

## **POLICY NOTE**

### **THE FIRST-TIER TRIBUNAL FOR SCOTLAND HOUSING AND PROPERTY CHAMBER (PROCEDURE) REGULATIONS 2017**

#### **SSI 2017/328**

1. The above instrument is made in exercise of the powers conferred by section 55(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 (the 2014 Act). This instrument is subject to the negative procedure.

#### **Policy Objectives**

2. The 2014 Act allows rules to be made to regulate the practice and procedure of both the First-tier and Upper Tribunals. Paragraph 4(2) of Schedule 9 to the 2014 Act allows rules to be made by the Scottish Ministers until such time as responsibility for making Tribunal rules passes to the Scottish Civil Justice Council.

3. Fuller details of the policy objectives relating to the 2014 Act are described in the [Policy Memorandum](#) which accompanied the Tribunals Bill.

4. The First-tier Tribunal of Scotland (Housing and Property Chamber) aims to deliver benefits of specialism, consistency, and improved access to justice for both tenants and landlords in the private rented sector.

5. These new rules aim to streamline the existing procedures and provide consistency of approach across the Chamber.

6. The former functions and members of the Private Rented Housing Panel and Homeowner Housing Panel and associated committees transferred to the First-tier Tribunal of Scotland (Housing and Property Chamber) on 1 December 2016. First decisions in relation to these jurisdictions are now heard in the Housing and Property Chamber with a general onward appeal to the Upper Tribunal for Scotland.

7. It is proposed that a single set of operational rules will apply across all jurisdictions in the Housing and Property Chamber from December 2017 when the First-tier Tribunal starts to hear more private rented sector housing cases including cases to be transferred from the sheriff court, the new letting agent regime and new tenancies.

#### **Further Related Housing Legislation and Transfer of Jurisdictions**

8. Part 3, section 16, of the 2014 Act (not yet in force) transfers sheriff's jurisdiction in civil matters in relation to regulated and assured tenancies in the private rented housing sector to the First-tier Tribunal of Scotland (Housing and Property Chamber). These actions include repossession cases and various non-repossession cases.

9. Part 4 of the Housing (Scotland) Act 2014 makes provision to further regulate the letting agent industry in Scotland. The Housing and Property Chamber will start to hear

cases relating to the new letting agent regime when all aspects of its regulation come into force in January 2018.

10. The Private Housing (Tenancies) (Scotland) Act 2016 creates a new type of Scottish Private Residential Tenancy which is expected to come into force on 1 December 2017. Civil disputes relating to the new tenancy including repossessions will be heard in the First-tier Tribunal.

### **Revocation**

11. These rules revoke the existing rules of procedure for the First-tier Tribunal Housing and Property Chamber enabling a single set of rules to apply across all jurisdictions in the Chamber from 1 December 2017.

### **Consultation**

12. In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, the President of Tribunals has been consulted on these regulations.

13. A consultation with interested parties took place between January and March 2017. There were 21 responses to this consultation. The responses and an independent analysis report are available on the [Scottish Government website](#).

### **Impact Assessments**

14. Section 149 of the Equality Act 2010 provides for the public sector equality duty. These rules provide for the operation of judicial functions which are exempt from the public sector equality duty. The Scottish Courts and Tribunal Service are independently responsible for equality in terms of administration and operational matters in relation to the First-tier Tribunal.

15. 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  
September 2017