

## POLICY NOTE

### THE SCOTTISH TRIBUNALS (LISTED TRIBUNALS) REGULATIONS 2024

#### SSI 2024/XXX

The above instrument was made in exercise of the powers conferred by section 27(2) of the Tribunals (Scotland) Act 2014. The instrument is subject to affirmative procedure.

#### Summary Box

The purpose of the instrument is to add the Transport Tribunal to the list of tribunals in schedule 1 of the Tribunals (Scotland) Act 2014 whose functions may be transferred to the Scottish Tribunals under that Act.

#### Policy Objectives

1. This instrument amends schedule 1 of the Tribunals (Scotland) Act 2014 ('the 2014 Act') to include the Transport Tribunal. The instrument also specifies the functions exercisable by the Transport Tribunal to which the entry in schedule 1 relates. The functions are those exercisable by the Transport Tribunal by virtue of section 39(6) of the Transport (Scotland) Act 2001 ('the 2001 Act') in relation to a penalty imposed under any paragraph of section 39(1) of that Act except paragraph (d).
2. The Scottish Ministers intend to transfer the specified functions of the Transport Tribunal into the Scottish Tribunals. An existing tribunal must be listed in schedule 1 of the 2014 Act before its functions can transfer into the Scottish Tribunals.
3. The intention is to transfer the specified appeal functions under section 39 of the 2001 Act as they relate to devolved matters. The only appeal functions under section 39 which are not to be transferred to the Scottish Tribunals are those relating to a penalty imposed under section 39(1)(d). Appeals of penalties imposed for a failure to comply with a requirement of regulations made under section 181A of the Equality Act 2010 will remain in the Transport Tribunal, as they relate to reserved matters.
4. A further set of regulations will be brought forward to transfer the specified functions of the Transport Tribunal into the Upper Tribunal for Scotland.
5. Further details of the policy objectives relating to the 2014 Act are set out in the Policy Memorandum which accompanied the Tribunals (Scotland) 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>

## **EU Alignment Consideration**

6. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## **Consultation**

7. A public consultation took place from 7 August 2023 to 27 October 2023. There were five responses to this consultation. Three respondents gave permission to publish their responses, which are available on the Scottish Government website:

<https://consult.gov.scot/tribunals-and-administrative-justice/tribunals-scotland-act-2014-draft-regulations>

8. Consultation responses did not highlight any issues with these regulations and no changes have been made following the consultation.

## **Impact Assessments**

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

<https://webarchive.nrscotland.gov.uk/20200120085425/https://www2.gov.scot/Resource/0042/00421637.pdf>

10. It was considered that no further Equality Impact Assessment was required for these regulations.

## **Financial Effects**

11. A Business and Regulatory Impact Assessment was completed for the 2014 Act. The Minister for Victims and Community Safety confirms that no Business and Regulatory Impact Assessment is necessary for this instrument as it has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Justice Directorate

April 2024