

Tribunals (Scotland) Act 2014

Consultation on Draft Regulations

October 2024

Tribunals (Scotland) Act 2014

Consultation on Draft Regulations regarding:

- (1) Transfer of the functions and members of the Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal for Scotland;
- (2) Draft procedural rules for the General Regulatory Chamber (Police Appeals Tribunal) of the First-tier Tribunal for Scotland;
- (3) Draft composition regulations for the General Regulatory Chamber (Police Appeals Tribunal) of the First-tier Tribunal and Upper Tribunal for Scotland.

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Part 1

Policy background

1. The Tribunals (Scotland) Act 2014 (“the 2014 Act”) created a new, simplified statutory framework for tribunals in Scotland, bringing existing tribunal jurisdictions together and providing a structure for new jurisdictions. The 2014 Act created a two-tier structure, the First-tier Tribunal for Scotland (“First-tier Tribunal”) and the Upper Tribunal for Scotland (“Upper Tribunal”), known collectively as the Scottish Tribunals.
2. The 2014 Act provided for the functions of existing tribunals and their membership to be transferred to the First-tier Tribunal and/or the Upper Tribunal. Alternatively, functions may be directly conferred on the First-tier Tribunal and/or the Upper Tribunal for newly created jurisdictions or extensions of existing jurisdictions.
3. The 2014 Act also provided for the First-tier Tribunal to be organised into a number of Chambers, to which the functions transferred to or conferred upon the First-tier Tribunal can be allocated.
4. The 2014 Act further provided for the Upper Tribunal to be organised into a number of divisions, with regard to subject-matter and other relevant factors, to which the functions transferred to or conferred upon the Upper Tribunal can be allocated.
5. The rationale for the 2014 Act was to create a new structure for devolved tribunals in Scotland. Over the years, these tribunals were established in an ad hoc fashion, with no common system of leadership, appointments, practice and procedure or reviews and appeals. This allowed for a variation of standards and performance across the tribunals landscape.
6. The 2014 Act sought to address these issues by creating a structure that reduces overlap, eliminates duplication, ensures better deployment and allows for the wider sharing of available resources. This new structure also provides users with the reassurance that tribunal hearings are being heard by people with no links to the body whose decision they are challenging, therefore providing greater independence for the new tribunals. By establishing a more coherent framework for tribunals, opportunities are created for improvement in the quality of services that cannot easily be achieved by tribunals operating separately.
7. The 2014 Act contains a list of devolved tribunals in Schedule 1 from which the functions and members may be transferred into the new structure. The functions and members of a listed tribunal are transferred into the new structure by regulations. Regulations may also modify the underlying legislation in relation to the tribunals listed in Schedule 1 of the 2014 Act.
8. The Scottish Tribunals are composed of members who are either transferred in or appointed. If appropriate, existing eligible members of listed tribunals transfer in at the same time as the functions of their tribunal are transferred, along with their current caseloads. New procedural rules are required to allow the Scottish Tribunals to operate effectively in the exercise of the transferred functions. These will

necessarily consider the previously existing rules of procedure, modified where appropriate to reflect the new structure.

Background to Police Appeals Tribunal

10. The jurisdiction and functions of the Police Appeals Tribunal arises from section 56 of the Police and Fire Reform (Scotland) Act 2012. A constable may appeal to a Police Appeals Tribunal, against any decision to dismiss them or demote them in rank. The Police Appeals Tribunal (Scotland) Rules 2013 govern the procedure used in the Police Appeals Tribunal.

11. A Police Appeals Tribunal currently consists of three members, including one who has been appointed to chair the Tribunal. It is for the Lord President to establish and maintain a panel of people available to sit on the Police Appeals Tribunal. In practice the Scottish Police Authority, who currently provide the administration for the Police Appeals Tribunals, allocate a member of King's Counsel to chair the Tribunal. The Chair is supported by two other members. Every member of the panel must be either a solicitor holding a practising certificate in accordance with Part 2 of the Solicitors (Scotland) Act 1980, or a member of the Faculty of Advocates practising as an advocate in Scotland and must have been so for the period of five years immediately prior to the members appointment. The Scottish Police Authority pay the members of the tribunal such remuneration, allowances and expenses as Scottish Ministers determine, but the appellant is liable for any expenses they incur in making an appeal. The Tribunal may direct that some of the appellant's expenses be paid by the Scottish Police Authority. The other expenses of the appeal (including the expenses of the respondent) must be paid for by the Authority.

Proposed new regulations

12. It is proposed that the functions and members of the Police Appeals Tribunal will transfer into the Scottish Tribunals structure as part of the General Regulatory Chamber. The draft regulations are attached at **Annexes A, B, and C**.

13. The draft regulations at **Annex A** provide for the transfer of functions and members of the Police Appeals Tribunals into the Scottish Tribunals structure. They also contain transitional and savings provisions.

14. The draft regulations at **Annex B** set out rules of procedure for police appeals in the First-tier Tribunal General Regulatory Chamber.

15. The draft regulations at **Annex C** set out the composition of the First-tier Tribunal General Regulatory Chamber when hearing police appeals.

Part 2

Draft regulations transferring in the functions and members of the Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal – see Annex A.

Background

16. Regulations are required to establish how and when the functions of the current Police Appeals Tribunal will transfer to the Scottish Tribunals, and how existing members of the Police Appeals Tribunal will transfer.

17. Section 28(2) of the 2014 Act provides the power for the Scottish Ministers to make regulations to transfer the functions of the listed tribunals in Schedule 1 of the 2014 Act, to the First-tier Tribunal only; to the Upper Tribunal only; or to the First-tier Tribunal and the Upper Tribunal. A Police Appeals Tribunal is listed as a Tribunal in Schedule 1 of the Tribunals (Scotland) Act 2014, and it is proposed to transfer the existing Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal.

18. Schedule 2 and section 29 of the 2014 Act provided the power for the Scottish Ministers to make regulations to transfer the members of the listed tribunals to the First-tier or Upper Tribunal.

Draft Regulations

19. The intention is for the police appeals functions to transfer into the Scottish Tribunals structure. Upon the transfer of functions, the Police Appeals Tribunal will be abolished and thereafter appeals will be heard in the General Regulatory Chamber of the First-tier Tribunal. The draft regulations would allow for reviews of First-tier Tribunal decisions to be conducted, and for challenges on a point of law only to be referred onwards to the Upper Tribunal. This approach is replicated across much of the Scottish Tribunals' landscape.

20. All existing Police Appeals Tribunal members who are eligible for appointment as legal members of the First-tier Tribunal will be offered the opportunity to transfer into the Scottish Tribunals as legal members, in accordance with terms and conditions to be offered by the Scottish Ministers. These terms and conditions will supersede any existing terms and conditions of appointment.

21. As part of the transitional provisions any claim that is in progress immediately before the date of transfer will continue to be heard by the same members, insofar as is practicable.

Question 1: Should current members of the Police Appeals Tribunal transfer into the Scottish Tribunals structure?

Question 2: Do you have any comments on the draft regulations regarding the transfer of functions of the Police Appeals Tribunal to the First-tier Tribunal?

Part 3

Draft regulations providing procedural rules for the General Regulatory Chamber (Police Appeals) of the First-tier Tribunal

Background

22. Schedule 9, paragraph 4(1) and (2) of the 2014 Act confers on the Scottish Ministers, the function of making rules regulating the practice and procedure to be followed in proceedings in the Scottish Tribunals.

Draft Regulations

23. The Police Appeals Tribunals (Scotland) Rules 2013 currently provide comprehensive rules of procedure. The transfer to the First-tier Tribunal provides an opportunity to enhance the current rules of procedure to the benefit of all parties and to maximise consistency of procedural rules across the Scottish Tribunals. Therefore, additions and changes to the current rules are proposed. These are summarised below:

- an overriding objective for the Tribunal to deal with the proceedings fairly and justly, aligning with other Scottish Tribunals. (See regulations 2 and 3);
- the ability for staff of the Scottish Courts and Tribunal Service (SCTS), with the approval of the Chamber President, to carry out preliminary or incidental functions of a judicial nature and various case management powers available to the Tribunal. (See regulations 4 and 5);
- procedures regarding the submission of a notice of appeal, the reply by the respondent to the notice and appeal and procedures around an appellant or the respondent amending their statement of case (See regulations 6, 7 and 8);
- modernising the sending and delivery of documents, to allow for the electronic transfer of documents (See regulation 14);
- where an appellant is represented during a hearing, the role of the representative is set out in the draft rules. Alongside this, and aligning with other Scottish Tribunals, are details of the separate role of a supporter, who although present during the hearing may not represent the appellant. (See regulations 18 and 19);
- the ability to hold hearings, or parts of hearings, in private is preserved in the draft procedure rules but with the addition that the tribunal no longer requires the consent of the parties to do so. (See regulations 21);
- the ability of the tribunal to exclude a person from proceedings is also preserved but is extended to include any person that the tribunal considers is

likely to prevent someone else from giving evidence or making submissions freely. (See regulation 22);

- a provision allowing the tribunal to make an order for expenses to be paid, but only where the person subject to the order caused another party to incur an expense that it would be unreasonable to expect them to pay. (See regulation 26);
- proposals to allow the publication of decisions, to provide transparency on the handling of appeals. This provision includes protections, for example allowing for anonymising where appropriate and, in exceptional circumstances, for decisions to not be publicly disclosed. (See regulation 28);
- the functions and tasks that were conducted in relation to “the register” will now be carried out by the First-tier Tribunal. (See regulation 29);
- a route available to appellants to ask for a tribunal decision to be reviewed or appealed. The proposed future arrangements would allow for reviews of First-tier Tribunal decisions to be carried out, and for challenges on a point of law to be referred to the Upper Tribunal. (See regulations 31, 32 and 33).

Question 1: Do you agree with the proposed steps for an appellant to submit a Notice of Appeal and for the Respondent to reply? (Regulations 6 and 7)

Question 2: Do you agree with the proposal to allow the Tribunal to make an order for expenses, where the actions of one party resulted in another party incurring an expense that it would be unreasonable to expect them to pay?

Question 3: Do you agree with the proposal that decisions of the Tribunal should be published, and if so, should any conditions be attached to this?

Question 4: Do you have any comments on the proposed routes to challenge decisions of the Tribunal?

Question 5: Do you have any other comments on the draft procedure regulations?

Part 4

Draft regulations setting out the composition of the First-tier Tribunal for Scotland General Regulatory Chamber and Upper Tribunal

Background

24. Sections 38 and 40 of the 2014 Act allow the Scottish Ministers to make provisions in regulations to determine the composition of the First-tier Tribunal and Upper Tribunal.

25. The draft regulations in Annex C set out the composition of the First-tier Tribunal when hearing cases within the First-tier Tribunal General Regulatory Chamber and the Upper Tribunal.

26. The policy intention is for the First-tier Tribunal to mirror current arrangements whereby the Police Appeals Tribunal consists of three legal members only. Each hearing will have a Chair, appointed by the President of the General Regulatory Chamber or, failing that, the President of the Scottish Tribunals.

27. Appeals to the Upper Tribunal will now be possible, on a point of law only. Our proposal is that an appeal to the Upper Tribunal will be heard either by the President of the Scottish Tribunals or the Chamber President. Either can act alone or with another judicial member, however the Chamber President must not have had any prior involvement in the case.

Question 1: Do you have any comments on the proposed composition of the First-tier Tribunal Police Appeals Tribunal within the General Regulatory Chamber?

Question 2: Do you have any comments on the proposals regarding the composition of the Upper Tribunal when hearing appeals from the General Regulatory Chamber?

Question 3: Do you have any other comments you wish to make?

Part 5

Assessing impact

28. The final section of this consultation is dedicated to questions around the impact of policy, and we encourage anyone who has relevant information to contribute to our call for evidence.

Question 1: Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

Question 2: Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

Question 3: Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

Part 6

Responding to this consultation

We are inviting responses to this consultation by 22 January 2025.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at:

[Citizen Space - Draft Regulations regarding the transfer of the Police Appeals Tribunal to the First-tier Tribunal for Scotland](#)

You can save and return to your responses while the consultation is still open.

Please ensure that consultation responses are submitted before the closing date of 22 January 2025.

If you are unable to respond online, please complete the Respondent Information Form (see Annex D below) and return it to:

Alasdair Thomson
Tribunals Policy
GW15 St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the "About You" page. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the 14 provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk/>. If

you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to Tribunals.Policy@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>).

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Draft Regulations laid before the Scottish Parliament under section 79(2)(c) of the Tribunals (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunals) Regulations 2025

<i>Made</i>	- - - -	2025
<i>Coming into force</i>	- -	2025

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2)(b), 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014(1) and all other powers enabling them to do so.

In accordance with section 11(1)(a) and (b) of that Act, the Scottish Ministers have obtained the Lord President’s approval and have consulted such other persons as they considered appropriate.

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunals) Regulations 2025 and come into force on .

(2) In these Regulations—

“the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012(2),

“the 2014 Act” means the Tribunals (Scotland) Act 2014,

“functions of the Police Appeals Tribunals” means the functions of determining an appeal to the tribunal against any decision to dismiss the constable or to demote the constable in rank, taken in pursuance of regulations made under section 48 of the 2012 Act, and

“member of the Police Appeals Tribunals” means a member of a panel appointed under paragraph 1(2)(a) of schedule 3 of the 2012 Act, and

“Police Appeals Tribunal” means a tribunal constituted under paragraph 1 of schedule 3 of the 2012 Act.

Transfer of functions of the Police Appeals Tribunals to the First-tier Tribunal and abolition of the Police Appeals Tribunals

2.—(1) The functions of the Police Appeals Tribunals are transferred to the First-tier Tribunal with allocation to the First-tier Tribunal General Regulatory Chamber.

(1) 2014 asp 10.
(2) 2012 asp 8.

ANNEX A

(2) The Police Appeals Tribunals are abolished.

Transfer of members of the Police Appeals Tribunals to the First-tier Tribunal

3.—(1) Subject to paragraphs (2) and (3), the members of the Police Appeals Tribunals on the coming into force of these Regulations are transferred to and become legal members of the First-tier Tribunal.

(2) The persons transferred to the First-tier Tribunal under paragraph (1) are (subject to the provisions of the 2014 Act) to be members of the First-tier Tribunal in accordance with terms and conditions to be offered by the Scottish Ministers immediately before transfer, which are to supersede any existing terms and conditions of appointment.

(3) Paragraph (1) does not apply to any member of the Police Appeals Tribunals if the member has already been transferred to and is a member of the First-tier Tribunal by virtue of regulations made under section 28(2) of the 2014 Act which were in force prior to these Regulations coming into force.

Transitional and savings provisions

4. Schedule 1 of these Regulations contains transitional and savings provisions.

Consequential amendments, repeals and revocations

5. Schedule 2 of these Regulations contains consequential provisions.

Revocations

6. Schedule 3 of these Regulations contains revocations.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 4

Transitional and savings provisions

References, claims and proceedings in progress before the Police Appeals Tribunals immediately before [DATE] to transfer to the First-tier Tribunal

1. Any appeal to the Police Appeals Tribunal in progress immediately before [DATE] but not yet determined or any proceedings before the Police Appeals Tribunals in progress immediately before that date is to be transferred to and be completed by the First-tier Tribunal but with so far as possible the same persons hearing and determining the case before the First-tier Tribunal as members of that tribunal as were prior to [DATE] hearing the case as members of the Police Appeals Tribunals.

Decisions, directions and orders of the Police Appeals Tribunals to continue in force

2. Any decision (whether or not called a decision), direction or order given or made in or in respect of an appeal to, and proceedings before, the Police Appeals Tribunal in force immediately before [DATE] remains in force on and after that date as if it were a decision, direction or order of the First-tier Tribunal.

Time limits in respect of appeals to, and proceedings before, the Police Appeals Tribunals to carry over to the First-tier Tribunal

3. Any time limit which has started to run before [DATE] in respect of appeals to, and proceedings before, the Police Appeals Tribunal (and which has not expired) is to continue to apply where appeals and proceedings are transferred to the First-tier Tribunal.

SCHEDULE 2

Regulation 5

Consequential amendments

Amendment of the Police and Fire Reform (Scotland) Act 2012

1.—(1) The Police and Fire Reform (Scotland) Act 2012⁽³⁾ is amended in accordance with sub-paragraphs (2) to (4).

(2) In section 56—

- (a) in subsection (1) for “a police appeals tribunal” substitute “the First-tier Tribunal”;
- (b) in subsection (3) for “police appeals tribunal” substitute “the First-tier Tribunal”;
- (c) the title of Chapter 9 is changed to “FIRST-TIER TRIBUNAL”; and
- (d) the title of the heading of section 56 is changed to “**Right to appeal to the First-tier Tribunal**”.

(3) In section 57(1) for “a police appeals tribunal” substitute “the First-tier Tribunal”.

(4) In section 99(1) after the entry for “deputy chief constable” insert—

““the First-tier Tribunal” means the First-tier Tribunal for Scotland established by section 1 of the Tribunals (Scotland) Act 2014,”.

Amendment of the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013

2. In regulation 26(10) of the Police Service of Scotland (Senior Officers) (Conduct) Regulations⁽⁴⁾, for “a police appeals tribunal” substitute “the First-tier Tribunal”.

Amendment of the Police Service of Scotland (Senior Officers) (Performance) Regulations 2016

3. In regulation 35(4) of the Police Service of Scotland (Senior Officers)(Performance) Regulations 2016⁽⁵⁾, for “a police appeals tribunal” substitute “the First-tier Tribunal”.

Amendment of the Police Service of Scotland (Conduct) Regulations 2014

4. In regulation 26(5) of the Police Service of Scotland (Conduct) Regulations 2014⁽⁶⁾, for “a police appeals tribunal” substitute “the First-tier Tribunal”.

Amendment of the Police Service of Scotland (Performance) Regulations 2014

5. In regulation 46(7) of the Police Service of Scotland (Performance) Regulations 2014⁽⁷⁾, for “a police appeals tribunal” substitute “the First-tier Tribunal”.

(3) 2012 asp 8.

(4) S.S.I. 2013/62 as amended by St Andrew's Day Bank Holiday (Scotland) Act 2007 (asp 2) and S.S.I. 2014/68, S.S.I. 2020/453.

(5) S.S.I. 2016/51 as amended by 2007 asp 2 and S.S.I. 2020/453.

(6) S.S.I. 2014/68 as amended by 2007 asp 2.

(7) S.S.I. 2014/67 as amended by 2007 asp 2.

SCHEDULE 3

Revocations of subordinate legislation

1. The Police Appeals Tribunals (Scotland) Rules 2013⁽⁸⁾ are revoked.

⁽⁸⁾ S.S.I. 2013/63.

ANNEX A

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Police Appeals Tribunal was set up by the Police and Fire Reform(Scotland) Act 2012 to deal with appeals under section 56(1) of that Act against a decision to dismiss or demote a constable in rank.

These Regulations make provision for the transfer to the First-tier Tribunal for Scotland of the functions and members of the Police Appeals Tribunals. The First-tier Tribunal was set up by section 1 of the Tribunals (Scotland) Act 2014. It is divided into chambers, with the chambers hearing cases according to the subject matter of the case. The functions of the Police Appeals Tribunal are transferred to the First-tier Tribunal for Scotland with allocation to the General Regulatory Chamber.

2025 No.**TRIBUNALS AND INQUIRIES****The First-tier Tribunal for Scotland General Regulatory Chamber
Police Appeals (Procedure) Regulations 2025**

<i>Made</i> - - - -	2025
<i>Laid before the Scottish Parliament</i>	2025
<i>Coming into force</i> - -	2025

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014⁽⁹⁾ and all other powers enabling them to do so.

In accordance with 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 have considered appropriate.

Citation and commencement

2.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals (Procedure) Regulations 2025, and the Rules set out in the schedule may be cited as The First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals Rules of Procedure 2025.

(2) These Regulations come into force on [DATE].

Application of the Rules set out in the schedule

3. The Rules in the schedule apply to proceedings before the First-tier Tribunal for Scotland General Regulatory Chamber, when exercising the functions transferred to it by regulation 2(1) of the First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunals) Regulations [DATE]⁽¹⁰⁾.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2025

⁽⁹⁾ 2014 asp 10.
⁽¹⁰⁾ S.S.I. 2025/XXX.

SCHEDULE

Regulation 2

THE FIRST-TIER TRIBUNAL FOR SCOTLAND GENERAL
REGULATORY CHAMBER POLICE APPEALS RULES OF PROCEDURE
2025

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ANNEX B

Interpretation

1.—(1) In these Rules—

“the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012**(11)**,

“the 2014 Act” means the Tribunals (Scotland) Act 2014**(12)**,

“the 2013 Conduct Regulations” means the Police Service of Scotland (Conduct) Regulations 2013**(13)**,

“the 2013 Performance Regulations” means the Police Service of Scotland (Performance) Regulations 2013**(14)**,

“the 2013 Senior Officers Conduct Regulations” means the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013**(15)**,

“the 2014 Conduct Regulations” means the Police Service of Scotland (Conduct) Regulations 2014**(16)**,

“the 2014 Performance Regulations” means the Police Service of Scotland (Performance) Regulations 2014**(17)**,

“the 2016 Senior Officers Performance Regulations” means the Police Service of Scotland (Senior Officers) (Performance) Regulations 2016**(18)**,

“appeal” means an appeal by a constable which is made under section 56(1) of the 2012 Act,

“the appellant” means the constable making an appeal,

“chairing member” means the legal member of the First-tier Tribunal chosen in terms of regulation 2(2) of the First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals Cases and Upper Tribunal for Scotland (Composition) Regulations [DATE]**(19)** by the Chamber President to act as the chairing member,

“Chamber President” means the Chamber President of the First-tier Tribunal,

“constable” has the meaning in section 99(1) of the 2012 Act,

“decision” means a decision described in section 56(1) of the 2012 Act unless the context requires otherwise,

“electronic communication” has the meaning given to it by section 15(1) of the Electronic Communications Act 2000**(20)** and “electronic signature” has the same meaning as in section 7 of that Act**(21)**,

“First-tier Tribunal” means the First-tier Tribunal for Scotland General Regulatory Chamber,

“hearing” means a sitting of the First-tier Tribunal for the purpose of enabling the First-tier Tribunal to take a decision on an appeal or on any question or matter at which the parties are entitled to attend and be heard and includes an oral hearing, any hearing conducted in whole or in part by video link, telephone or other means of instantaneous communication and any resumed hearing,

“inefficiency hearing” means an inefficiency hearing which the appellant was required to attend in terms of regulation 14 of the 2013 Performance Regulations,

“legal member” means an individual holding membership of the First-tier Tribunal in accordance with section 15(2) of the 2014 Act,

“misconduct hearing” means—

- (a) in the case of an appellant who is not a senior officer, a hearing which the appellant was required to attend pursuant to either the 2013 Conduct Regulations or the 2014 Conduct Regulations, or

(11) 2012 asp 8.

(12) 2014 asp 10.

(13) S.S.I. 2013/60. This SSI was revoked by S.S.I. 2014/68 subject to transitional provision.

(14) S.S.I. 2013/61. This SSI was revoked by S.S.I. 2014/67 subject to transitional provision.

(15) S.S.I. 2013/62 as amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 asp 2 and S.S.I. 2014/68, S.S.I. 2020/453.

(16) S.S.I. 2014/68 as amended by 2007 asp 2.

(17) S.S.I. 2014/67 as amended by 2007 asp 2.

(18) S.S.I. 2016/51 as amended by 2007 asp 2, 2003 (c.21), 2012 asp 8 and S.S.I. 2020/453.

(19) S.S.I. 2025/

(20) 2000 c.7, as amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

(21) Section 7 was amended by S.I. 2016/696.

ANNEX B

(b) in the case of any other appellant, a hearing which the appellant was required to attend pursuant to the 2013 Senior Officers Conduct Regulations,

“performance hearing” means—

(c) in relation to the 2014 Performance Regulations—

(i) a performance hearing to which a constable has been referred under regulation 31(4) of those Regulations, or

(ii) a further performance hearing to which a constable has been referred under regulation 41(4) of those Regulations,

(d) in relation to the 2016 Senior Officers Performance Regulations—

(i) a performance hearing to which a senior officer has been referred under regulation 27(4) of those Regulations, or

(ii) a further performance to which a senior officer has been referred under regulation 37(4) of those Regulations,

“Police Appeals Case” means proceedings before the First-tier Tribunal for Scotland General Regulatory Chamber, when exercising the functions allocated to it by regulation 2(1) of the First-tier Tribunal for Scotland (Transfer of Functions of the Police Appeals Tribunal) Regulations [DATE](22),

“proceedings” mean proceedings before the First-tier Tribunal,

“the respondent” means on any appeal to a police appeals tribunal under section 56(1) of the 2012 Act—

(e) in the case of an appeal by a senior officer, the Scottish Police Authority, and

(f) in any other case, the chief constable,

“review” means the internal review provided for by section 43(1) of the 2014 Act, and

“the Scottish Police Authority” means the body established in terms of section 1(1) of the 2012 Act.

(2) Any reference in these Rules to any document, notice, notification, reply or statement includes a reference to that document, notice, notification, reply or statement being an electronic communication which has been recorded and is consequently capable of being reproduced.

Overriding objective

2.—(1) The overriding objective of the First-tier Tribunal is to deal with the proceedings fairly and justly.

(2) Dealing with the proceedings fairly and justly includes—

(a) dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties,

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

(c) ensuring so far as practicable, that the parties are able to participate fully in the proceedings,

(d) using any special expertise of the First-tier Tribunal effectively, and

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

Application by First-tier Tribunal of the overriding objective

3.—(1) The Chamber President and the First-tier Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules; or

(b) interprets any rule.

(2) In particular, the First-tier Tribunal must actively manage proceedings in accordance with the overriding objective.

ANNEX B

Delegation to staff

4.—(1) Staff of the Scottish Courts and Tribunals Service⁽²³⁾ may, with the approval of the Chamber President, carry out functions of a judicial nature permitted or required to be done by the First-tier Tribunal provided the functions are of a preliminary or incidental nature.

(2) The approval referred to at paragraph (1) may apply generally to the carrying out of specified functions by members of staff of a specified description in specified circumstances.

Case management powers

5.—(1) Subject to the provisions of the 2014 Act and these Rules, the First-tier Tribunal may regulate its own procedure.

(2) The First-tier Tribunal may give an order in relation to the conduct or disposal of proceedings 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 First-tier Tribunal may by order—

- (a) extend or shorten the time for complying with any rule, practice direction or order, notwithstanding that the time may have expired,
- (b) where there are two or more cases before the First-tier Tribunal—
 - (i) specify one or more cases as a lead case or lead cases where—
 - (aa) in each such case the proceedings have not been finally determined, and
 - (bb) the cases give rise to common or related issues of fact or law, and
 - (ii) sist the other cases until the common or related issues have been determined,
- (c) permit or require a party to amend a document,
- (d) permit or require a party to provide documents, information, evidence or submissions to the First-tier Tribunal or to another party,
- (e) deal with an issue in the proceedings as a preliminary issue,
- (f) hold a hearing to consider any matter, including a case management hearing,
- (g) decide the form of any hearing having considered parties' preferences,
- (h) in respect of any appeal that was in progress prior to [] and was transferred to the First-tier Tribunal for completion—
 - (i) if the First-tier Tribunal considers it would be appropriate to do so, determine that the appeal is to be re-heard of new, and
 - (ii) in any such appeal that is to be re-heard, determine that such evidence relating to the appeal as parties agree on, and the First-tier Tribunal considers appropriate, be accepted,
- (i) adjourn or postpone a hearing, on its own initiative or following a request by any party, giving parties such notice as it considers reasonable,
- (j) with the agreement of the parties, bring forward a hearing,
- (k) require a party to produce a file of documents for a hearing, and, if it is satisfied that it is consistent with the overriding objective to do so, may stipulate in the order that such file be paginated and indexed,
- (l) sist proceedings,
- (m) suspend the effect of its own decision pending determination by the First-tier Tribunal, Upper Tribunal, or other tribunal as the case may be, of—
 - (i) any application to appeal against or have that decision reviewed, and
 - (ii) such appeal or review as the applicable tribunal may subsequently conduct.

(23) The Scottish Courts and Tribunals Service was established by section 60 of the Judiciary and Courts Act 2008 (2008 asp 6).

ANNEX B

Notice of appeal

6.—(1) An appeal which may be made under section 56 of the 2012 Act to the First-tier Tribunal must be made by written notice sent by the appellant to the First-tier Tribunal.

(2) The notice of appeal must state—

- (a) the name and address of the appellant,
- (b) that the notice is a notice of appeal,
- (c) the date and any reference number of the disputed decision and the name and address of the respondent, and
- (d) the name and address of the representative of the appellant, if any.

(3) The appellant must attach to the notice of appeal—

- (a) a statement setting out fully on what grounds the appeal is made,
- (b) a copy of the disputed decision including (as the case may be)—
 - (i) where the disputed decision was made under the 2013 Conduct Regulations, the misconduct form sent under regulation 23(4)(a) of those Regulations,
 - (ii) where the disputed decision was made under the 2014 Conduct Regulations, a copy of the written notifications given under regulation 23(1) of those Regulations,
 - (iii) where the disputed decision was made under the 2013 Senior Officers' Conduct Regulations, a copy of the written notifications given under regulation 24(1) of those Regulations,
 - (iv) where the disputed decision was made under the 2013 Performance Regulations, the written determination of the chairing constable of the inefficiency hearing under regulation 17 of those Regulations,
 - (v) where the disputed decision was made under the 2014 Performance Regulations, any written notice under regulation 39(2) of those Regulations, and
 - (vi) where the disputed decision was under the 2016 Senior Officers Performance Regulations 2016, any written notice under regulation 35(2) of those Regulations, and
- (c) any documentary evidence upon which the appellant intends to rely for the purposes of the appeal.

(4) The appellant or the appellant's representative must sign the notice of appeal.

(5) The appellant must send the notice of appeal, together with the statement and documents referred to in paragraph (3), to the First-tier Tribunal not later than 28 days after the date on which the disputed decision against which the appeal is made was given or notified to or served on the appellant.

(6) Where the appellant considers that the appellant cannot provide the First-tier Tribunal with the notice of appeal under paragraph (1) or any document required by paragraph (3), the appellant may include in the notice of appeal a request for an extension of the time limit for the submission of any such document which sets out the reasons why an extension is requested.

(7) At the same time as the appellant complies with paragraph (5), the appellant must send a copy of the notice of appeal and of the statement and other documents referred to in paragraph (3) to the respondent.

(8) Following receipt of the notice of appeal and accompanying documents, the First-tier Tribunal must—

- (a) send an acknowledgement of the receipt to the appellant,
- (b) register the particulars of the appeal in the register of Police Appeals Cases,
- (c) send written notice to the appellant and the respondent of the reference number of the appeal and of the address to which any communication to the First-tier Tribunal concerning the appeal should be sent, and
- (d) provide each member of the tribunal with a copy of the notice of appeal and of any accompanying documents.

(9) Where the appellant's notice of appeal includes a request as mentioned in paragraph (6), the First-tier Tribunal must decide the matter as soon as reasonably practicable.

(10) The First-tier Tribunal must as soon as possible after receipt of any document from a party to the proceedings, send a copy of that document to the other party and their representative.

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Reply by the respondent

7.—(1) The respondent must, not later than 21 days after the date on which a copy of the notice of appeal was sent to the respondent in terms of rule 6(7), send to the First-tier Tribunal a notice stating—

- (a) whether or not the respondent intends to oppose the appeal, and
- (b) the name and address of any representative of the respondent to whom any communication relating to the appeal should be sent.

(2) Where the respondent intends to oppose the appeal, the respondent must attach to the notice—

- (a) a statement setting out fully on what grounds the appeal is opposed and any representations with respect to the information contained with the appellant's notice of appeal,
- (b) where the disputed decision was made under the 2013 Conduct Regulations, a certified copy of—
 - (i) the misconduct form prepared under regulation 11(4)(a) of those Regulations in connection with the proceedings giving rise to the appeal,
 - (ii) the written note prepared and audio recording made under regulation 19(11) of those Regulations, and
 - (iii) the notice prepared under regulation 28(11) of those Regulations,
- (c) where the disputed decision was made under the 2014 Conduct Regulations, a certified copy of—
 - (i) the misconduct form sent under regulation 15(2) of those Regulations in connection with the proceedings giving rise to the appeal,
 - (ii) the audio recording made under regulation 18(5) or (as the case may be) the written record sent under regulation 18(6)(d) of those Regulations, and
 - (iii) the notice under regulation 26(2) of those Regulations;
- (d) where the disputed decision was made under the 2013 Senior Officers' Conduct Regulations, a certified copy of—
 - (i) the misconduct form sent under regulation 16(2) of those Regulations in connection with the proceedings giving rise to the appeal,
 - (ii) the audio recording made under regulation 19(5) or (as the case may be) the written record sent under regulation 19(6)(d) of those Regulations, and
 - (iii) the notice under regulation 26(9) of those Regulations,
- (e) where the disputed decision was made under the 2013 Performance Regulations, a certified copy of—
 - (i) the notice sent under regulation 14 of those Regulations,
 - (ii) the written note prepared under regulation 15(8) of those Regulations, and
 - (iii) the notice under regulation 22(6) of those Regulations recording the chief constable's determination,
- (f) where the disputed decision was made under the 2014 Performance Regulations, a certified copy of—
 - (i) the notice under regulation 33(1) of those Regulations,
 - (ii) the audio recording made under regulation 38(6) of those Regulations, and
 - (iii) the notice under regulation 46(3) of those Regulations,
- (g) where the disputed decision was made under the 2016 Senior Officers' Performance Regulations, a certified copy of—
 - (i) the notice under regulation 29(1) of those Regulations,
 - (ii) the audio recording made under regulation 34(5) of those Regulations, and
 - (iii) the notice under regulation 35(2) of those Regulations, and
- (h) any documentary evidence on which the respondent intends to rely for the purposes of opposing the appeal.

(3) The notice and statement submitted in terms of paragraph (2)(a) must be signed—

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- (a) where the respondent is the chief constable, by the chief constable or a person nominated by the chief constable to sign such documents or
- (b) where the respondent is the Scottish Police Authority, by a member of staff of that Authority who is authorised to sign such documents.

(4) Where the respondent considers that the respondent cannot provide the First-tier Tribunal with the notice under paragraph (1) or any document required by paragraph (2), the respondent may include in the notice a request for an extension of the time limit for submission of any such document which sets out the reasons why an extension is requested.

(5) At the same time as the respondent complies with paragraph (1), the respondent must send a copy of the notice and, where applicable, the statement and other documents referred to in paragraph (2) to the appellant.

(6) Following receipt of the notice sent pursuant to paragraph (1), the First-tier Tribunal must—

- (a) send an acknowledgement of the receipt to the respondent, and
- (b) provide each member of the tribunal with a copy of the notice and of any accompanying documents.

(7) Where the respondent's notice includes a request as mentioned in paragraph (4), the First-tier Tribunal must decide the matter as soon as reasonably practicable.

Amendment of statements

8.—(1) Following receipt of the notice sent to the First-tier Tribunal pursuant to rule 7(1), the First-tier Tribunal must send to each of the parties a notice informing the party that it may amend its statement required under rule 6(3)(a) or 7(2)(a) as the case may be, by sending a note of any amendments to the First-tier Tribunal, and a copy thereof to the other party, not later than 21 days after the date on which the notice is sent to the party.

(2) Either party may make amendments to its respective statement at any time after the expiry of the period mentioned in paragraph (1) with the leave of the First-tier Tribunal and subject to such terms as that tribunal thinks fit.

(3) In any case where the leave of the First-tier Tribunal is given for the purpose of paragraph (2), the party must send a note of the amendments to the First-tier Tribunal and a copy to the other party.

Oral hearing

9.—(1) Not later than 14 days after—

- (a) the expiry of the period for amendments under rule 8(1); or
- (b) where an additional period or periods of amendment have been granted to either of the parties under rule 8(2), the expiry of the last such additional period;

the First-tier Tribunal must send a notice to each party requesting confirmation of whether the party requires an oral hearing.

(2) Not later than 7 days after the date the notice under paragraph (1) was sent, the appellant and respondent must each send a notice to the First-tier Tribunal indicating whether that party requires an oral hearing.

(3) If neither party requires an oral hearing then the appeal must be considered in accordance with rule 16(3) and the First-tier Tribunal must send a notice to each party not later than 14 days after receipt of the notices under paragraph (2) informing them that no oral hearing is to take place.

Attendance of witness, production of documents, evidence and submissions

10.—(1) Subject to paragraph (2), the chairing member of the tribunal may at any time exercise the powers conferred on that member by section 59(1) of the 2012 Act to require the appellant, respondent or any other person to attend a hearing to give evidence or to give to the First-tier Tribunal any such documents or information as the First-tier Tribunal may require—

- (a) on the application of a party, or
- (b) where that member is authorised to do so by the First-tier Tribunal on its own motion.

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(2) An application by a party for the purposes of paragraph (1)(a) must be made in writing to the First-tier Tribunal and, unless it is accompanied by the written consent of the other party, the First-tier Tribunal must send a copy of the application to the other party.

(3) Where a party makes an application for the purposes of paragraph (1)(a), which is not accompanied by the written consent of the other party, the chairing member of the First-tier Tribunal must not determine the application until—

- (a) except where the other party agrees, the period within which objections may be made has elapsed, and
- (b) any objection has been considered by the First-tier Tribunal.

(4) If the other party objects to the application within 7 days of receipt of a copy of the application sent to them pursuant to paragraph (2), the First-tier Tribunal must consider the objection and, if it considers it necessary for the determination of the application, must give the party an opportunity of appearing before it.

(5) A party who is given the opportunity of appearing before the First-tier Tribunal for the purpose mentioned in paragraph (4) may be represented by any person who may represent that party at a hearing fixed in accordance with rule 15.

(6) Where any notice requiring any person to attend to give evidence or to produce any documents or information is made by virtue of section 59(1) of the 2012 Act, the First-tier Tribunal must—

- (a) as soon as possible, send the notice signed by the chairing member of that tribunal to the person who is named in the notice as the person subject to the requirement specified,
- (b) send a copy of the notice—
 - (i) where the notice was sent to a person who is not a party, to the parties, or
 - (ii) where the notice was sent to one party, to the other party,
- (c) provide each member of the First-tier Tribunal with a copy of the notice, and
- (d) include particulars of the notice against the relevant appeal in the register.

(7) The First-tier Tribunal may give orders as to—

- (a) issues on which it requires evidence or 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.

(8) The First-tier 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.

(9) The First-tier Tribunal may consent to a witness giving, or require any witness to give, evidence on oath, and may administer an oath for that purpose.

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Procedure at the hearing

11.—(1) Subject to the provisions of these Rules the procedure at a hearing of an appeal must be determined by the First-tier Tribunal and it has the power to hear any new evidence or to re-hear the evidence given at the misconduct hearing, performance hearing or inefficiency hearing.

(2) At the beginning of the hearing the chairing member of the tribunal must explain the order of proceedings which the tribunal proposes to adopt.

(3) Each party is to be heard in such order as the First-tier Tribunal must determine and is entitled—

- (a) to give evidence,
- (b) to call witnesses and to question any witnesses called by the other party, and
- (c) to address the First-tier Tribunal both on the evidence and generally on the subject-matter of the appeal.

(4) Any member of the First-tier Tribunal may put questions to the parties or their representative and to any witnesses called by the parties.

(5) At the hearing of the appeal the First-tier Tribunal may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in that party's statement in terms of rule 6(3)(a) or 7(2)(a), or any amendment of it made in terms of rule 8, and to adduce any evidence not submitted with any such statement.

Withdrawal of appeal

12.—(1) The appellant may withdraw the appeal—

- (a) at any time before the hearing of the appeal by sending a written notice of withdrawal to the First-tier Tribunal and any other party, or
- (b) orally, at the hearing of the appeal.

(2) Where an appeal is withdrawn, no further appeal may be made in relation to the same decision.

Signature of documents

13. A requirement in these Rules for a document to be signed by a person is satisfied, in the case of a document which is transmitted by electronic communication in accordance with these Rules, by electronic signature of the person who is required to sign the document.

Sending and delivery of documents

14.—(1) This rule has effect in relation to any notice or other document required or authorised to be provided under a practice direction, an order or these Rules.

(2) Any such notice or document must be—

- (a) sent by pre-paid post properly addressed, or delivered by hand, or
- (b) sent or delivered by such other method as the First-tier Tribunal may permit or order.

(3) Subject to paragraph (4), where a party or representative provides an email address or other details for the electronic transmission of notices or other documents to them, that party or representative must accept delivery of notices or documents by that method.

(4) If a party informs the First-tier Tribunal and all other parties that a particular form of communication (other than post) should not be used to provide notices or documents to that party, that form of communication must not be so used.

(5) If the First-tier Tribunal or a party sends a notice or document to a party or the First-tier Tribunal by email or any other electronic means of communication, the recipient may request that the sender provide a paper copy of the notice or document to the recipient provided that such a request is made as soon as reasonably practicable after receiving the notice or document electronically.

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

Notice of hearing

15.—(1) The First-tier Tribunal must give each party entitled to attend a hearing notice of the time and place of any hearing not less than 21 days before the date so fixed.

(2) The notice of hearing must state—

- (a) the date, time and place of the hearing,
- (b) the members of the First-tier Tribunal hearing the case, and
- (c) the manner and order of proceedings.

(3) The notice of hearing should, where appropriate, provide information and guidance as to —

- (a) attendance at the hearing of the parties and witnesses,
- (b) the bringing of documents,
- (c) the right of representation and the right of assistance by a supporter,
- (d) the procedure applicable to the hearing,
- (e) the right of the parties to receive reasons in writing for a decision of the First-tier Tribunal,
- (f) the possible advantages of attendance, consequences of non-attendance, and the right of the appellant and of the respondent, if not present and not represented, to make representations in writing, and
- (g) specify the date by which the appellant and the respondent must inform the First-tier Tribunal whether or not they intend to be present or represented at the hearing, and that date must not be later than 7 days before the hearing.

(4) The notice must include a request to inform the First-tier Tribunal of any reasonable adjustments which any party may require which are relevant to the attendance of that party at the hearing.

Hearing in absence of a party

16.—(1) Where either party to the appeal informs the First-tier Tribunal that it does not intend to appear at the hearing, the First-tier Tribunal is to determine a date by which that party may provide further written submissions to be considered at the hearing.

(2) The First-tier Tribunal must advise both parties to the appeal of the date determined in terms of paragraph (1).

(3) Where both parties inform the First-tier Tribunal that they do not intend to appear or be represented at the hearing, the First-tier Tribunal may proceed to decide the appeal at any time after the date determined by the First-tier Tribunal in terms of paragraph (1).

Absence of member of the First-tier Tribunal

17. If, at or after the beginning of a hearing, a member of the First-tier Tribunal other than the chairing member is absent, the appeal may, with the consent of the parties, be heard by the other two members and, in that event, the First-tier Tribunal is deemed to be properly constituted.

Representatives

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

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

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(3) Where a document or information is disclosed under paragraph (2), the legal representative or lay 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 the signing of an affidavit or precognition.

(5) The First-tier Tribunal may order that a lay representative is not to represent a party if—

- (a) it is 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) it is satisfied that to do so would be in the interests of the efficient administration of justice.

(6) Where a party is represented, the First-tier Tribunal must send all documents and notices concerning the proceedings to the representative instead of the party.

Supporters

19.—(1) A party 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) A party may disclose 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 First-tier Tribunal may order that a person is not to act as a supporter of a party if—

- (a) it is of the opinion that the supporter is an unsuitable person to act as a supporter (whether generally or in the proceedings concerned), or
- (b) it is satisfied that to do so would be in the interests of the efficient administration of justice.

Failure of parties to attend

20.—(1) If a party fails to be present or represented at a hearing, the First-tier Tribunal may, if it is satisfied that the party was duly notified of the hearing and is not aware of any good reason for such absence—

- (a) hear and decide the appeal in the absence of the party, or
- (b) adjourn the hearing and may give such orders as it considers necessary (including an order for expenses under rule 24).

(2) Before deciding to dispose of any appeal in the absence of a party, the First-tier Tribunal must consider any representations in writing submitted by that party.

Hearings in public or in private

21.—(1) A hearing must be held in public unless the First-tier Tribunal, on its own initiative or on an application by a party, decides that in the interests of justice, it is necessary to do otherwise.

(2) An order of the First-tier Tribunal under paragraph (1) may require only part of a hearing of an appeal to be in private.

(3) The First-tier Tribunal may prohibit photography, audio recording, visual recording or any other recording at any hearing if satisfied that, in the interests of justice, such a prohibition is required.

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Exclusion of persons disrupting proceedings

22.—(1) Without prejudice to any other powers it has, the First-tier Tribunal may exclude from any hearing, or part of it, —

- (a) any person (including a party, a representative or supporter) whose conduct has disrupted or is likely, in the opinion of the First-tier Tribunal, to disrupt the hearing,
- (b) any person (including a party, a representative or supporter) whose presence the First-tier Tribunal considers is likely to prevent another person from giving evidence or making submissions freely.

(2) In deciding whether to exercise the power conferred by paragraph (1) the First-tier Tribunal must, apart from other considerations, have regard to—

- (a) the interests of the parties, and
- (b) in the case of the exclusion of a party or a representative, whether the party will be adequately represented.

(3) If the First-tier Tribunal decides to exclude a party, it must allow the representative of that party sufficient opportunity to consult the party.

Persons entitled to be present

23.—(1) Subject to rule 21 the following persons shall be entitled to attend a hearing whether or not it is in private—

- (a) a member of the First-tier Tribunal not sitting as a member of the First-tier Tribunal for the purpose of the hearing,
- (b) a member of staff of the Scottish Courts and Tribunals Service, and
- (c) any other person permitted by the First-tier Tribunal with the consent of the parties.

(2) None of the persons specified above who are present at the First-tier Tribunal's deliberations may take any part in those deliberations.

Expenses

24.—(1) The First-tier 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.

(2) The maximum recoverable expenses under paragraph (1) are the expenses incurred.

(3) The First-tier 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.

(4) An order under this Rule is not to be made against a party unless that party has been given an opportunity to make representations.

Decisions of the First-tier Tribunal

25.—(1) A decision of the First-tier Tribunal may be taken by a majority and the decision must record whether it was unanimous or taken by a majority.

(2) A decision of the First-tier Tribunal may be given at the end of the hearing or within 30 days of the hearing.

(3) The decision must be recorded as soon as possible in a decision document which must also contain a statement of reasons for the decision and be signed by the chairing member and dated.

(4) The First-tier Tribunal must send a copy of the decision to each party to the appeal together with a notice explaining the rights of the parties to appeal the decision of the First-tier Tribunal and the time within which, and the manner in which, the right of appeal may be exercised.

(5) Except where a decision is announced at the end of the hearing, it shall be treated as having been made on the date on which the chairing member signs the decision.

(6) The First-tier Tribunal may order that particulars of a decision relating to—

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- (a) evidence heard before the First-tier Tribunal in private,
- (b) evidence which refers to intimate personal or financial circumstances,
- (c) evidence which consists of confidential communication, or
- (d) any other matter as the First-tier Tribunal considers appropriate for the protection of parties,

must be excluded from publication in terms of rule 26 and from inspection in the register in terms of rule 27.

Publication of decisions

26.—(1) The First-tier Tribunal must make arrangements for the public pronouncement of its decisions, whether by giving its decisions orally at a public hearing or by publishing its decisions in writing.

(2) Where the First-tier Tribunal has made an order in terms of rule 25(6) the First-tier Tribunal may make any necessary amendments to the text of the decision for the purposes of publication.

(3) Where any decision refers to any evidence that has been heard in private, the material relating to that evidence must be omitted from the decision and the First-tier Tribunal may make any necessary amendments to the text of the decision for the purposes of publication.

(4) Decisions may be published electronically.

The register

27.—(1) A register of Police Appeals Cases (“the register”) must be kept by the First-tier Tribunal and must be open for the inspection during reasonable hours by any person without charge.

(2) The register may be made available electronically.

(3) The register must, unless the First-tier Tribunal has ordered otherwise, include the following details for each appeal—

- (a) the case number,
- (b) the name of the appellant,
- (c) the decision which is being appealed,
- (d) the date, time and place fixed for the hearing or the date the appeal is to be decided in absence of the parties,
- (e) the particulars of any notice requiring any person to attend to give evidence or to produce any documents or information made by virtue of section 59(1) of the 2012 Act, and
- (f) the decision of the First-tier Tribunal.

(4) Where any decision refers to any evidence that has been heard in private, the material relating to that evidence must be omitted from the register.

Proof of documents and decisions

28.—(1) Any document purporting to be a document duly executed or issued by or on behalf of the First-tier Tribunal is, unless the contrary is proved, deemed to be a document so executed or issued as the case may be.

(2) A document purporting to be certified by the First-tier Tribunal to be a true copy of any entry of a decision in the register shall, unless the contrary is proved, be sufficient evidence of the entry and of the matters contained in it.

Correction of clerical mistakes or accidental slips or omissions

29. The First-tier Tribunal may at any time correct any clerical mistake or other accidental slip or omission contained in a decision, order or any notice or document produced by it, by—

- (a) sending notification of the amended decision or order, or a copy of the amended notice or document to all parties, and

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- (b) making any necessary amendment to any information published in relation to the notice, decision, order or document.

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

30.—(1) A party seeking permission to appeal under section 43(2)(a) of the 2014 Act must make a written application to the First-tier Tribunal for permission to appeal.

(2) For the purposes of this rule, the definition of “appeal” set out in rule 1 (interpretation) 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.

First-tier Tribunal’s consideration of application for permission to appeal

31.—(1) The First-tier Tribunal must decide whether to give permission to appeal on any point of law.

(2) The First-tier Tribunal must provide a record of its decision to the parties as soon as reasonably practicable.

(3) If the First-tier Tribunal refuses permission on any point of law, 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 Upper Tribunal for permission to appeal and the time within which, and the manner in which, such an application must be made.

Review of a decision

32.—(1) The First-tier Tribunal may either at its own instance or at the request of a party review any decision made by it where it is necessary in the interests of justice to do so.

(2) An application for review under section 43(2)(b) of the 2014 Act must—

- (a) be made in writing (and copied to all other parties),
- (b) be made within 14 days of the date on which the decision was made or within 14 days of the date that the written reasons were sent to the parties (if later), and
- (c) set out why a review of the decision is necessary.

(3) If the First-tier Tribunal considers that the application is wholly without merit, the First-tier Tribunal must refuse the application and must also inform the parties of the reasons for the refusal.

(4) Except where paragraph (3) applies, the First-tier Tribunal must send a notice to the parties—

- (a) setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing, and
- (b) at the discretion of the First-tier Tribunal, setting out the First-tier Tribunal’s provisional views on the application.

(5) Except where paragraph (3) applies, the decision must be reviewed at a hearing unless the First-tier Tribunal considers, having regard to any response to the notice provided under paragraph (4), that a hearing is not necessary in the interests of justice.

(6) Where practicable, the review must be undertaken by one or more of the members of the First-tier Tribunal who made the decision to which the review relates.

(7) Where the First-tier Tribunal proposes to review a decision at its own instance, it must inform the parties of the reasons why the decision is being reviewed and the decision must be reviewed in accordance with paragraph (4) (as if an application had been made and not refused).

ANNEX B

(8) A review by the First-tier Tribunal in terms of paragraph (1) either at its own instance or on an application of a party does not affect the time limit of 30 days in regulation 2(1) of the Scottish Tribunals (Time Limits) Regulations 2016⁽²⁴⁾ for making an application for permission to appeal.

⁽²⁴⁾ S.S.I. 2016/231.

ANNEX B

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Tribunals (Scotland) Act 2014 (“the 2014 Act”) 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.

The 2014 Act provided for a First-tier Tribunal and an Upper Tribunal and for the First-tier Tribunal to be divided into chambers dependent on the subject-matter of the case before it and similarly for the Upper Tribunal to be divided into divisions. The First-tier Tribunal has been divided into chambers, one of which is the General Regulatory Chamber. These Regulations provide for the rules of procedure which are to apply in that chamber when hearing police appeals. The rules of procedure are set out in the schedule of the Regulations.

Paragraph 4 of schedule 9 of the Tribunals (Scotland) Act 2014 enables the Scottish Ministers, by regulations, to make Tribunal Rules until such time as the provisions conferring responsibility on the Scottish Civil Justice Council and the Court of Session for the making of Tribunal Rules are commenced.

Draft Regulations laid before the Scottish Parliament under section 79(2)(c) of the Tribunals (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

D R A F T S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2025 No

TRIBUNALS AND INQUIRIES

**The First-tier Tribunal for Scotland General Regulatory Chamber
Police Appeals Cases and Upper Tribunal for Scotland (Composition)
Regulations 2025**

Made - - - - 2025

Coming into force - - 2025

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10, 38(1), 40(1) and 42(1) and (2) of the Tribunals (Scotland) Act 2014⁽²⁵⁾ and all other powers enabling them to do so.

In accordance with section 11(2) of that Act, they have consulted the President of Tribunals.

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

Citation, commencement and interpretation

33.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals Cases and Upper Tribunal for Scotland (Composition) Regulations 2025 and come into force on .

(2) In these Regulations—

“Chamber President” means the Chamber President of the First-tier Tribunal,

“Police Appeals Case” means proceedings before the First-tier Tribunal for Scotland General Regulatory Chamber, when exercising the functions allocated to it by regulation 2(1) of the First-tier Tribunal for Scotland (Transfer of Functions of the Police Appeals Tribunal) Regulations⁽²⁶⁾,

“First-tier Tribunal” means the First-tier Tribunal for Scotland General Regulatory Chamber, and

“Upper Tribunal” means the Upper Tribunal for Scotland.

Composition of First-tier Tribunal

34.—(1) The First-tier Tribunal, when convened at the start of proceedings to decide any matter in a Police Appeals Case, must consist of three legal members.

⁽²⁵⁾ 2014 asp 10.
⁽²⁶⁾ S.S.I. 2025/XXX.

ANNEX C

(2) When convened in terms of paragraph (1), one of the three legal members shall be chosen by the Chamber President to act as chairing member.

(3) Where a Chamber President has not been appointed or is not available, the choice of chairing member under paragraph (2) it to be made by the President of Tribunals

Composition of Upper Tribunal hearing appeals from First-tier Tribunal

35.—(1) The Upper Tribunal, when convened to decide an appeal to the Upper Tribunal in a Police Appeals Case decided by the First-tier Tribunal, must consist of—

- (a) a member of the Upper Tribunal acting alone,
- (b) two or three members of the Upper Tribunal,
- (c) the Chamber President (except a temporary Chamber President), acting either alone or with no more than two members of the Upper Tribunal,
- (d) the President of Tribunals, acting alone or with the Chamber President or with no more than two members of the Upper Tribunal, or
- (e) the Lord President, acting alone or with the Chamber President or with no more than two members of the Upper Tribunal.

(2) The Chamber President referred to in paragraph (1) must not have had any involvement in the case prior to the appeal of the case to the Upper Tribunal.

(3) For the purposes of this regulation a member of the Upper Tribunal may be a legal member or a judicial member.

(4) The authority to determine the composition of the Upper Tribunal in respect of the alternative compositions referred to in paragraph (1) is delegated to the President of Tribunals, including—

- (a) determining whether a member acting alone is to be a legal member or a judicial member,
- (b) determining, in other cases, how many members are to be legal members and how many members are to be judicial members.

(5) In this regulation “judicial member” means a judge of the Court of Session.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the composition of the First-tier Tribunal for Scotland when dealing with Police Appeals cases in the General Regulatory Chamber. They also make provision as to the composition of the Upper Tribunal for Scotland when hearing Police Appeals cases from the First-tier Tribunal for Scotland General Regulatory Chamber.

These two tribunals were established by the Tribunals (Scotland) Act 2014. The First-tier Tribunal is divided into chambers according to the subject matter of the case, with the General Regulatory Chamber projected to deal with a range of diverse matters including Police Appeals. Members of the tribunals can be legal members or judicial members according to criteria set out in the Tribunals (Scotland) Act 2014 and regulations made under that Act. This instrument sets out which member or members may hear Police Appeals cases in the two tribunals.



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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83601-932-9 (web only)

Published by The Scottish Government, October 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1520050 (10/24)

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