

POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND LOCAL TAXATION CHAMBER AND UPPER TRIBUNAL FOR SCOTLAND (COMPOSITION) REGULATIONS 2023

SSI 2023/XXX

1. The above instrument will, if approved by the Parliament, be made in exercise of the powers conferred by sections 10(2) and (3), 38(1) to (3) and 40(1), (3) and (4) of the Tribunals (Scotland) Act 2014 (“the 2014 Act”). The instrument is subject to affirmative procedure.
2. In accordance with section 11(2) of that Act, the President of the Scottish Tribunals has been consulted.

Purpose of the Instrument:

The purpose of this instrument is to make provision as to the composition of the Local Taxation Chamber of the First-tier Tribunal for Scotland when convened to decide any matter in a case.

The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to, among other things, the different subject matters falling within the Tribunal’s jurisdiction.

The Local Taxation Chamber deals with a range of matters relating to local taxation including property valuation for non-domestic rates purposes, council tax banding and council tax reduction appeals. Members of the tribunals can be ordinary members, legal members or judicial members according to criteria set out in the 2014 Act and regulations made thereunder.

This instrument also makes provision as to the composition of the Upper Tribunal for Scotland when dealing with non-domestic rates cases referred from the Local Taxation Chamber, and in respect of any appeal against a decision not to refer such a case.

Policy Objectives

3. The First-tier Tribunal for Scotland (“First-tier Tribunal”) and the Upper Tribunal for Scotland (“Upper Tribunal”) were established by the 2014 Act. The First-tier Tribunal is organised into chambers according to, among other things, the different subject matters falling within the Tribunal’s jurisdiction. There is provision for the Upper Tribunal to be organised into divisions on a similar basis.

4. The functions of the Valuation Appeals Committees (“VACs”) and Council Tax Reduction Review Panel (“CTRRP”) are to be transferred to the Local Taxation Chamber by way of regulations which are being laid concurrently with these regulations (The First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 and The First-tier for Scotland (Transfer of Functions of the Council Tax Reduction Review Panel) Regulations 2022). These regulations provide for the composition of the First-tier Tribunal, Local Taxation Chamber when hearing appeals previously heard by the VACs or CTRRP.

5. The functions of the Lands Tribunal for Scotland that relate to appeals and complaints arising from the valuation of property for rating purposes (“the valuation appeal functions”) are to transfer to the Upper Tribunal by way of regulations which are being laid concurrently with these regulations, The Upper Tribunal for Scotland (Transfer of Valuation for Rating Appeal Functions of the Lands Tribunal for Scotland) Regulations 2023. The functions to be transferred are only the functions conferred on the Lands Tribunal for Scotland by section 1(3A) to (3BA) of the Lands Tribunal Act 1949; the Lands Tribunal for Scotland’s remaining functions are unaffected. These regulations provide for the composition of the Upper Tribunal when hearing a ratings valuation appeal referred from the Local Taxation Chamber, or an appeal of a decision by the Local Taxation Chamber not to refer a ratings valuation appeal to the Upper Tribunal.

6. 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

7. A consultation with interested parties took place between 20 September and 28 November 2021. There were 13 responses to this consultation. 11 respondents gave permission to publish their responses, which are available on the Scottish Government website:

[Published responses for Local taxation - Valuation Appeals Committees etc: transfer of functions - Scottish Government - Citizen Space \(consult.gov.scot\)](#)

Impact Assessments and Financial Effects

8. An Equality Impact Assessment (“EQIA”) has already been completed for the Tribunals (Scotland) Bill – see link below:

[Tribunals \(Scotland\) Bill - Equality Impact Assessment - Results \(webarchive.org.uk\)](#)

9. The Bill EQIA made a number of Key Findings:

- The operation of the tribunal jurisdictions transferring into the new structure will not be affected.

- Tribunal users will not be affected directly by the Bill provisions.
- Tribunal distinctiveness will be protected.
- Tribunal members will be not be adversely affected and their independence will be enhanced.

Given the conclusions set out in the Bill EQIA, a separate Equality Impact Assessment is not considered necessary for these regulations.

10. A Business and Regulatory Impact Assessment has been completed and is attached. The impact on the Scottish Government is minimal. The impact of this policy on the Scottish Legal Aid Board is minimal.

11. A Data Protection Impact Assessment was not considered to be required for these regulations. The transfer will involve a change in data controller, but no change to the data to be processed. A consultation with the Information Commissioner's Office took place in November 2022. The Information Commissioner's Office confirmed that no further engagement was required at this point in time.

12. A Child Rights and Wellbeing Impact Assessment was not considered necessary as there are no children's impact issues arising.

**Scottish Government
Justice Directorate**

December 2022