

## POLICY NOTE

### THE UPPER TRIBUNAL FOR SCOTLAND (LOCAL TAXATION RULES OF PROCEDURE) REGULATIONS 2022

SSI 2022/365

1. The above instrument was made in exercise of the powers conferred by sections 76(1) and (2) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”) This instrument is subject to negative procedure.
2. In accordance with section 76(3) of that Act, the Scottish Ministers have consulted the Lord President and to the extent they considered appropriate, persons having an interest in the operation and business of the Scottish Tribunals.
3. In accordance with paragraph 4(3) of schedule 9 of that Act, the Scottish Ministers have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate.

#### **Purpose of the Instrument:**

The Upper Tribunal for Scotland, established by section 1 of the 2014 Act, hears appeals from, and referrals to it by, the First-tier Tribunal for Scotland.

The purpose of the instrument is to regulate the practice and procedure to be followed in the Upper Tribunal for Scotland in relation to any appeal or complaint under the Valuation Acts referred to it by the First-tier Tribunal, or when hearing an appeal by a party against a decision by the First-tier Tribunal not to make such a referral.

Paragraph 4 of schedule 9 of the 2014 Act enables the Scottish Ministers, by regulations, to make Tribunal Rules until such time as the provisions of that Act conferring responsibility on the Scottish Civil Justice Council and the Court of Session for the making of Tribunal Rules are commenced.

#### **Policy Objectives**

4. 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. The jurisdiction of the Local Taxation Chamber of the First-tier Tribunal will include appeals against rating assessments for non-domestic premises. The Local Taxation Chamber may refer cases to the Upper Tribunal if they meet specified criteria, e.g. if they are complex or highly technical or the applicable law applicable is uncertain or difficult to apply.

5. Appeals at first instance against rating valuations for non-domestic premises are currently heard by the Lands Tribunal for Scotland (“LTS”). 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) make provision for the transfer to the Upper Tribunal of the functions of the Lands Tribunal for Scotland that relate to appeals arising from the valuation of property for rating purposes.

6. These regulations make provision for the rules of procedure which are to apply in the Upper Tribunal in relation to any appeal or complaint under the Valuation Acts referred to it by the First-tier Tribunal, or when hearing an appeal against a decision by the First-tier Tribunal not to make such a referral.

7. The Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016 provide rules of procedure for the Upper Tribunal, but these relate to appeals from the First-tier Tribunal only, and so it is necessary to constitute new rules for the Upper Tribunal when it sits as an initial appellate tribunal.

8. 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**

9. 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**

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

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

11. The Bill Equality Impact Assessment 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.

Given the conclusions set out in the Bill Equality Impact Assessment, a separate Equality Impact Assessment is not considered to be 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 was required 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**

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