

## POLICY NOTE

### THE LANDS TRIBUNAL FOR SCOTLAND AMENDMENT (FEES) RULES 2015

#### SSI 2015/199

The powers to make these Rules are conferred by section 3(6) and (12)(e) of the Lands Tribunal Act 1949.

#### Policy Objective

This instrument makes provision for fees in the Lands Tribunal for Scotland by amending the table of fees in Schedule 2 to the Lands Tribunal for Scotland Rules 1971.

The Land Registration etc. (Scotland) Act 2012 makes provision to allow a party to certain civil proceedings, at any time while they are in dependence, to apply to the court, which includes the Lands Tribunal, for warrant to place a caveat on a Land Register title sheet. The civil proceedings where a caveat may be sought are those

- for the reduction of a registered deed on the grounds that it is voidable
- which could result in a judicial determination that the Land Register is inaccurate
- for an Order (for rectification of a registered deed) which would be registrable in the Land Register

The purpose of a caveat is to publicise, on the face of the register, that there is an active dispute affecting the title on which the caveat is placed. This serves to protect the party raising the action because any third party purchasing the land will take title subject to the caveat and will be unable to claim they took the title in good faith with no knowledge of the dispute. Caveats in the Land Register replace notices of litigiousity.

Caveats last for a set period but may be renewed, restricted, recalled or discharged.

These Rules set the fee payable in the Lands Tribunal for applications made in relation to caveats at the same level as caveats in the Sheriff Court and lower than the fee for the Court of Session. The fee is in line with the Lands Tribunal fee for broadly analogous matters under other legislation.

#### Consultation

A formal public [consultation](#) process was carried out in autumn 2010 for the Land Registration etc. (Scotland) Act 2012. The consultation was based on the [draft Bill](#) which was attached to the [Final Report on Land Registration \(Scot Law Com No 222\)](#). The [consultation document](#) was circulated to a number of consultees. These included representative bodies of the legal profession, key lenders and representative bodies within the lending industry, a number of government bodies, all Scottish local authorities and all Scottish university law schools. The subject matter of caveats was covered by the consultation questions directed at the draft bill but did not directly address the level of fee in the Lands Tribunal for Scotland as set out in this instrument.

## **Equality Impact Assessment**

An Equalities Impact Assessments (EQIA) was carried out for the Land Registration etc. (Scotland) Act 2012 (which formed part of the SLC report (No. 222)). No equality issues were identified. An EQIA was not prepared for this instrument, given that it relates to a single fee and there is no opportunity for lawful discrimination. The Lands Tribunal fees set by these Rules will apply equally to all persons.

## **Financial effects**

Information on costs was contained in the Financial Memorandum prepared for the Land Registration etc. (Scotland) Act 2012. No further impact assessments were carried out for this SSI due to its technical nature and limited effect.

Registers of Scotland on behalf of the Scottish Ministers  
May 2015