

POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND HOUSING AND PROPERTY CHAMBER AND UPPER TRIBUNAL FOR SCOTLAND (COMPOSITION) REGULATIONS 2016

SSI 2016/xxx

1. The above instrument was made in exercise of the powers conferred by sections 38 (1) and 40(1) of the Tribunals (Scotland) Act 2014 (the 2014 Act). In accordance with section 11(2) of the 2014 Act the President of Tribunals has been consulted.

Policy Objectives

2. The 2014 Act allows the Scottish Ministers to determine the composition of the First-tier Tribunal or Upper Tribunal when convened to decide any matter in a case before it.
3. These regulations set out the composition of the First-tier Tribunal for Scotland Housing and Property Chamber (First-tier Tribunal) when hearing cases. The policy intent is to replicate the existing composition for cases when they are heard in the private rented housing panel, homeowner housing panel or their respective committees. The regulations specify an exception to the general composition in cases dealing with an application by a landlord for assistance in gaining access to a property to undertake repairs.
4. These regulations also set out the composition of the Upper Tribunal for Scotland (Upper Tribunal) hearing appeals or referrals from the First-tier Tribunal. The policy intent is to replicate the existing procedure of cases being heard sheriff (excluding a summary or part time sheriff) sitting in the Sheriff Court.
5. The regulations allow the Chamber President of the First-tier Tribunal Housing and Property Chamber to hear appeals in the Upper Tribunal provided they have had no involvement with the case prior to the appeal. The Lord President and the President of Tribunals being members of the Upper Tribunal may also hear appeals or referrals from the First-tier 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 September and December 2015. There were 24 responses to this consultation. The responses are available on the Scottish Government website:

https://consult.scotland.gov.uk/tribunals-administrative-justice-policy/second-consulatation-tribunals-scotland-act-2014/consultation/published_select_respondent

Impact Assessments

8. An Equality Impact Assessment was completed for these regulations and showed that the regulations are intended to apply equally and appear to have no differential effect on the basis of the protected characteristics.
9. The Equality Impact Assessment is available at the link below:
<http://www.gov.scot/Topics/People/Equality/18507/EqualityImpactAssessmentSearch>
10. An Equality Impact Assessment was also completed for the Tribunals (Scotland) Bill – see link below:
<http://www.scotland.gov.uk/Resource/0042/00421637.pdf>
11. 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
Learning and Justice Directorate
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