to justify

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(**a**) S.S.I. 2026/109.
(**b**) S.S.I. 2026/108.

the delay and the First-tier Tribunal must treat any such notice as a request to extend that period.

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

**59.** On receipt of a notice of appeal under this Part, the First-tier Tribunal must, within 14 days of the date on which the notice of appeal is received by the First-tier Tribunal—

(a) send an acknowledgement of receipt of that notice to the appellant, and

(b) send a copy of the notice of the appeal to the respondent.

**Withdrawal of appeal**

**60.**—(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)(a), the First-tier Tribunal must notify the respondent as soon as reasonably practicable.

(3) Where—

(a) an appellant withdraws an appeal in accordance with paragraph (1)(b), and

(b) the withdrawal is intimated at a hearing at which the respondent is not present,

the First-tier Tribunal must notify the respondent of the withdrawal as soon as reasonably practicable.

(4) On receipt of a notice under paragraph (1) the First-tier Tribunal must treat the appeal as withdrawn.

(5) Where an appeal is withdrawn, no further appeal may be made by the appellant on the same matter.

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

**61.**—(1) A party seeking permission to appeal under section 46(3)(a) of the 2014 Act against a decision of the First-tier Tribunal in relation to a visitor levy appeal must make a written application to the First-tier Tribunal.

(2) 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 that the party making the application is seeking.

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

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

(5) If the First-tier Tribunal refuses permission to appeal, it must provide with its decision under paragraph (4)—

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

(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.

(6) The time limits within which such an application can be made exclude any review period in terms of rule 19 (review of a decision).

(7) 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.

**Interpretation**

**62.** In this Part, "local authority" means a relevant local authority within the meaning of section 24(2) of the 2024 Act or, where two or more authorities are acting jointly in relation to a visitor levy scheme, those authorities acting jointly.".

**Amendment of the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022**

**4.**—(1) The Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022(**a**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (disapplication of the Upper Tribunal for Scotland Rules 2016) after "("the 1949 Act")", insert "or under the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026(**b**)".

(3) After regulation 5 (form of appeal referral: schedule 3) insert—

"**Application of Rules in schedule 4**

**5A.** The Rules in schedule 4 apply to all proceedings before the Upper Tribunal when dealing with a visitor levy appeal.".

(4) After schedule 3 insert—

# "SCHEDULE 4

Regulation 5A

# VISITOR LEVY APPEALS

## PART 1

## Interpretation

**Interpretation**

**1.** In these Rules—

"the 2014 Act" means the Tribunals (Scotland) Act 2014(**c**),

"the 2024 Act" means the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024(**d**),

"Appeal Appendix" means all the documents and authorities to be relied on for the purpose of the appeal along with an inventory of these documents and authorities.

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(**a**) S.S.I. 2022/365 to which there are amendments not relevant to these Regulations.
(**b**) S.S.I. 2026/109.
(**c**) 2014 asp 10.
(**d**) 2024 asp 1.

"appellant" means—

(a) a person who makes an appeal to the Upper Tribunal, or

(b) a person substituted as an appellant under rule 11(1) (addition, substitution and removal of parties),

"compatibility question" has the meaning given in section 31(1) of the 2024 Act,

"Convention rights" has the meaning given to it in section 1 of the Human Rights Act 1998(**a**),

"document" means anything in which information is recorded in any form,

"excluded decision" means a decision referred to in section 51 of the 2014 Act,

"First-tier Tribunal" means the Local Taxation Chamber(**b**) of the First-tier Tribunal as established by section 1(1) of the 2014 Act,

"hearing" means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication,

"interested party" means a person other than the appellant or respondent on whom the First-tier Tribunal has ordered the proceedings before it to be served,

"party" means a person who is (or was at the time that the Upper Tribunal disposed of the proceedings) an appellant or respondent in proceedings before the Upper Tribunal,

"practice direction" means a practice direction issued in terms of section 74 of the 2014 Act,

" the President" means the President of Tribunals,

"proceedings" includes, unless indicated otherwise, a part of the proceedings,

"relevant authority" means the Lord Advocate, the Commissioner for Children and Young People in Scotland or the Scottish Commission for Human Rights,

"local authority" means a relevant local authority within the meaning given in section 24(2) of the Visitor Levy (Scotland) Act 2024, or where two or more authorities are acting jointly in connection with a visitor levy scheme, those authorities acting jointly ,

"respondent" means—

(a) the First-tier Tribunal or any person other than the appellant who—

  (i) was a party before the First-tier Tribunal, or

  (ii) otherwise has a right of appeal against the decision of the First-tier Tribunal and has given notice to the Upper Tribunal that they wish to be a party to the appeal, or

(b) a person substituted or added as a respondent under rule 11 (addition, substitution and removal of parties),

"review period" means the time period between an application by a party for a review under rule 32(1), or, as the case may be, the Upper Tribunal's decision to review a decision under that rule, and the receipt by a party of a notification under rule 32(5),

"visitor levy appeal" means an appeal brought under regulation 7 (appeal to the First-tier Tribunal) of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026,

"witness statement" means a written statement of a witness ordered by the Upper Tribunal to stand for the evidence-in-chief of the witness.

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(**a**) 1998 c. 42.

(**b**) The Local Taxation Chamber was brought into being by S.S.I. 2021/448.

# PART 2

## Role of the Upper Tribunal

**Purpose of the Upper Tribunal**

**2.**—(1) The Upper Tribunal hears and decides appeals from the First-tier Tribunal.

(2) The overriding objective of these Rules is to secure that proceedings before the Upper Tribunal to which these Rules apply are handled fairly and justly.

(3) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are transparent, proportionate to the importance of the case, the complexity of the issues, the anticipated expenses and the resources of the parties,

(b) avoiding unnecessarily formality and seeking flexibility in the proceedings,

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings and are treated with dignity and respect,

(d) using any special expertise of the Upper Tribunal effectively, and

(e) avoiding delay, so far as compatible with proper consideration of the issues.

(4) The Upper Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any powers under these Rules, or

(b) interprets any rule or practice direction.

(5) Parties must, insofar as reasonably possible—

(a) help the Upper Tribunal to further the overriding objective, and

(b) co-operate with the Upper Tribunal generally.

# PART 3

## Procedure for Cases in the Upper Tribunal

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

**3.**—(1) A person may lodge with the Upper Tribunal a notice of appeal against a decision of the First-tier Tribunal.

(2) A notice of appeal must identify—

(a) the decision of the First-tier Tribunal to which it relates, and

(b) the alleged error or errors of law in the decision.

(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 or alternatively notice of refusal of permission to appeal from the First-tier Tribunal.

(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 and interested party (if any).

(5) If the appellant lodges the notice of appeal with the Upper Tribunal later than the time required by paragraph (9)—

(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 may not admit the notice of appeal.

(6) 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 and interested party (if any) including reasons for any refusal of permission or limitations or conditions on any grant of permission.

(7) 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 14 days after the day of receipt of notice of the decision) to the Upper Tribunal for the decision to be reconsidered at a hearing.

(8) An application under paragraph (7) 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.

(9) Where the First-tier Tribunal sends a notice of permission or refusal of permission to appeal to a person who has sought permission to appeal, that person, if intending to appeal, must lodge a notice of appeal with the Upper Tribunal within 30 days after the day of receipt by that person of the notice of permission or alternatively notice of refusal of permission to appeal from the First-tier Tribunal.

**Response to the notice of appeal**

**4.**—(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 no later than 30 days after the day 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 on in the appeal, and

(f) whether the respondent consents to the case being heard without a hearing.

(4) If the respondent provides the written response to the Upper Tribunal later than the time required by paragraph (2) or by an extension of time allowed under rule 6(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 any interested party.

**Appellant's reply**

**5.**—(1) Subject to any order given by the Upper Tribunal, the appellant may provide a written reply to any response provided under rule 4 (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 day on which the Upper Tribunal sent a copy of the response to the appellant.

(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 6(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 and interested party (if any).

# PART 4

## General Powers and Provisions

**Case management**

**6.**—(1) Subject to the provisions of the 2014 Act and these Rules, the Upper Tribunal may regulate its own procedure.

(2) The Upper Tribunal may give an order in relation to the conduct of proceedings before it at any time, including an order amending, suspending or setting aside an earlier order.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Upper Tribunal may—

(a) extend or shorten the time for complying with any rule or order,

(b) conjoin or take concurrently two or more sets of proceedings or parts of proceedings raising common issues,

(c) specify one or more cases as a lead case or lead cases where—

(i) two or more cases are before the Upper Tribunal,

(ii) in each such case the proceedings have not been finally determined, and

(iii) the cases give rise to common or related issues of fact or law,

and sist the other cases until the common or related issues have been determined,

(d) permit or require a party to amend a document,

(e) permit or require a party or another person to provide documents, information, evidence or submissions to the Upper Tribunal or a party,

(f) deal with an issue in the proceedings as a preliminary issue,

(g) hold a hearing to consider any matter, including a case management issue,

(h) decide the form of any hearing,

(i) adjourn or postpone a hearing,

(j) require a party to produce or lodge documents including but not confined to a note of argument and the Appeal Appendix,

(k) sist proceedings,

(l) transfer proceedings to another court or tribunal if that other court or tribunal has jurisdiction in relation to the proceedings and—

(i) because of a change of circumstances since the proceedings were started, the Upper Tribunal no longer has jurisdiction in relation to the proceedings, or

(ii) the Upper Tribunal considers that the other court or tribunal is a more appropriate forum for the determination of the case,

(m) suspend the effect of its own decision pending an appeal of that decision,

(n) in an appeal against the decision of the First-tier Tribunal, suspend the effect of that decision pending the determination of any permission to appeal or any appeal,

(o) require the First-tier Tribunal to provide reasons for the decision, or other information or documents in relation to the decision or any proceedings before the First-tier Tribunal.

**Compatibility question under the 2024 Act – raising, intimation and notice**

**7.**—(1) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to the relevant authorities under section 34(1) of the 2024 Act,

(c) notice by a relevant authority of their intention to intervene in proceedings under section 34(2) of that Act.

(2) A compatibility question may be raised by a party at any stage in the proceedings.

(3) Where a party raises a compatibility question, they must, so far as the party is able to do so, set out in sufficient detail—

(a) the facts and circumstances, and

(b) the contentions of law,

on the basis of which it is claimed that the compatibility question arises.

(4) On receiving a compatibility question under paragraph (3), the Upper Tribunal must—

(a) if it considers that the basis on which a compatibility question is said to have arisen is not set out in sufficient detail, to meet the overriding objective, direct the party to set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises to the Upper Tribunal, within such period as it may determine,

(b) determine if it considers that a compatibility question is frivolous or vexatious with reference to section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, intimate under section 34(1) of the 2024 Act in writing to each relevant authority the matters specified in paragraph (5).

(5) The matters to be intimated to each relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the Upper Tribunal,

(b) the details of the matters raised in the proceedings,

(c) the details of the compatibility question that has arisen and, if known at the time of intimation, the position of each party to proceedings in respect of the compatibility question,

(d) that to take part in the proceedings as a party the relevant authority must—

(i) give notice to the Upper Tribunal of their intention to do so within 14 days of receipt of the intimation made under this rule, or within such other period as the Upper Tribunal may specify, should it be satisfied there are exceptional circumstances which require the time period to be adjusted,

(ii) within 7 days after the date of such notice, provide written submissions to the Upper Tribunal in respect of the compatibility question in such form, and in accordance with such intimation requirements on other parties to proceedings (including any other relevant authorities) as the Upper Tribunal may specify.

(6) The Upper Tribunal must provide each relevant authority with all documents relevant to the consideration of the compatibility question.

(7) The Upper Tribunal must, if those submissions under paragraph (5)(d)(ii) are provided, take steps to allow a relevant authority to take part as a party to proceedings so far as the proceedings relate to the compatibility question.

(8) The Upper Tribunal may fix a hearing to consider a compatibility question as a separate hearing from any other hearing in the proceedings.

(9) The Upper Tribunal may sist the proceedings under rule 6(3)(k) (case management) if it considers it necessary to do so while the compatibility question is being determined.

(10) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, it is not precluded from intervening in any subsequent appeal to the Court of Session, so far as those proceedings relate to a compatibility question.

(11) Where a relevant authority does not take part as a party to proceedings and that relevant authority requests to be notified of the outcome of proceedings in respect of the compatibility question, including regarding any subsequent appeal which relates to the determination of the compatibility question, the Upper Tribunal must notify the relevant authority of this as soon as practicable.

**Procedure for applying for and giving orders**

**8.**—(1) The Upper Tribunal may give an order on the application of one or more of the parties or on its own initiative.

(2) An application for an order may be made—

(a) by sending or delivering a written application to the Upper Tribunal, or

(b) orally during the course of a hearing.

(3) An application for an order must include the reasons for making that application.

(4) Before making an order, the Upper Tribunal must afford parties an opportunity to make representations to it concerning whether the order should be imposed and the terms of the order.

(5) Where an order is made, the Upper Tribunal must give each party written notice of the making of the order.

**Failure to comply with rules etc.**

**9.**—(1) An irregularity resulting from a failure to comply with any requirement in these Rules, a practice direction or an order, does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or an order, the Upper Tribunal may take such action as it considers just, which may include—

(a) waiving the requirement,

(b) requiring the failure to be remedied, or

(c) exercising its power under rule 10 (dismissal of a party's case).

**Dismissal of a party's case**

**10.**—(1) The Upper Tribunal must dismiss the whole or a part of the proceedings if the Upper Tribunal does not—

(a) have jurisdiction in relation to the proceedings or that part of them, and

(b) exercise its power under rule 6(3)(l) (transfer to another court or tribunal) in relation to the proceedings or that part of them.

(2) The Upper Tribunal may dismiss the whole or a part of the proceedings if—

(a) the appellant has failed to comply with an order which stated that failure by the appellant to comply with the order could lead to the dismissal of the proceedings or part of them, or

(b) the appellant has failed to co-operate with the Upper Tribunal to such an extent that the Upper Tribunal considers that it cannot deal with the proceedings fairly.

(3) The Upper Tribunal may not dismiss the whole or a part of the proceedings under paragraph (1) or (2) without first giving the appellant an opportunity to make representations in relation to the proposed dismissal.

**Addition, substitution and removal of parties**

**11.**—(1) The Upper Tribunal may give an order adding, substituting or removing a party as an appellant or a respondent including where—

(a) the wrong person has been named as a party, or

(b) the addition, substitution or removal has become necessary because of a change in circumstances since the start of proceedings.

(2) If the Upper Tribunal gives an order under paragraph (1) it may give such consequential orders as it considers appropriate.

(3) A person who is not a party may make a written application to the Upper Tribunal to be added or substituted as a party under this rule.

(4) If the Upper Tribunal refuses an application under paragraph (3) it must consider whether to permit the person who made the application to provide submissions or evidence to the Upper Tribunal.

**Orders for expenses**

**12.**—(1) The Upper Tribunal may make an order for expenses as taxed by the Auditor of the Court of Session in proceedings on appeal from the First-tier Tribunal if the First-tier Tribunal had the power to make an order for expenses, and only on the basis on which the First-tier Tribunal had the power to award expenses.

(2) Notwithstanding paragraph (1) and without prejudice to that paragraph, the Upper Tribunal may make an order for expenses as taxed by the Auditor of the Court of Session against a party if that party's act, omission or other conduct has caused any other party to incur expense which it would be unreasonable for that other party to be expected to pay, with the maximum recoverable expenses being the expenses incurred.

(3) The Upper Tribunal, of its own initiative or on the application of a party or the parties, may in exceptional circumstances fix by order a sum payable by a party in discharge of an award of expenses.

**Representatives**

**13.**—(1) A party may be represented in any proceedings by a legal representative or lay representative whose details must be communicated to the Upper Tribunal prior to any hearing.

(2) A party may show any document or communicate any information about the proceedings to that party's lay representative or legal representative without contravening any prohibition or restriction on disclosure of the document or information.

(3) Where a document or information is disclosed under paragraph (2), the lay representative or legal representative is subject to any prohibition or restriction on disclosure in the same way that the party is.

(4) Anything permitted or required to be done by a party under these Rules, a practice direction or an order may be done by a lay representative, except signing of an affidavit or a precognition.

(5) The Upper Tribunal may order that a lay representative is not to represent a party if it is—

(a) of the opinion that the lay representative is an unsuitable person to act as a lay representative (whether generally or in the proceedings concerned); or

(b) satisfied that to do so would be in the interests of the efficient administration of justice.

**Supporters**

**14.**—(1) A party who is an individual may be accompanied by another person to act as a supporter.

(2) A supporter may assist the party by—

(a) providing moral support,

(b) helping to manage tribunal documents and other papers,

(c) taking notes of the proceedings;

(d) quietly advising on—

(i) points of law and procedure,

(ii) issues which the party might wish to raise with the tribunal.

(3) The party may show any document or communicate any information about the proceedings to that party's supporter without contravening any prohibition or restriction on disclosure of the document or information.

(4) Where a document or information is disclosed under paragraph (3), the supporter is subject to any prohibition or restriction on disclosure in the same way that the party is.

(5) A supporter may not represent the party.

(6) The Upper Tribunal may order that a person is not to act as a supporter of a party if it is—

(a) of the opinion that the supporter is an unsuitable person to act as a supporter (whether generally or in the proceedings concerned), or

(b) satisfied that to do so would be in the interests of the efficient administration of justice.

**Calculating time**

**15.**—(1) An act required by these Rules, a practice direction or an order to be done on or by a particular day must be done by 5 pm on that day.

(2) If the time specified by these Rules, a practice direction or an order for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this rule "working day" means any day except a Saturday, a Sunday, or a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(**a**).

**Sending and delivery of documents**

**16.**—(1) Any document to be provided to the Upper Tribunal under these Rules, a practice direction or an order must be—

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(**a**) 1971 c. 80.

(a) sent by pre-paid post or by document exchange, or delivered by hand, to the address of the Upper Tribunal, or

(b) sent or delivered by such other method as the Upper Tribunal may permit or direct.

(2) Subject to paragraph (3), if a party or an interested party provides a fax number, email address or other details for the electronic transmission of documents to them, that party or interested party must accept delivery of documents by that method.

(3) If a party or an interested party informs the Upper Tribunal and all other parties and interested parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party or interested party, that form of communication must not be so used.

(4) If the Upper Tribunal or a party or an interested party sends a document to a party or interested party or the Upper Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient.

(5) The recipient must make a request under paragraph (4) as soon as reasonably practicable after receiving the document electronically.

(6) The Upper Tribunal and each party and interested party (if any) may assume that the address provided by a party or interested party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

**Disclosure of documents and information**

**17.** The Upper Tribunal may at any stage of the proceedings, on its own initiative or on application by one or more of the parties or an interested party, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person.

**Evidence and submissions**

**18.**—(1) Without restriction on the general powers in rule 6(1) and (2) (case management powers), the Upper Tribunal may give orders as to—

(a) subject to paragraph (4), issues on which parties may lead fresh evidence or make submissions,

(b) the nature of any such evidence,

(c) whether the parties are permitted or required to provide expert evidence, and if so whether the parties must jointly appoint a single expert to provide such evidence,

(d) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally,

(e) the manner in which any evidence or submissions are to be provided, which may include an order for them to be given—

(i) orally at a hearing, or

(ii) by written submissions or witness statement, and

(f) the time at which any evidence or submissions are to be provided.

(2) The Upper Tribunal may exclude evidence that would otherwise be admissible where—

(a) the evidence was not, without reasonable excuse, provided within the time allowed by an order or a practice direction,

(b) the evidence was otherwise, without reasonable excuse, provided in a manner that did not comply with an order or a practice direction, or

(c) it would otherwise be unfair to admit the evidence.

(3) The Upper Tribunal may consent to a witness giving, or require any witness to give, evidence on oath or affirmation, and may administer an oath or affirmation for that purpose.

(4) Fresh evidence may only be led in an appeal if the Upper Tribunal is satisfied—

(a) that the evidence—

(i) could not have been obtained with reasonable diligence at the First-tier Tribunal stage,

(ii) is relevant and will probably have an important influence on the hearing,

(iii) is apparently credible, or

(b) that the interests of justice justify the evidence being led.

**Citation of witnesses and orders to answer questions or produce documents**

**19.**—(1) On the application of a party or on its own initiative, the Upper Tribunal may—

(a) by citation require any person to attend as a witness at a hearing at the time and place specified in the citation, or

(b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A citation under paragraph (1)(a) must—

(a) give the person required to attend 14 days' notice prior to the day of the hearing or such other period as the Upper Tribunal may order,

(b) where the person is not a party, state (if appropriate) how expenses of attendance necessarily incurred may be recovered,

(c) state that the person on whom the requirement is imposed may apply to the Upper Tribunal to vary or set aside the citation, if the person did not have an opportunity to object to it before it was made or issued, and

(d) state the consequences of failure to comply with the citation.

(3) A person making an application referred to in paragraph (2)(c) must do so as soon as reasonably practicable after receiving notice of the citation or order.

**Withdrawal**

**20.**—(1) A party may give notice to the Upper Tribunal of the withdrawal of the case made by that party in the Upper Tribunal proceedings, or any part of that case—

(a) by sending or delivering to the Upper Tribunal a notice of withdrawal, or

(b) orally at a hearing.

(2) Unless satisfied that a party has already been notified, the Upper Tribunal must notify each party of its receipt of a withdrawal under this rule.

**Chairing member**

**21.** Where a matter is to be decided by two or more members of the Upper Tribunal, the President must determine the chairing member.

**Venue for hearings**

**22.** The Upper Tribunal is to be convened at such time and place in Scotland as the President may determine.

**Enforcement of decisions**

**23.** An order for the payment of a sum payable in pursuance of a decision of the Upper Tribunal, or a copy of such an order certified by the Upper Tribunal, may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the Court of Session.

# PART 5

## Hearings

**Decision with or without a hearing**

**24.** The Upper Tribunal may make any decision without a hearing.

**Entitlement to attend a hearing**

**25.** Subject to rules 13(5) (representatives), 14(6) (supporters) and 27(4) (public and private hearings), each party and interested party (if any) is entitled to participate at a hearing together with any legal or lay representatives and supporters permitted by rules 13 and 14.

**Notice of hearings**

**26.**—(1) The Upper Tribunal must give each party and interested party (if any) entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any change to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days prior to the day of the hearing except that the Upper Tribunal may give shorter notice—

(a) with the consent of the parties and interested parties, or

(b) in urgent or exceptional circumstances.

**Public and private hearings**

**27.**—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Upper Tribunal may give an order that a hearing, or part of it, is to be held in private if the Upper Tribunal considers that restricting access to the hearing is justified—

(a) in the interests of public order,

(b) in order to protect a person's right to respect for their private and family life,

(c) in order to maintain the confidentiality of sensitive information,

(d) in order to avoid serious harm to the public interest, or

(e) because to hold it in public would prejudice the interests of justice.

(3) Where a hearing, or part of it, is to be held in private, the Upper Tribunal may determine who is entitled to attend the hearing or part of it.

(4) The Upper Tribunal may give an order excluding from any hearing, or part of it any person—

(a) whose conduct the Upper Tribunal considers is disrupting or is likely to disrupt the hearing,

(b) whose presence the Upper Tribunal considers is likely to prevent another person from giving evidence or making submissions freely, or

(c) where the purpose of the hearing would be defeated by the attendance of that person.

(5) The Upper Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

(6) When publishing a decision in terms of rule 29(4) (notice of decisions and reasons) following a hearing which was held wholly or partly in private, the Upper Tribunal must, so far as practicable, ensure that the decision does not disclose information which was referred to in a part of the hearing that was held in private.

**Hearings in a party's absence**

**28.** If a party fails to attend a hearing, the Upper Tribunal may proceed with the hearing if the Upper Tribunal—

(a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing, and

(b) considers that it is in the interests of justice to proceed with the hearing.

# PART 6

## Decisions

**Notice of decisions and reasons**

**29.**—(1) Subject to the remainder of this rule, the Upper Tribunal may give a decision orally at a hearing.

(2) The Upper Tribunal must provide to each party and interested party (if any), as soon as reasonably practicable after making a decision (other than a decision under Part 7) which finally disposes of all issues in the proceedings, or a decision on a preliminary issue dealt with following an order under rule 6(3)(f) (dealing with an issue as a preliminary issue)—

(a) a decision notice stating the Upper Tribunal's decision, and

(b) notification of any rights of appeal against the decision and the time and manner in which such rights of appeal may be exercised.

(3) If the Upper Tribunal does not provide written reasons for a decision, a party or an interested party may request written reasons within 14 days after the day of the decision.

(4) The Upper Tribunal may publish any of its decisions if it considers it in the public interest so to do, with the manner of publication also at the discretion of the Upper Tribunal.

**Remittance back to local authority or substitution by the Tribunal of its own decision: appeals in relation to operation of a visitor levy scheme, enforcement action and penalties**

**30.**—(1) Where dealing with an appeal against a decision of the First-tier Tribunal in an appeal under regulation 7 of the Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026, in relation to a penalty, exercise of enforcement powers or the operation of a visitor levy scheme, the Upper Tribunal may—

(a) dismiss the appeal, or

(b) allow the appeal and, where appropriate, quash the decision relating to the operation of the visitor levy scheme or the penalty or the exercise of enforcement powers.

(2) Where a decision in relation to the operation of a visitor levy scheme is quashed, the Tribunal must—

(a) consider the matter itself and substitute a new decision, or

(b) remit the matter back to the local authority to substitute a new decision.

(3) Where a decision in relation to the imposition of a penalty is quashed, the Tribunal may—

(a) consider the matter itself and impose a new amount of penalty, including interest for non-payment of the penalty, if thought appropriate, or

(b) remit the matter back to the local authority to consider whether the imposition of a penalty is appropriate and, if so, the amount of the penalty and any interest due.

**Remittance back to local authority or substitution by the Tribunal of its own decision: appeals in relation to local authority assessment**

**31.**—(1) Where dealing with an appeal against a decision of the First-tier Tribunal in an appeal under regulation 7 of the Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026(**a**), in relation to a local authority assessment made under regulation 3 of the Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026, the Upper Tribunal may—

(a) dismiss the appeal, or

(b) allow the appeal and, where appropriate, quash the decision of the local authority, as a result of its assessment, as to the amount of visitor levy payable.

(2) Where the decision of the local authority as to the amount of visitor levy payable is quashed, other than in conjunction with the upholding of an appeal against the decision of the local authority that a person is liable to pay visitor levy, the Tribunal must—

(a) consider the matter itself and substitute a new amount, or

(b) remit the matter back to the local authority to substitute a new amount.

**Reviews**

**32.**—(1) The Upper Tribunal may at its own instance or on the application of a party review a decision (except an excluded decision) made by it if it considers it necessary in the interests of justice to do so and on review it may confirm, set aside, or set aside and redecide the decision.

(2) An application under paragraph (1) must be made in writing within 14 days after the day of the decision and must state the reasons for making the application.

(3) The Upper Tribunal must send a copy of the application to any other party involved in the proceedings within 10 working days after the day of receipt of the application.

(4) The review must be decided as soon as reasonably practicable by the Upper Tribunal, with insofar as practicable the same members that decided the case, or where this is not practicable with members selected by the President.

(5) A notice of the decision of a review under paragraph (1) must as soon as reasonably practicable be sent by the Upper Tribunal to each party.

(6) The 30 days referred to in regulation 2(2) of the Scottish Tribunals (Time Limits) Regulations 2016(**b**) in respect of an application to the Upper Tribunal is extended by any review period.

(**a**) S.S.I. 2026/108.
(**b**) S.S.I. 2016/231.

# PART 7

## Appealing Decisions of the Upper Tribunal

### Interpretation

**33.** In this Part, "appeal" means the exercise of a right of appeal under section 48(1) of the 2014 Act.

### Application for permission to appeal a decision of the Upper Tribunal

**34.**—(1) A party seeking permission to appeal must make a written application to the Upper Tribunal.

(2) An application under paragraph (1) must—

(a) identify the decision of the Upper Tribunal to which it relates,

(b) identify the alleged error or errors of law in the decision, and

(c) state in terms of section 50(4) of the 2014 Act what important point of principle or practice would be raised by a second appeal or what other compelling reason there is that shows the second appeal should be allowed to proceed.

### Upper Tribunal's consideration of application for permission to appeal

**35.**—(1) The Upper Tribunal must consider whether to give permission to appeal in relation to the decision or part of it.

(2) The Upper Tribunal must provide a record of its decision to the parties and any interested party as soon as practicable.

(3) If the Upper Tribunal refuses permission to appeal it must provide with the record of its decision—

(a) a statement of its reasons for such a refusal, and

(b) notification of the right to make an application to the Court of Session for permission to appeal and the time within which, and the method by which, such application must be made.

(4) The Upper Tribunal may give permission to appeal on limited grounds, but must comply with paragraph (3) in relation to any grounds on which it has refused permission.

### Reference of compatibility question to the Court of Session

**36.**—(1) When the Upper Tribunal refers a compatibility question which arises in proceedings before it to the Inner House of the Court of Session for determination, it must intimate this in writing to all parties and the relevant authorities.

(2) The intimation in writing to relevant authorities under paragraph (1) who have not previously joined proceedings as a party must include—

(a) the details of the matters raised in the proceedings,

(b) the details of the compatibility question that has arisen,

(c) if known at the time of intimation, the position of each party to proceedings in respect of the compatibility question.

(3) The Upper Tribunal must provide each relevant authority under paragraph (1) which has not previously joined proceedings as a party with all documents relevant to the consideration of the compatibility question.

(4) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, that relevant authority is not precluded from taking part as a party in any subsequent reference to the Inner House of the Court of Session.

# PART 8

## Legal Aid

**Legal aid**

**37.** If a party is granted legal aid by the Scottish Legal Aid Board in respect of a case before the Upper Tribunal that party must as soon as practicable send a copy of the legal aid certificate to the Upper Tribunal.".

*IVAN McKEE*
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
17th March 2026

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to the First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 to provide for the composition of the local taxation chamber of the First-tier Tribunal for Scotland when dealing with appeals in relation to visitor levy. They provide flexibility as to the number of persons who will decide any matter in a visitor levy case. There will always be one legal member, and that member may sit alone or accompanied by one other member, who may be either an ordinary member or a legal member. The regulations are also amended so that the responsibility to decide which composition is to apply in any given visitor levy appeal is delegated to the President of Tribunals, with the option to sub-delegate to the Chamber President.

The Regulations also make amendments to the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022. They insert a new Part 6 into the schedule, dealing with the procedure for appeals relating to visitor levy.

New Part 6 covers the requirements to be met in submitting a notice of appeal, the requirement on the First-tier Tribunal to acknowledge receipt of the appeal, and the procedure for withdrawal of the appeal, including the stipulation that no further appeal in relation to a particular matter may be brought on that matter, after the appeal is withdrawn. Part 6 also makes provision for the making of an order by the First-tier Tribunal as to the action to be taken by a local authority as a result of a review, and application for permission to appeal onwards to the Upper Tribunal. This includes provision as to the form and timescale within which the application is to be made and the procedure for the First-tier Tribunal to issue its decision on the application for onward appeal.

Finally, the Regulations insert a new schedule into the Upper Tribunal for Scotland Local Taxation (Rules of Procedure) Regulations 2022. This provides for appeals against decisions of the First-tier Tribunal in relation to visitor levy appeals to be dealt with by the Upper Tribunal. It includes the mechanism for new decisions as to the amount of visitor levy payable as a result of a local authority assessment, imposition of a penalty and the amount of penalty payable and operation of a visitor levy scheme to be substituted, by the Upper Tribunal. Alternatively, such matters may be remitted back for the local authority which made the original decision to re-consider the matter itself. The rules also set out the procedure to be followed if a party raises a question of compatibility with the United Nations Convention on the Rights of the Child, along with the procedure for a reference by the Upper Tribunal to the Inner House of the Court of Session, in accordance with section 35(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.

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