

## **POLICY NOTE**

### **THE LANDS TRIBUNAL FOR SCOTLAND AMENDMENT (FEES) RULES 2014**

#### **SSI 2014/24**

The powers to make these rules are conferred by section 3(6) and (12)(e) of the Lands Tribunal Act 1949. The instrument is laid in the Scottish Parliament by virtue of section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

#### **Policy Objective**

This instrument makes provision for Lands Tribunal fees by amending the table of fees in Schedule 2 to the Lands Tribunal for Scotland Rules 1971.

The Long Leases (Scotland) Act 2012 converts ultra-long leases (over 175 years long meeting certain conditions) into ownership with appropriate compensatory and additional payments payable by tenants to their landlords. It implements a Scottish Law Commission (SLC) report (Scot Law Com No. 204) – the last in their series which also covered feudal abolition, title conditions and tenements. Sections 21 and 22, 44, 55, 69, 77 and 78 of the Act make provision for certain cases to be referred to the Lands Tribunal. As the Long Leases Act is modelled, in part, on procedures followed under the Abolition of Feudal Tenure etc. (Scotland) Act 2000, the fees set out in the Schedule to this instrument, where possible, mirror Lands Tribunal fees in relation to abolition of feudal tenure cases.

The Land Registration etc. (Scotland) Act 2012 provides a statutory framework for the continuation and improvement of the land registration system in Scotland. It implements the SLC report (Scot Law Com No. 222) to replace much of the Land Registration (Scotland) Act 1979. The Land Registration etc. (Scotland) Act 2012 Act makes provision for certain matters to be referred to the Lands Tribunal. Section 82 of the Act allows anyone with an interest to refer questions relating to the accuracy of the Register and what may need to be done to rectify the Register to the Lands Tribunal. Section 103 makes provision for a right of appeal to the Lands Tribunal on a question of fact or on a point of law against any decision of the Keeper under the Act. As with the Long Leases Act fees, the fees to be charged in connection with these matters set by this instrument are consistent with those charged by the Lands Tribunal for analogous matters under other legislation.

#### **Consultation**

A commitment was given to the Scottish Parliament during the passage of the Long Leases (Scotland) Act 2012 that a consultation would be held on the prescribed form of notices as well as the time periods for applying to the Lands Tribunal or court to register a notice rejected by the Keeper. The consultation ran from 12 August to 4 November 2013. The consultation was issued to corporate bodies with an interest in the legislation and to academics who had given evidence (oral and/ or written) to the Rural Affairs, Climate Change and Environment Committee during the passage of the Act through the Parliament. In paragraph 1.08 of the consultation reference was made to the fact that fees would be along similar lines to those feudal tenure cases. No responses to the consultation were received.

A formal public consultation process was carried out in autumn 2010 for the Land Registration etc. (Scotland) Act 2012. The consultation was based on the draft Bill which was attached to the Final Report on Land Registration (Scot Law Com No 222). The consultation document was circulated to a number of consultees. These included representative bodies of the legal profession, key lenders and representative bodies within the lending industry, a number of government bodies, all Scottish local authorities and all Scottish university law schools.

### **Equality Impact Assessment**

Equalities Impact Assessments (EQIA) were carried out for both the Long Leases (Scotland) Act 2012<sup>1</sup> (no equality issues were identified) and the Land Registration etc. (Scotland) Act 2012 (which formed part of the SLC report (No. 222)).

An EQIA was not prepared for this instrument, given that the subject matter of long leases and land registration is technical, there is no opportunity for lawful discrimination. The Lands Tribunal fees set by these Rules will apply equally to all persons making a referral or taking an appeal to the Tribunal.

### **Financial effects**

Impact Assessments (partial regulatory<sup>2</sup>, equality and a strategic environmental assessment pre-screening report) were carried out for the Long Leases (Scotland) Act 2012. In addition, further information on costs was contained in the Financial Memorandum prepared for the Act<sup>3</sup>. Therefore, no further impact assessments were carried out for the additional consultation or for the SSI.

Paragraph 5.24 of the Regulatory Impact Assessment and paragraph 319 of the Financial Memorandum highlighted that there would be fees in respect of any cases referred to the Lands Tribunal. The Government does not expect many such cases to arise. The fees are along similar lines to fees relating to abolition of feudal tenure cases.

Information on costs was contained in the Financial Memorandum prepared for the Land Registration etc. (Scotland) Act 2012<sup>4</sup>. In addition, Registers of Scotland commissioned BiGGAR Economics to carry out an Economic Impact Assessment of the Act. No further impact assessments were carried out for the fees set under this SSI. The fees set are consistent with those charged by the Lands Tribunal in analogous situations under other legislation.

Civil Law and Legal System Division  
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<sup>1</sup> <http://www.scotland.gov.uk/Publications/2010/03/26131302/19>

<sup>2</sup> The partial Regulatory Impact Assessment for the Long Leases (Scotland) Act 2012 is at <http://www.scotland.gov.uk/Publications/2010/03/26131302/18>.

<sup>3</sup> The Financial Memorandum prepared for the Long Leases (Scotland) Act 2012 is at [http://www.scottish.parliament.uk/S4\\_Bills/Long%20Leases%20\(Scotland\)%20Bill/Ex\\_Notes\\_and\\_FM.pdf](http://www.scottish.parliament.uk/S4_Bills/Long%20Leases%20(Scotland)%20Bill/Ex_Notes_and_FM.pdf)

<sup>4</sup> [http://www.scottish.parliament.uk/S4\\_Bills/Land%20Registration%20etc.%20\(Scotland\)%20Bill/Ex\\_Notes\\_and\\_FM.pdf](http://www.scottish.parliament.uk/S4_Bills/Land%20Registration%20etc.%20(Scotland)%20Bill/Ex_Notes_and_FM.pdf)