

POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND (TRANSFER OF FUNCTIONS OF THE FIRST-TIER TAX TRIBUNAL FOR SCOTLAND) REGULATIONS 2017

SSI 2017/xxx

1. The above instrument was made in exercise of the powers conferred by sections 20(2), 28(2) and (6) and 79(1) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014 (the 2014 Act).

Policy Objectives

2. The 2014 Act allows the Scottish Ministers to transfer the functions of tribunals listed in schedule 1 to the Scottish Tribunals.

3. These regulations transfer into the Scottish Tribunals the existing functions of the First-tier Tax Tribunal for Scotland, in so far as practicable. Upon transfer the First-tier Tax Tribunal for Scotland will be abolished and first decisions will be heard in the First-tier Tribunal for Scotland, Tax Chamber (First-tier Tribunal) with onward appeals to the Upper Tribunal for Scotland (Upper Tribunal).

4. These regulations also set out transitional arrangements for the handling of cases during transfer. Cases in progress on the day of transfer will be continued in the First-tier Tribunal with the same members dealing with the case, wherever possible. Unexercised rights of appeal will be to the Upper Tribunal for Scotland, in place of the Upper Tax Tribunal for Scotland. If a party has already exercised its right of appeal to the Upper Tax Tribunal for Scotland prior to the transfer day then the appeal will continue in the Upper Tribunal as if the appeal had been raised, transferred or referred there.

Existing members of the First-tier Tax Tribunal will transfer to the First-tier Tribunal Housing and Property Chamber as long as they meet the relevant eligibility criteria as set out in regulations (SSI 2015/381).

5. Fuller details of the policy objectives relating to the 2014 Act are described in the Policy Memorandum which accompanied the Tribunals Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum.

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/62938.aspx>

Consultation

6. A consultation with interested parties took place between 20 October and 4 December 2016. There were 3 responses to this consultation. The responses are available on the Scottish Government website:

https://consult.scotland.gov.uk/tribunals-administrative-justice-policy/tribunals-scotland-act-2014-draft-regulations/consult_view

Impact Assessments

7. An equality impact assessment was completed for these regulations and showed that the regulations are intended to apply equally and appear to have no differential effect on the basis of the protected characteristics.

8. The Equality Impact Assessment is available at the link below:
<http://www.gov.scot/Topics/People/Equality/18507/EqualityImpactAssessmentSearch>

9. An equality impact assessment was also completed for the Tribunals (Scotland) Bill – see link below:
<http://www.scotland.gov.uk/Resource/0042/00421637.pdf>

10. A Business and Regulatory Impact Assessment is not required as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Learning and Justice Directorate
February 2017