

POLICY NOTE

THE UPPER TRIBUNAL FOR SCOTLAND (TRANSFER OF VALUATION FOR RATING APPEAL FUNCTIONS OF THE LANDS TRIBUNAL FOR SCOTLAND) 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 28(2), (6) and (7), 54(1), 79(1) and paragraph 1(1) and 2 of schedule 2 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”).

Purpose of the Instrument:

The purpose of the instrument is to make provision for the transfer to the Upper Tribunal for Scotland (“the Upper Tribunal”) of certain functions and members of the Lands Tribunal for Scotland (“the LTS”).

The functions of the LTS 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. The functions transferred are only those conferred on the LTS by section 1(3A) to (3BA) of the Lands Tribunal Act 1949 (“the 1949 Act”); the LTS’s remaining functions are unaffected.

The members of the LTS appointed by virtue of experience in the valuation of land in accordance with section 2(2A)(b) of the 1949 Act are to transfer in to the Upper Tribunal.

The Upper Tribunal was established by section 1 of the 2014 Act, along with the First-tier Tribunal for Scotland (“the First-tier Tribunal”). The Upper Tribunal hears appeals from the First-tier Tribunal for Scotland but may also hear cases as an initial appellate tribunal. The valuation appeal functions will be exercised in relation to matters which are more appropriate for a higher tribunal, including where the facts or evidence are complex or highly technical, or where the law is uncertain or difficult to apply.

This instrument makes provisions to manage the transfer of on-going casework. This instrument also makes consequential amendments to legislation.

Policy Objectives

3. The First-tier Tribunal and the 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. The 2014 Act also allows the Scottish Ministers to transfer the functions of tribunals listed in schedule 1 of that Act to the Scottish Tribunals.

4. These regulations transfer into the Upper Tribunal the functions of the LTS that relate to appeals and complaints arising from the valuation of property for rating purposes. The functions transferred are only those conferred on the LTS by section 1(3A) to (3BA) of the Lands Tribunal Act 1949. The LTS's remaining functions are unaffected. The functions transferred to the Upper Tribunal will cease to be exercisable by the LTS.

5. The Upper Tribunal will hear first instance appeals against rating assessments for non-domestic premises which were previously heard by the Lands Tribunal. The Upper Tribunal will therefore mainly sit in relation to these matters as an initial appellate tribunal. However, it will also hear appeals against decisions by the Local Taxation Chamber (and in respect of such appeals heard prior to the point of transfer and not yet disposed of, Valuation Appeal Committees) not to refer cases to it.

5. These regulations also set out transitional provisions to manage the transfer of on-going casework and make necessary consequential amendments to legislation. Cases being dealt with by the LTS on the date of transfer will be completed by 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

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

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

10. The Equality Impact Assessment completed for the Bill 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.
- Tribunals distinctiveness will be protected.

- Tribunal members will not be adversely affected and their independence will be enhanced.

11. Given the above conclusions, a separate Equality Impact Assessment is not considered necessary for these regulations.

12. 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.

13. 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 is required in this regard at this point.

14. 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