

EXPLANATORY MEMORANDUM TO
THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER) FEES (AMENDMENT)
ORDER 2014

2014 No. 182

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This instrument amends the First-tier Tribunal (Property Chamber) Fees Order 2013 (the “2013 Fees Order”) to prescribe fees payable for a number of new applications in the Property Chamber of the First-tier Tribunal (the “Property Chamber”) in relation to mobile home sites.

- 2.2 This instrument also simplifies how fees 3.2 to 3.6 in Schedule 1 to the 2013 Fees Order are calculated, so that the fees charged for applications are dependent only on the number of pitches or mobile homes to which those applications relate.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Lord Chancellor’s powers to charge fees for matters dealt with in the Property Chamber are contained in section 42 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”).

- 3.2 Section 49(6)(c) of the 2007 Act governs the procedure for making orders setting tribunal fees and it requires any such order to be subject to the affirmative resolution procedure if it, “*provides for fees to be payable in respect of things for which fees have never been payable.*” Otherwise the negative resolution procedure applies.

- 3.3 There are already fees payable in respect of certain applications relating to mobile homes and mobile home sites. Since this instrument is only adding to those existing applications, it is considered that it falls outside the scope of section 49(6)(c) of the 2007 Act and is properly subject to the negative resolution procedure.

4. Legislative Context

- 4.1 The Mobile Homes Act 2013 (c.14) inserted provisions in the Mobile Homes Act 1983 (c. 34) enabling further applications to be made in the Property Chamber in relation to mobile home sites.
- 4.2 Applications made under Schedule 1 of the Mobile Homes Act 1983 can already be made in the Property Chamber, currently without the requirement to pay a fee. Applications made under regulations 10 and 17 of the Mobile Homes (Site Rules) (England) Regulations 2014 are newly created and fees will payable in respect of these applications from the outset.

5. Territorial Extent and Application

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The general policy on fee charging is set out in HM Treasury's publication "Managing Public Money – Fees, Charges and Levies"¹. It requires every fee-charging service to have a financial objective for the level of cost recovery agreed between the responsible minister and HM Treasury. The normal policy is that fees should be set at a level to recover no more than the full cost of providing the service. The fees in this instrument will apply to applications which will follow similar processes at the tribunal to many of the existing applications where a fee of £155 is charged. Therefore, the fees for these applications have initially been set at the same level of £155.

8. Consultation outcome

- 8.1 The Lord Chancellor has consulted the Senior President of Tribunals in accordance with section 42(5) of the Tribunals, Courts and Enforcement Act 2007² before making this Order.

¹ www.gov.uk/government/publications/managing-public-money

² www.legislation.gov.uk/ukpga/2007/15/contents

9. Guidance

9.1 Her Majesty's Courts and Tribunal Service will update its guidance on fees payable in the Property Chamber.

10. Impact

10.1 The new fees inserted in the 2013 Fees Order and the simplification of existing fees by this instrument are expected to have a modest impact.

10.2 This instrument does not introduce fees payable by the public sector.

10.3 As the impact of these fee changes is considered to be minimal, a full Impact Assessment has not been prepared.

11. Regulating small business

11.1 HMCTS does not collect information about property chamber appellants that would make it possible to classify them as belonging to a particular group or to estimate what percentage of users are small businesses. It is therefore not possible to estimate the effect in isolation on small firms. However, the Ministry of Justice believes that most site owners would be classed as small businesses and they will bear the brunt of the impact. Where these applications follow similar procedures, site owners fees have been set at the same amount as those payable by other property owners making applications in the Property Chamber.

12. Monitoring & review

12.1 Fees and the impact of any changes are constantly monitored by way of feedback from tribunals and customers and the monitoring of fee income and volumes.

13. Contact

13.1 Bill Dowse, Head of Tribunals Fees Policy at the MOJ Fees Policy Team Tel: 020 3334 6099 or email: bill.dowse@justice.gsi.gov.uk can answer any queries regarding the instrument.